

JOURNAL
of the
**HOUSE OF
REPRESENTATIVES**
of the
General Assembly
of the
Commonwealth of Kentucky

2007 Regular Session

Volume II

**Held in the State Capitol in the City of Frankfort,
at Frankfort, in the Year of Our Lord 2007,
and in the Two Hundred and Fifteenth
Year of the Commonwealth**

**Begun on Tuesday, the Second Day of January, 2007, and Adjourned
Sine Die on Tuesday, the Twenty-Seventh Day of March, 2007**

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FOREWORD

The Kentucky Constitution requires each chamber of the General Assembly to keep a journal as a public accounting of daily legislative activity. The journal is the official record of action.

The Kentucky Revised Statutes require the Legislative Research Commission to compile, edit, correct, and publish the journals of each chamber. This is the House Journal for the Regular Session of the 2007 General Assembly.

Texts of bills, joint resolutions, and concurrent resolutions appear in the journal on the day of their first reading. Texts of simple resolutions appear on the day of either their first reading or adoption. Texts of committee amendments appear when they are reported out of committee and floor amendments are inserted at the end of the day on which they were filed. The appendices include a table of actions on bills and resolutions, a list of elected representatives, roll call votes, and a sponsor and subject index.

JoAnn Paulin, Marlene Rutherford, and Billie Gabbard prepared the *House Journal* for the 2007 Regular Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

Robert S. Sherman
Director

The Capitol
Frankfort, Kentucky
2007

TABLE OF CONTENTS

2007 Regular Session

VOLUME I

Tuesday, January 2, 2007 through Wednesday, February 28, 2007 Pages 1 through 1575

VOLUME II

Thursday, March 1, 2007 through Tuesday, March 27, 2007 Pages 1577 through 2950

Appendix A - House Membership Pages 2951 through 2958

Appendix B - History of Actions Tables Pages 2959 through 2996

Appendix C - Roll Call Votes Pages 2997 through 3050

Appendix D - Sponsor and Subject Index Pages 3051 through 3143

THURSDAY, MARCH 1, 2007
TWENTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Reverend Paul Patton, retired minister of the Christian Church, Taylor County, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present except Representative Ford.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 28, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills and Resolutions were filed by the following:

Representative Stacy moved that he be recorded as voting "Yea" on **HB 65** and **70**. Agreed.

Representative Rollins moved that he be recorded as voting "Yea" on **HB 366**. Agreed.

Representative Upchurch moved that he be recorded as voting "Yea" on **HB 187**. Agreed.

Representative Webb moved that she be recorded as voting "Yea" on **HB 187**. Agreed.

Representative Bell moved that his vote be changed from "Nay" to "Yea" on **HB 79**. Agreed.

Representative Crenshaw moved that he be recorded as voting "Yea" on **HB 187**. Agreed.

Representative Weston moved that he be recorded as voting "Yea" on **HB 293**. Agreed.

Representative Henderson moved that he be recorded as voting "Yea" on **HB 293**. Agreed.

Representative Nesler moved that he be recorded as voting "Yea" on **HB 1**. Agreed.

Representative Bell moved that he be recorded as voting "Yea" on **HB 366**. Agreed.

Representative Burch moved that he be recorded as voting "Yea" on **HB 366**. Agreed.

Representative J. Lee moved that he be recorded as voting "Yea" on **HB 366**. Agreed.

Representative Crimm moved that he be recorded as voting "Yea" on **HB 394**. Agreed.

Representative Hoffman moved that he be recorded as voting "Yea" on **HB 500**. Agreed.

Representative Hall moved that he be recorded as voting "Yea" on **HB 312, 225, 130, 390, 345, 186, HCR 46, and 127**. Agreed.

Representative Clark moved that he be recorded as voting "Yea" on **HB 280, 316, 509, 239, 357, 367, 378, 440, 399, 230, 228, 167, 83, 360, 514, 253, 295, 325, 245, 386, 259, 402, 500, 461, HCR 126, HR 61, HJR 84, HB 278, 145, 459, and 196**. Agreed.

Representative Weston moved that the rules be suspended to grant floor privileges and to act on a Resolution. Agreed.

Representative Weston moved the adoption of the following **HR 146**:

HR 146, A RESOLUTION commending E.ON U.S., parent company of Louisville Gas and Electric and Kentucky Utilities, for its commitment to the FutureGen Alliance and to the responsible use of Kentucky coal.

WHEREAS, increasing scientific evidence of adverse climate effects threatens the predominance of coal as a fuel for power generation in the United States and the world, and;

WHEREAS, E.ON Chief Executive Officer Victor A. Staffieri has acknowledged that "human activities are influencing changes in the Earth's climate", and;

WHEREAS, Kentucky is the nation's third-largest coal producer and generates more than 90 percent of its electricity through the combustion of coal, and;

WHEREAS, it is vital to increase the pace of technological advancement toward reduction of harmful emissions from coal combustion so that Kentucky's abundant coal may remain an important source of energy, jobs, and economic development in the Commonwealth, and;

WHEREAS, without such advancement, states such as Kentucky that rely on coal will be disadvantaged when carbon constraints are applied, and;

WHEREAS, E.ON has announced plans to spend twenty five million dollars to become the eleventh member of the FutureGen Alliance, which seeks to build a 275-megawatt coal-burning power plant with near zero emissions, and;

WHEREAS, the one billion dollar project is among the foremost efforts to make coal the most environmentally responsible energy choice, thereby making a secure future for all Kentucky families including those that rely on the many jobs provided by the coal industry;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. Louisville Gas and Electric, Kentucky Utilities, and E.ON U.S. are to be heartily commended for their foresight and civic responsibility.

Section 2. That these corporations' long-standing commitment to the citizens of Kentucky and to the goal of making coal an environmentally responsible energy choice is second to none.

Section 3. That a copy of this Resolution shall be forwarded to Mr. Victor A. Staffieri, Chief Executive Officer, E.ON U.S., 220 W. Main St., Louisville, KY 40202.

There being no objection, **HR 146** was adopted.

The House paid tribute to fallen soldiers from Kentucky who had died in military service to our country. Representative Pullin moved that the rules be suspended to grant floor privileges and to act on Resolutions. Agreed. The following Resolutions were placed upon their adoption.

Representative Embry asked that the following **HR 87** be read:

HR 87, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Staff Sergeant Thomas W. Clemons.

With deepest respect and admiration, we pay homage and tribute to Staff Sergeant Thomas W. Clemons, and we pause in silent reverence for his soul.

WHEREAS, Staff Sergeant Thomas W. Clemons was born May 19, 1969, in Lietchfield, Kentucky, and he traversed these earthly bounds December 11, 2006; and

WHEREAS, Thomas W. Clemons was the loving son of Jimmy and Patricia Frank and William H. Clemons; he was the devoted husband of Sheila Clemons; he was the caring father of two sons, Ryan and Anthony Clemons, and two stepdaughters, Brittany and Amber Siegel; he was the doting brother of William Clemons, Timothy Clemons, Samuel Clemons, Shannon Frank, Michelle Mudd, Julia Johnson, and Pamela Bowling; and he also leaves behind many other family members who loved him dearly; and

WHEREAS, Staff Sergeant Thomas W. Clemons was an avid University of Kentucky Wildcats fan; and

WHEREAS, Staff Sergeant Thomas W. Clemons enlisted in the Kentucky Army National Guard in August of 2000; he was assigned to the 2nd Battalion, 123rd Armor, Leitchfield, Kentucky; he deployed on his second year long rotation in support of Operation Iraqi Freedom in March, 2006; and

WHEREAS, the life of Staff Sergeant Thomas W. Clemons ended prematurely from a non-combat health-related incident in Ad Diwaniyah, Iraq; and

WHEREAS, Staff Sergeant Thomas W. Clemons gallantly served his country with honor and distinction; he was remembered as "a man of honor, a patriot, a soldier dedicated to his fellow soldiers, his family and his country" by his battalion commander; he was laid to rest with full military honors; and his awards and decorations include the Bronze Star Medal, Iraq Campaign Medal, Good Conduct Medal, Humanitarian Service Medal, Army Achievement Medal, Non-Commissioned Officer Professional Development Ribbon, Armed Forces Reserve Medal National Defense Service Medal, Army Reserve Component Achievement Medal, Army Service Ribbon, and Global War on Terror Service Medal; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Staff Sergeant Thomas W. Clemons and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Staff Sergeant Thomas W. Clemons has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Staff Sergeant Thomas W. Clemons and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Staff Sergeant Thomas W. Clemons.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the wife of Staff Sergeant Thomas W. Clemons, Sheila Clemons, 123 Autumn Ridge Road, Falls of Rough, KY 40119; the mother and step-father of Staff Sergeant Thomas W. Clemons, Patricia and Jimmie Frank, 2943 Watershed Road, Caneyville, KY 42754; and the father of Staff Sergeant Thomas W. Clemons, William H. Clemons, 12188 Annetta Road, Leitchfield, KY 42754.

Representative Wuchner asked that the following **HR 92** be read:

HR 92, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Corporal Christopher Tyler Warndorf.

With deepest respect and admiration, we pay homage and tribute to Corporal Christopher Tyler Warndorf, and we pause in silent reverence for his soul.

WHEREAS, WHEREAS, Corporal Christopher Tyler Warndorf was born July 15, 1985, in Covington, Kentucky and traversed these earthly bounds August 29, 2006; and

WHEREAS, Christopher Tyler Warndorf was the loving son of Tina Warndorf and the late Christopher Warndorf; he was the beloved brother of Nicholas and Katelyn Warndorf; he was the caring grandson of Gerald and Lillian Warndorf; he was the adored nephew of ten uncles and nine aunts; and he leaves behind many other family members and friends; and

WHEREAS, Corporal Christopher Tyler Warndorf graduated from Connor High School in Burlington, Kentucky in 2003; and

WHEREAS, Corporal Christopher Tyler Warndorf enlisted in the United States Marine Corps in the fall of 2003; and he was assigned to the 3rd Battalion, 8th Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force, Camp Lejeune, North Carolina; and

WHEREAS, Corporal Christopher Tyler Warndorf was serving his second operational deployment in support of Operation Iraqi Freedom; and

WHEREAS, the life of Corporal Christopher Tyler Warndorf ended prematurely when an improvised explosive device detonated while he was conducting combat operations in Al Anbar province, Iraq; and

WHEREAS, Corporal Christopher Tyler Warndorf valiantly served his country with honor and distinction; and he was remembered as a person with the "kindest heart of anybody . . . very honest . . . and generous" by his family and friends; and

WHEREAS, Corporal Christopher Tyler Warndorf was laid to rest with full military honors; and his awards and decorations include the Global War on Terrorism Expeditionary Medal, Good Conduct Medal, Rifle Weapons Qualification Expert Badge, Pistol Weapons Qualification Expert Badge, Sea Service Medal, Iraqi Campaign Medal, Armed Forces Expeditionary Medal, Humanitarian Service Medal, Global War on Terrorism Service Medal, Navy Unit Commendation Ribbon, National Defense Service Medal, and Purple Heart (posthumously); and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Corporal Christopher Tyler Warndorf and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Corporal Christopher Tyler Warndorf has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Corporal Christopher Tyler Warndorf and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Corporal Christopher Tyler Warndorf.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the mother of Corporal Christopher Tyler Warndorf, Ms. Tina Warndorf, 6254 Sierra Trail, Burlington, Kentucky 41005.

Representative DeCesare asked that the following **HR 94** be read:

HR 94, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Staff Sergeant Brock A. Beery.

With deep respect and admiration, we pay homage and tribute to Staff Sergeant Brock A. Beery, and we pause in silent reverence for his soul.

WHEREAS, Staff Sergeant Brock A. Beery was born September 30, 1975 and he traversed these earthly bounds March 23,

2006; and

WHEREAS, Brock A. Beery was the loving son of Roger and Pam Beery; he was the devoted husband of Sara Beery and the loving father of a daughter, Elissa; he was the caring brother of Joel, Toby, and Hope Beery; he was the adored grandson of Rowena Beery; and he leaves behind many other family members and friends; and

WHEREAS, Staff Sergeant Brock A. Beery graduated in 1994 from Tippecanoe Valley High School in Akron, Indiana and attended courses at Western Kentucky University; and

WHEREAS, Staff Sergeant Brock A. Beery joined the National Guard in Indiana as a high school junior and served from 1992 to 1997, where he was deployed to Bosnia and the Sinai region of Egypt during his service; he then transferred to the Kentucky National Guard; and

WHEREAS, after a short break from the service, Staff Sergeant Brock A. Beery rejoined the Kentucky National Guard in 2001 and served as a full-time National Guard employee in Bowling Green, Kentucky; and

WHEREAS, Staff Sergeant Brock A. Beery was assigned to the Army National Guard, 2nd Battalion, 123rd Armor Regiment, Bowling Green, Kentucky; and

WHEREAS, Staff Sergeant Brock A. Beery was deployed to Iraq in July 2005 in support of Operation Iraqi Freedom; and

WHEREAS, the life of Staff Sergeant Brock A. Beery ended prematurely when an improvised explosive device detonated near his military vehicle and he came under enemy small arms fire; and

WHEREAS, Staff Sergeant Brock A. Beery valiantly served his country with honor and distinction; he was remembered by his colleagues as a "fine soldier who made the ultimate sacrifice for his nation" and "a loving husband and a very devoted dad" by those closest to him; and

WHEREAS, Staff Sergeant Brock A. Beery was laid to rest with full military honors; his awards and decorations include the: Bronze Star, Purple Heart, Distinguished Service Medal, Army Good Conduct Medal, and Combat Infantry Badge; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Staff Sergeant Brock A. Beery and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Staff Sergeant Brock A. Beery has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Staff Sergeant Brock A. Beery and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Staff Sergeant Brock A. Beery.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the wife of Staff Sergeant Brock A. Beery, Sara Beery, 315 Valley View Drive, White House, Tennessee 37188-8932 and to the parents of Staff Sergeant Brock A. Beery, Roger and Pam Beery of Warsaw, Indiana, in care of Sara Beery.

Representative Thompson asked that the following **HR 95** be read:

HR 95, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Specialist Timothy Adam Fulkerson.

With deep respect and admiration, we pay homage and tribute to Specialist Timothy Adam Fulkerson, and we pause in silent reverence for his soul.

WHEREAS, Specialist Timothy Adam Fulkerson was born June 18, 1986, in Daviess County, Kentucky and traversed these earthly bounds October 8, 2006; and

WHEREAS, Timothy Adam Fulkerson was the loving son of Tammy Brown and Tim Fulkerson; he was the adored stepson of Ben Brown; he was the beloved nephew of Greg and Anissa Skaggs; he was the caring stepbrother of three siblings; and he leaves behind many other family members and friends; and

WHEREAS, Specialist Timothy Adam Fulkerson graduated from Daviess County High School in Owensboro, Kentucky in 2004; and

WHEREAS, Specialist Timothy Adam Fulkerson enlisted in the United States Army in June 2004; he was assigned to the 1st Battalion, 82nd Aviation Reconnaissance Battalion, 82nd Combat Aviation Brigade, 82nd Airborne Division, Fort Bragg, North Carolina; and

WHEREAS, Specialist Timothy Adam Fulkerson was deployed in support of Operation Iraqi Freedom in June 2006; and

WHEREAS, the life of Specialist Timothy Adam Fulkerson ended prematurely when an improvised explosive device detonated near his military vehicle during combat operations in Tikrit, Iraq; and

WHEREAS, Specialist Timothy Adam Fulkerson valiantly served his country with honor and distinction; he was

remembered as a person with a "larger-than-life personality and quick wit" by family and friends; he was remembered by his colleagues as someone who served as an "exemplary model for every soldier"; and

WHEREAS, Specialist Timothy Adam Fulkerson was laid to rest with full military honors; his awards and decorations include the: Bronze Star, Purple Heart, National Defense Service Medal, Iraqi Campaign Medal, Global War on Terrorism Service Medal, Good Conduct Medal, Army Service Ribbon, Army Aviation Crewmember's Badge, and Combat Action Badge; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Specialist Timothy Adam Fulkerson and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Specialist Timothy Adam Fulkerson has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Specialist Timothy Adam Fulkerson and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Specialist Timothy Adam Fulkerson.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the parents of Specialist Timothy Adam Fulkerson, Ms. Tammy Brown, 1212 Sites School Road, Horse Branch, Kentucky 42349 and Mr. Tim Fulkerson in care of Ms. Tammy Brown, and to the uncle of Specialist Timothy Adam Fulkerson, Mr. Greg Skaggs, 10308 US Highway 231, Utica, Kentucky 42376.

Representative Simpson asked that the following **HR 96** be read:

HR 96, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Lance Corporal Justin D. Sims.

With deepest respect and admiration, we pay homage and tribute to Lance Corporal Justin D. Sims, and we pause in silent reverence for his soul.

WHEREAS, Lance Corporal Justin D. Sims was born November 5, 1983, in Covington, Kentucky, and he traversed these earthly bounds April 15, 2006; and

WHEREAS, Justin D. Sims was the loving son of Beechie Sims and Alma Luster Jones; he was the devoted husband of Leah Matt Sims; he was the caring brother of six half-sisters, Tiffani Sims, Sherri Stone, Angela Coffey, Tia Bryars, Briana Bryars, and Maliesa Jones; he was the doting grandson of a paternal grandfather, Alvin Sims, and a maternal grandmother, Mae Luster; and he also leaves behind a stepmother, Linda Gregory, and many other family members who loved him dearly; and

WHEREAS, Lance Corporal Justin D. Sims graduated from Holmes High School in 2003, where he was a member of the Marine ROTC, and a marksman with state honors for the ROTC rifle unit; and he was also a member of the Florence Bicycle Club; and

WHEREAS, Lance Corporal Justin D. Sims enlisted in the United States Marine Corps in 2003; he was assigned to the 3rd Battalion, 8th Marine Regiment, 2nd Marine Division, II Marine Expeditionary Force, Camp Lejeune, North Carolina; and he deployed for his second tour of duty in support of Operation Iraqi Freedom in March, 2006; and

WHEREAS, the life of Lance Corporal Justin D. Sims ended prematurely when an improvised explosive device struck his Humvee during combat operations in Ramadi, Iraq; and

WHEREAS, Lance Corporal Justin D. Sims gallantly served his country with honor and distinction; he was remembered as "a great young man . . . very upbeat and very positive . . . very fine young man with lots of potential" by his family and friends; he was laid to rest with full military honors; and his awards and decorations include the Combat Action Ribbon, National Defense Service Medal, Global War on Terrorism Expeditionary Medal, Iraqi Campaign Medal, Global War on Terrorism Service Medal, and Sea Service Deployment Ribbon; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Lance Corporal Justin D. Sims and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Lance Corporal Justin D. Sims has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Lance Corporal Justin D. Sims and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Lance Corporal Justin D. Sims.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the wife of Lance Corporal Justin D. Sims, Leah Matt Sims, C/O Allison and Rose Funeral Home, 5645 Taylor Mill Rd, Taylor Mill, Kentucky 41015; the mother of Lance Corporal Justin D. Sims, Alma Luster Jones, C/O Allison and Rose Funeral Home, 5645 Taylor Mill Rd, Taylor Mill, Kentucky 41015; and the father of Lance Corporal Justin D. Sims, Beechie Sims, 5572 Bridgetown Road, Cincinnati, Ohio 45248-4349.

Representative L. Belcher asked that the following **HR 97** be read:

HR 97, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Lance Corporal Thomas P. Echols.

With deep respect and admiration, we pay homage and tribute to Lance Corporal Thomas P. Echols, and we pause in silent reverence for his soul.

WHEREAS, Lance Corporal Thomas P. Echols was born January 2, 1986, in Mount Clemens, Michigan and traversed these earthly bounds December 4, 2006; and

WHEREAS, Thomas P. Echols was the loving son of Kurt and Rose Echols; he was the devoted husband of Allyson Echols; he was the beloved brother of Becca Miller and Alex Echols; he was the caring grandson of Jerry and Sharon Echols and Donald and Mary Wight; he was the adored great-grandson of two great-grandmothers, Eleanor Hoffman and Zella Wight; and he leaves behind many other family members and friends; and

WHEREAS, Lance Corporal Thomas P. Echols attended Bullitt Central High School and graduated from Riverview High School in Shepherdsville, Kentucky in 2004; and

WHEREAS, Lance Corporal Thomas P. Echols enlisted in the United States Marine Corps in the fall of 2004; he was assigned to the 1st Battalion, 6th Regiment, 2nd Marine Division, II Marine Expeditionary Force, Camp Lejeune, North Carolina; and

WHEREAS, Lance Corporal Thomas P. Echols was serving his second operational deployment in support of Operation Iraqi Freedom; and

WHEREAS, the life of Lance Corporal Thomas P. Echols ended prematurely when he was killed conducting combat operations in Al Anbar province, Iraq; and

WHEREAS, Lance Corporal Thomas P. Echols valiantly served his country with honor and distinction; he was remembered as a "happy -go-lucky kid...just a good, fun-loving young man" by family and friends; he was remembered as a "dyed-in-the-wool University of Michigan fan" by those closest to him; and

WHEREAS, Lance Corporal Thomas P. Echols was laid to rest with full military honors; his awards and decorations include the: Combat Action Ribbon, Iraqi Campaign Medal, Service Ribbon, Global War on Terrorism Expeditionary Medal, Global War on Terrorism Service Medal, National Defense Medal, Purple Heart (posthumously); and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Lance Corporal Thomas P. Echols and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Lance Corporal Thomas P. Echols has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Lance Corporal Thomas P. Echols and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Lance Corporal Thomas P. Echols.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the wife of Lance Corporal Thomas P. Echols, Mrs. Allyson Echols, in care of the Maraman-Billings Funeral Home, 605 S Preston Highway, Shepherdsville, Kentucky 40165 and to the parents of Lance Corporal Thomas P. Echols, Mr. and Mrs. Kurt Echols, 3230 La Costa Circle, Naples, Florida 34105.

Representative Tilley asked that the following **HR 98** be read:

HR 8, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Corporal Windell Jeryd Simmons.

With deepest respect and admiration, we pay homage and tribute to Corporal Windell Jeryd Simmons, and we pause in silent reverence for his soul.

WHEREAS, Corporal Windell Jeryd Simmons was born February 26, 1986, in Nuremburg, Germany, and he traversed these earthly bounds September 23, 2006; and

WHEREAS, Windell Jeryd Simmons was the loving son of William Simmons and Betty Deal Simmons-Mayo; he was the caring brother of Jarysa L. Simmons and William J. Deal; he was the stepson of Jamel Mayo; he was the step-grandson of a paternal step-grandmother, Alfreda Brewer; and he also leaves behind many other family members who loved him dearly; and

WHEREAS, Corporal Windell Jeryd Simmons graduated from Christian County High School in 2004; and

WHEREAS, Corporal Windell Jeryd Simmons enlisted in the United States Army in 2004; he was assigned to the 3rd Battalion, 67th Armor Regiment, 4th Brigade, 4th Infantry Division, Fort Hood, Texas; and he deployed to Iraq in support of Operation Iraqi Freedom in December, 2005; and

WHEREAS, the life of Corporal Windell Jeryd Simmons ended prematurely of injuries when an improvised explosive device detonated near his Humvee during combat operations in Taji, Iraq; and

WHEREAS, Corporal Windell Jeryd Simmons gallantly served his country with honor and distinction; he was remembered as "a good, outstanding man . . . a leader among his peers . . . a good son, a good brother and an American hero" by his family and friends; he was laid to rest with full military honors; and his awards and decorations include the Bronze Star, Purple Heart, Army Commendation Medal, National Defense Service Medal, Iraqi Campaign Medal, and Global War on Terrorism Service Medal; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Corporal Windell Jeryd Simmons and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Corporal Windell Jeryd Simmons has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Corporal Windell Jeryd Simmons and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Corporal Windell Jeryd Simmons.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the mother of Corporal Windell Jeryd Simmons, Betty Deal Simmons-Mayo, 523 Westwood Drive, Hopkinsville, KY 42240; and to the father of Corporal Windell Jeryd Simmons, William Simmons, C/O Gamble Funeral Home, 1311 Liberty Street, Hopkinsville, Kentucky 42240.

Representative Henderson asked that the following **HR 101** be read:

HR 101, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Staff Sergeant Garth D. Sizemore.

With deepest respect and admiration, we pay homage and tribute to Staff Sergeant Garth D. Sizemore, and we pause in silent reverence for his soul.

WHEREAS, Staff Sergeant Garth D. Sizemore was born March 16, 1975, in Paintsville, Kentucky, and he traversed these earthly bounds October 17, 2006; and

WHEREAS, Garth D. Sizemore was the loving son of Glen Sizemore and Carolyn Kay Sizemore; he was the devoted husband of Elena Sizemore; he was the doting grandson of a paternal grandmother, Alliene Sizemore, and a maternal grandmother, Dora Caldwell; and he also leaves behind loving in-laws, in Anatoly and Irina Nedelko, and many other family members who loved him dearly; and

WHEREAS, Staff Sergeant Garth D. Sizemore graduated from Montgomery County High School, where he attended classes in agriculture was very active in the Future Farmers of America chapter; he also attended Morehead State University; he was passionate about the rugged outdoors, camping, rappelling, and kayaking; and he also loved music and learned to play the guitar; and

WHEREAS, Staff Sergeant Garth D. Sizemore enlisted in the United States Army in August, 1999; he was assigned to the 1st Battalion, 26th Infantry Regiment, 2nd Brigade Combat Team, 1st Infantry Division, Schweinfurt, Germany; and he deployed on his second year long rotation in support of Operation Iraqi Freedom in August, 2006; and

WHEREAS, the life of Staff Sergeant Garth D. Sizemore ended prematurely from injuries suffered when his patrol came in contact with enemy forces using small-arms fire during combat operations Baghdad, Iraq; and

WHEREAS, Staff Sergeant Garth D. Sizemore gallantly served his country with honor and distinction; he was remembered as "always mature, always thinking for himself" by his father; he was also remembered as a "real quiet-natured, good-hearted kind of fellow" by his former high school principal; he was laid to rest with full military honors; and his awards and decorations include the Bronze Star Medal, Purple Heart, Army Commendation Medal, Army Achievement Medal, Army Good Conduct Medal, National Defense Service Medal, Iraq Campaign Medal, Global War on Terrorism Expeditionary Medal, Global War on Terrorism Service Medal, Korean Defense Service Medal, Noncommissioned Officers Professional Development Ribbon, Army Service Ribbon, Overseas Service Ribbon, Combat Infantryman Badge, Air Assault Badge, Weapons Qualification Badge (Expert, Bar) - Weapon: Rifle (Inscription: Rifle); and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Staff Sergeant Garth D. Sizemore and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and
WHEREAS, the passing of Staff Sergeant Garth D. Sizemore has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Staff Sergeant Garth D. Sizemore and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Staff Sergeant Garth D. Sizemore.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the wife of Staff Sergeant Garth D. Sizemore, Elena Sizemore, 468 W Main Street, Mount Sterling, Kentucky 40353; the father of Staff Sergeant Garth D. Sizemore, Glen Sizemore, 468 W. Main Street, Mount Sterling, Kentucky 40353; and the mother of Staff Sergeant Garth D. Sizemore, Carolyn Kay Sizemore, 242 Cedar Street Apt 7, Englewood, Florida 34223.

Representative Rader asked that the following **HR 102** be read:

HR 102. A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sergeant First Class Lance S. Cornett.

With deep respect and admiration, we pay homage and tribute to Sergeant First Class Lance S. Cornett, and we pause in silent reverence for his soul.

WHEREAS, Lance S Cornett was born July 11, 1972, in San Diego, California, and he traversed these earthly bounds February 3, 2006; and

WHEREAS, Lance S. Cornett was the loving son of Rhudell Cornett and Karen McMullen; he was the devoted husband of Sandra Cornett; he was the loving father of Brandy Rudy, Christopher Hart, and Brianna Cornett; he was the doting brother of Cristal Chesnut; he was the caring grandfather of Logan Scott Rudy and Taylor Nicole Rudy; and he leaves behind a grandmother, Mary Lou Egan and many other family members; and

WHEREAS, Lance S. Cornett graduated from Laurel County High School in 1991; and

WHEREAS, Sergeant First Class Lance S. Cornett enlisted in the United States Army in August, 1991 as an infantryman; he was assigned to the U.S. Army Special Operations Command, Fort Bragg, North Carolina; and he deployed in support of Operation Iraqi Freedom; and

WHEREAS, the life of Sergeant First Class Lance S. Cornett ended prematurely from injuries sustained while engaging enemy forces in the vicinity of Ramadi, Iraq; and

WHEREAS, Sergeant First Class Lance S. Cornett valiantly served his country with honor and distinction; he was remembered as "a loving husband, father, son and dedicated soldier... and was always unwavering in his patriotism" by his family and friends; he was laid to rest with full military honors; and his awards and decorations include two Bronze Star Medals with Valor Device, the Joint Service Commendation Medal, three Army Commendation Medals, nine Army Achievement Medals, the Joint Meritorious Medal, four Army Good Conduct Medals, the National Defense Service Ribbon with Bronze Service Star, the Armed Forces Expeditionary Medal with Bronze Service Star, the Iraqi Campaign Medal, Global War on Terrorism Expeditionary Medal, Global War on Terrorism Service Medal, Army Service Ribbon, the Noncommissioned Officer Professional Development Ribbon with numeral three, the Ranger Tab, the Combat Infantryman's Badge, the Expert Infantryman's Badge, the Pathfinder Badge, the Military Freefall Jumpmaster Badge, the Master Parachutist Badge, the Air Assault Badge, and the Service Operations Diver Badge; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Sergeant First Class Lance S. Cornett and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Sergeant First Class Lance S. Cornett has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Sergeant First Class Lance S. Cornett and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Sergeant First Class Lance S. Cornett.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to: the wife of Sergeant First Class Lance S. Cornett, Mrs. Sandra Cornett, C/O 4948 Slate Lick Rd, London, Kentucky 40741-6068; the father of Sergeant First Class Lance S. Cornett, Mr. Rhudell Cornett, 4948 Slate Lick Rd, London, Kentucky 40741-6068; and the mother of Sergeant First Class Lance S. Cornett, Ms. Karen McMullen, 1100 Lancelot Ct, Pulaski, Wisconsin 54162.

Representative Combs asked that the following **HR 104** be read:

HR 104, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Lance Corporal Jonathan Brett Thornsberry.

With deep respect and admiration, we pay homage and tribute to Lance Corporal Jonathan Brett Thornsberry, and we pause in silent reverence for his soul.

WHEREAS, Lance Corporal Jonathan Brett Thornsberry was born March 11, 1984, in Pikeville, Kentucky and traversed these earthly bounds October 25, 2006; and

WHEREAS, Jonathan Brett Thornsberry was the devoted husband of Toni Renee Thornsberry; he was the loving father of Haylee Jo Thornsberry; he was the beloved son of Jackie and Judy Thornsberry; he was the caring brother and brother-in-law of Jeffrey and Angela Thornsberry; he was the beloved grandson of Alice Moore Lawson; he was the doting uncle of Thomas and Jack Thornsberry; he was adored by a host of aunts, uncles, and cousins; and he leaves behind many other family members and friends; and

WHEREAS, Jonathan Brett Thornsberry graduated from South Floyd High School in 2002; and

WHEREAS, Lance Corporal Jonathan Brett Thornsberry enlisted in the United States Marine Corps Reserves in January 2004; and was assigned to the Marine Forces Reserve's 3rd Battalion, 24th Regiment, 4th Marine Division, Johnson City, Tennessee; and

WHEREAS, Lance Corporal Jonathan Brett Thornsberry was deployed in August 2006 in support of Operation Iraqi Freedom and the Global War on Terror; and

WHEREAS, the life of Lance Corporal Jonathan Brett Thornsberry ended prematurely when he came under hostile fire while conducting combat operations in Al Anbar province, Iraq; and

WHEREAS, Lance Corporal Jonathan Brett Thornsberry valiantly served his country with honor and distinction and was remembered as a "very loving person...someone passionate about sports and hunting...a person with a keen sense of humor" by his family and friends; and

WHEREAS, Lance Corporal Jonathan Brett Thornsberry was laid to rest with full military honors; his awards and decorations include: the Purple Heart (posthumously), the Global War on Terrorism Service Medal, the Iraqi Campaign Medal, the National Defense Service Medal, the Armed Forces Reserve Medal with Mobilization Device Letter of Appreciation, and the Rifle Sharpshooter Badge; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Lance Corporal Jonathan Brett Thornsberry and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Lance Corporal Jonathan Brett Thornsberry has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Lance Corporal Jonathan Brett Thornsberry and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Lance Corporal Jonathan Brett Thornsberry.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the wife of Lance Corporal Jonathan Brett Thornsberry, Ms. Toni Renee Thornsberry, 161 Map Drive, Apartment 23, Pikeville, Kentucky 41501 and to the parents of Lance Corporal Jonathan Brett Thornsberry, Mr. and Mrs. Jackie Thornsberry, 779 Middle Branch, McDowell, Kentucky 41647.

Representative Dedman asked that the following **HR 105** be read:

HR 105, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sergeant First Class Charles Jason Jones.

With deepest respect and admiration, we pay homage and tribute to Sergeant First Class Charles Jason Jones, and we pause in silent reverence for his soul.

WHEREAS, Sergeant First Class Charles Jason Jones was born December 7, 1976, in Corbin, Kentucky, and he traversed these earthly bounds September 20, 2006; and

WHEREAS, Charles Jason Jones was the loving son of Colonel Charles Tommy and Linda S. Taylor Jones; he was the caring brother of Brandi Jones; he was the paternal grandson of Charles and Bunny Jones; he was the maternal grandson of the late Charlie Taylor and Dorothy Taylor Hensley; and he also leaves behind many other family members and friends who loved him dearly; and

WHEREAS, Sergeant First Class Charles Jason Jones graduated from South Laurel High School in 1994; and

WHEREAS, Sergeant First Class Charles Jason Jones joined the Kentucky National Guard in 1993; he was assigned as a medic to the National Guard's 149th Brigade Combat Team, Louisville, Kentucky; he previously deployed to Germany and Bosnia in 2002, and Afghanistan in support of Operation Enduring Freedom in 2004; and he deployed to Iraq in 2006; and

WHEREAS, the life of Sergeant First Class Charles Jason Jones ended prematurely from a noncombat-related incident in Baghdad, Iraq; and

WHEREAS, Sergeant First Class Charles Jason Jones valiantly served his country with honor and distinction; he was buried with full military honors; and his awards and decorations include the Army Commendation Medal, Iraq Campaign Medal, and Kentucky Distinguished Service Medal; and

WHEREAS, Sergeant First Class Charles Jason Jones was described as "a soldier . . . who stood up to be counted every time his nation called . . . a fine soldier . . . a very intelligent man . . . always wanted to help others" by the Kentucky Adjutant General, Maj. Gen. Donald C. Storm; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Sergeant First Class Charles Jason Jones and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Sergeant First Class Charles Jason Jones has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Sergeant First Class Charles Jason Jones and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Sergeant First Class Charles Jason Jones.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the parents of Sergeant First Class Charles Jason Jones, Colonel Charles Tommy and Linda S. Taylor Jones, 952 Frankfort Road, Lawrenceburg, Kentucky 40342.

Representative Greer asked that the following **HR 108** be read:

HR 108. A RESOLUTION adjourning the House of Representatives in loving memory and honor of Major Michael Lewis Mundell.

With deepest respect and admiration, we pay homage and tribute to Major Michael Lewis Mundell, and we pause in silent reverence for his soul.

WHEREAS, Major Michael Lewis Mundell was born April 14, 1959, in Pittsburgh, Pennsylvania and he traversed these earthly bounds January 5, 2007; and

WHEREAS, Michael Lewis Mundell was the loving son of the late Oliver Dale and Helen Louise Mundell; he was the devoted husband of Audrey Cundiff Mundell; he was the loving father of four children, Erica Lynne, Ryan Daniel Andrew, Zachary Lewis, and Thomas Dale Mundell; he was the caring brother of Deanna Sofranko; he was the doting uncle of a niece and nephew, Taylor and Kenny Sofranko; and he also leaves behind a host of other relatives and friends; and

WHEREAS, Major Michael Lewis Mundell graduated in 1977 from Canon-McMillan High School in Canonsburg, Pennsylvania and graduated in 1981 with a Bachelor of Arts degree in history from Washington and Jefferson College in Washington, Pennsylvania; and

WHEREAS, Major Michael Lewis Mundell enlisted in the United States Army after attending college and served for 11 years, where he commanded a tank battalion in Kentucky and in Germany; and

WHEREAS, Major Michael Lewis Mundell joined the inactive Army Reserve in November 2005 after serving as a civilian contractor to the United States Armed Forces; and he then volunteered to return to active duty to serve in Operation Iraqi Freedom; and

WHEREAS, Major Michael Lewis Mundell was assigned to the 1st Brigade, 108th Division (Institutional Training) in Spartanburg, South Carolina; and

WHEREAS, Major Michael Lewis Mundell was deployed to Iraq in June 2006 in support of Operation Iraqi Freedom; and

WHEREAS, the life of Major Michael Lewis Mundell ended prematurely when an improvised explosive device detonated near his military vehicle during combat operations in Fallujah, Iraq; and

WHEREAS, Major Michael Lewis Mundell valiantly served his country with honor and distinction; and he was remembered as a "good, highly intelligent man...who was a Civil War buff and a voracious reader...and a lifelong fan of the Pittsburgh Steelers" by his family and friends and as a "professional and a teammate" by his fellow soldiers; and

WHEREAS, Major Michael Lewis Mundell was laid to rest with full military honors; his awards and decorations include the Meritorious Service Medal, Army Reserve Commendation Medal, Army Achievement Medal, National Defense Service Medal, Army Service Ribbon, Army Overseas Service Ribbon, and Purple Heart; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Major Michael Lewis Mundell and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Major Michael Lewis Mundell has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Major Michael Lewis Mundell and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Major Michael Lewis Mundell.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the wife of Michael Lewis Mundell, Audrey Mundell, in care of Hager Funeral Home, 633 Bland Street, Brandenburg, Kentucky 40108.

Representative Dedman asked that the following **HR 109** be read:

HR 109, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Master Sergeant Clinton Wayne Cubert.

With deep respect and admiration, we pay homage and tribute to Master Sergeant Clinton Wayne Cubert, and we pause in silent reverence for his soul.

WHEREAS, Clinton Wayne Cubert was born August 25, 1967, in Hearne, Texas, and he traversed these earthly bounds April 16, 2006; and

WHEREAS, Clinton Wayne Cubert was the loving son of Clinton Davis Cubert and Virginia Mae Townley; he was the devoted husband of Amy Powell Cubert; he was the loving father of two daughters, Sarah and Alisha Cubert; he was the caring brother of five siblings, Linda Lou Martin, Nancy Marie Robinson, Julie Ann Dent, Peggy Ann Cubert, and Steven Wayne Cubert; and he leaves behind many other family members; and

WHEREAS, Master Sergeant Clinton Wayne Cubert enlisted in the United States Army National Guard in 1987; he was deployed in support of Operation Iraqi Freedom in January, 2005; he was assigned to the 2113th Transportation Company, Paducah, Kentucky; and he was a Transportation Platoon leader for the 4th Platoon, known as the "Guardians"; and

WHEREAS, the life of Master Sergeant Clinton Wayne Cubert ended prematurely from injuries sustained when an improvised explosive device detonated near his Humvee during combat operations in Samarra, Iraq; and

WHEREAS, Master Sergeant Clinton Wayne Cubert valiantly served his country with honor and distinction; he was remembered as "a great father, husband, and soldier" by his family, and friends; he loved boating, fishing, hunting, and spending time with his family; he was also remembered by his former company commander as the "most dedicated in making sure his soldiers were trained, equipped, and ready"; he was laid to rest with full military honors; and his awards and decorations include the: Bronze Star, Purple Heart, Meritorious Service Medal, Overseas Service Ribbon, Kentucky Distinguished Service Medal, and Combat Action Badge; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Master Sergeant Clinton Wayne Cubert and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Master Sergeant Clinton Wayne Cubert has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Master Sergeant Clinton Wayne Cubert and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Master Sergeant Clinton Wayne Cubert.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the wife of Master Sergeant Clinton Wayne Cubert, Mrs. Amy Cubert, 1080 Dennis Road, Lawrenceburg, Kentucky 40342.

Representative Denham asked that the following **HR 111** be read:

HR 111, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Staff Sergeant John Edward Cooper.

With deepest respect and admiration, we pay homage and tribute to Staff Sergeant John Edward Cooper, and we pause in silent reverence for his soul.

WHEREAS, Staff Sergeant John Edward Cooper was born March 22, 1977, in Brown County, Ohio and traversed these earthly bounds January 15, 2007; and

WHEREAS, John Edward Cooper was the loving son of Janice Botkin and Michael Cooper; he was the caring stepson of Roger Botkin; he was the loving brother of Terrance Cooper, Sherri Springate, and Susan West; he was the caring stepbrother of James Roger Botkin, Jr., Robert McMillan, Bonita Botkin, Sherry Hilterbrandt, and Teresa Gates; he was the beloved grandson of James and Lillian Burke; and he leaves behind a host of aunts, uncles, nieces, and nephews; and

WHEREAS, Staff Sergeant John Edward Cooper graduated from Fleming County High School in Flemingsburg, Kentucky in 1995; and

WHEREAS, Staff Sergeant John Edward Cooper enlisted in the United States Army on September 21, 1985; and he was assigned to the 2nd Squadron, 7th Cavalry Regiment, 4th Brigade Combat Team, 1st Cavalry Division, Fort Bliss, Texas; and

WHEREAS, Staff Sergeant John Edward Cooper had previously been deployed to Afghanistan in support of Operation Enduring Freedom; and he was serving his second operational deployment in support of Operation Iraqi Freedom after previously being deployed to Iraq in 2003; and

WHEREAS, the life of Staff Sergeant John Edward Cooper ended prematurely when an improvised explosive device detonated near his military vehicle while conducting combat operations in Mosul, Iraq; and

WHEREAS, Staff Sergeant John Edward Cooper valiantly served his country with honor and distinction; and he was remembered as a "wonderful young man . . . who wanted to be a soldier from the third grade on" by family and friends; and

WHEREAS, Staff Sergeant John Edward Cooper was laid to rest with full military honors; his awards and decorations include the Army Achievement Medal, Good Conduct Medal, National Defense Service Medal, Korea Defense Service Medal, Army Commendation Medal, Iraq Campaign Medal, Global War on Terrorism Expeditionary Medal, Global War on Terrorism Service Medal, Air Assault Badge, Noncommissioned Officer Professional Development Ribbon, Combat Infantry Badge (posthumously), Purple Heart (posthumously), and Bronze Star (posthumously); and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Staff Sergeant John Edward Cooper and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Staff Sergeant John Edward Cooper has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Staff Sergeant John Edward Cooper and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Staff Sergeant John Edward Cooper.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the mother of Staff Sergeant John Edward Cooper, Ms. Janice Botkin, 1587 Taylor Mill Road, Flemingsburg, Kentucky 41041.

Representative C. Belcher asked that the moved following **HR 147** be read:

HR 147, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sergeant Phillip David McNeill.

With deepest respect and admiration, we pay homage and tribute to Sergeant Phillip David McNeill, and we pause in silent reverence for his soul.

WHEREAS, Sergeant Phillip David McNeill was born April 30, 1984, in Louisville, Kentucky, and he traversed these earthly bounds January 20, 2007; and

WHEREAS, Phillip David McNeill was the loving son of David W. McNeill and Angela H. Fiely; he was the loving stepson of Jeff Fiely; he was the caring brother of Christopher J. McNeill; he was the doting grandson of paternal grandparents, the late Colonel Jesse Lewis McNeill and Lillian McNeill; and he also leaves behind many other family members; and

WHEREAS, Sergeant Phillip David McNeill graduated from J.P. Taravella High School in Coral Springs, Florida in 2002; he adored classics, such as *Crime and Punishment*, as well as children's books, like the Harry Potter series; and he taught himself to play the guitar, reveled in Metallica music, and helped raise money for Kids in Distress, Inc.; and

WHEREAS, Sergeant Phillip David McNeill followed the tradition of other family members who served in the military

when he enlisted in the United States Army in January 2003; he was a combat medic, assigned to the 3rd Battalion, 509th Infantry (Airborne), 4th Brigade Combat Team, 25th Infantry Division, Fort Richardson, Alaska; he first deployed in support of Operation Iraqi Freedom in 2004; and he volunteered for a second tour of duty in support of Operation Iraqi Freedom in September 2006; and

WHEREAS, the life of Sergeant Phillip David McNeill ended prematurely when an improvised explosive device detonated near his Humvee during combat operations in Karma, Iraq; and

WHEREAS, Sergeant Phillip David McNeill gallantly served his country with honor and distinction; he was remembered as "the type of kid that always had a smile on his face. . . a leader," by his father; he was laid to rest with full military honors; his awards and decorations include the Bronze Star (posthumous), Purple Heart (posthumous), Army Achievement Medal, Combat Medical Badge, Global War on Terrorism Expeditionary Medal, Iraq Campaign Medal, and Global War on Terrorism Service Medal; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Sergeant Phillip David McNeill and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Sergeant Phillip David McNeill has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Sergeant Phillip David McNeill and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Sergeant Phillip David McNeill.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the mother of Sergeant Phillip David McNeill, Angela H. Fiely, 4465 Bridlewood Lane, Batavia, Ohio 45103-1410; to the father and brother of Sergeant Phillip David McNeill, David W. and Christopher J. McNeill, 8611 D. Fenwick Creek, Louisville, Kentucky 40220; and to the grandmother of Sergeant Phillip David McNeill, Lillian McNeill, P.O. Box 1006, Owingsville, Kentucky 40360.

Representative Cherry moved that **HR 87, 92, 94, 95, 96, 97, 98, 101, 102, 104, 105, 108, 109, 111, and 147** be adopted. Agreed.

Representative Richards moved the adoption of the following **Legislative Citation No. 55**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes the esteemed participants and sponsors of 4-H: A Capitol Experience upon having traveled from their respective communities from throughout the Commonwealth to join with fellow members of the 4-H Clubs and 4-H Youth Development Program to celebrate this very special youth organization by spending this day at the Capitol during the 2007 Regular Session of the Kentucky General Assembly. As participants in the 4-H Youth Development Program, which sponsors 4-H Clubs in both rural and urban areas throughout the Commonwealth and reaches more than 225,000 youth who range from five to nineteen years of age; which offers diverse programs that include agriculture, workforce development, information technology and practical life skills; and which makes great contributions toward the development of well-rounded youth, both the members of the 4-H Clubs and those adults who work with them, from the unique contributions made by the Cooperative Extension Service and Kentucky's land-grant universities--the University of Kentucky and Kentucky State University--the volunteer leaders and interested citizens, are extended a hearty welcome to the House Chamber on this auspicious occasion. Further, the members of this honorable body are delighted to join with Speaker Jody Richards in commending the 4-H Youth Development Program for its service to Kentucky's youth; in commending the Cooperative Extension Service for its contributions toward this effort; in urging the citizens of the Commonwealth to become personally involved in this outstanding program; and in praising the young people who participate in 4-H Clubs throughout Kentucky. Done in Frankfort, Kentucky, this first day of March, in the year two thousand and seven.

Legislative Citation No. 55 was adopted without objection.

Representative Richards moved the adoption of the following **Legislative Citation No. 56**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the esteemed State 4-H Teen Council Officers upon visiting the Capitol during the 2007 Regular Session of the Kentucky General Assembly as participants in the statewide 4-H Youth Development Programs gather to celebrate their organization on 4-H: A Capitol Experience Day. Inasmuch as State 4-H Officers have served Kentucky 4-H since 1921, and have made significant contributions to the organization while further developing their talents, with many of the former officers continuing as successful adults in a wide range of roles at county, area, state and national levels to the organization, it is with great pleasure that the members of this honorable body join with Speaker Jody Richards in welcoming this year's State 4-H Teen Council Officers: President, Josh Pruitt of Hopkins County;

Vice President, Curtis Coombs of Henry County; Secretary, Sabrina Hounshell of Fayette County; and, Treasurer, Kala Cross of Monroe County, to the House Chamber on this very special occasion and in extending warmest wishes to each of them for their vital contributions to the rich legacy of the Kentucky 4-H Organization. Done in Frankfort, Kentucky, this first day of March, in the year two thousand and seven.

Legislative Citation No. 56 was adopted without objection.

Introductions of Bills and Resolutions

HR 183, by Representative Adkins: A RESOLUTION adjourning the House of Representatives in loving memory and honor of William C. "Bill" Lane.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Natural Resources and Environment: **SB 125, 187**

Elections, Constitutional Amendments and Intergovernmental Affairs: **HB 432, SB 14**

Transportation: **SB 155**

Health and Welfare: **SB 112, 152**

Report of Committees

The Committee on Judiciary reported **HB 420** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 420, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 433.865 is amended to read as follows:

- (1) A person is guilty of theft of milk cases, cabinets, or other dairy equipment by unlawful taking or disposition when he or she:
 - (a) Receives, takes, stores, buys, sells, disposes of, uses, or otherwise possesses any milk case, milk cabinet, or other dairy equipment without the consent of the owner;
 - (b) Refuses to return any milk case, cabinet, or other dairy equipment to the owner upon demand; or
 - (c) Defaces, erases, obliterates, covers up, or otherwise removes or conceals any name, registered trademark, or other business identification of an owner of a milk case, cabinet, or other dairy equipment for the purpose of destroying or removing from the milk case, cabinet, or other dairy equipment evidence of its ownership.
- (2) Theft of milk cases, cabinets, or other dairy equipment is punishable by a minimum fine of one hundred dollars (\$100) and a maximum fine of three hundred dollars (\$300).

The Committee on Labor and Industry reported **HB 318, HB 492, HB 493**, with Committee Substitute attached thereto, and **HB 495** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 318, AN ACT relating to labor-management negotiations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

- (1) The General Assembly hereby finds and declares that the public policy of the Commonwealth of Kentucky shall be to promote improvement in the relationship between the Commonwealth, its political subdivisions, and their employees by recognizing the right of public employees to join public employee organizations of their own choosing and to be represented by those organizations to bargain collectively on matters pertaining to wages, hours, and other terms and conditions of employment.
- (2) The General Assembly further finds and declares that the obligation to bargain collectively does not mean that either party is compelled to agree to any proposal nor does it require the making of any concession, and no public employee shall be required to join a public employee organization.
- (3) The General Assembly further finds and declares that efficient management of government at the state and local levels within the Commonwealth requires that cooperative relationships be maintained among public employees, public

employers, and public employee organizations and that no public employee, public employer, or public employee organization may participate in a strike, as defined in Section 2 of this Act, or instigate or support in any manner a strike.

- (4) The General Assembly further finds and declares that no provision of Sections 1 to 22 of this Act, or any negotiations or other collective bargaining activity, shall be interpreted or construed to diminish any rights and responsibilities of public employers and employees under state or local merit system laws or other statutory provisions or ordinances.
- (5) The General Assembly finally finds and declares that the authority granted in Sections 1 to 22 of this Act and the purposes to be accomplished are proper governmental and public purposes for which public moneys may be expended, and that public employees deserve the same rights and responsibilities to engage in collective bargaining that are enjoyed by employees in private industry.

SECTION 2. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 22 of this Act:

- (1) "Bargain collectively" means to perform the mutual obligation of the public employer, by its representatives, and the exclusive bargaining representative of employees in an appropriate bargaining unit to meet and confer and negotiate in good faith at reasonable times and places with respect to wages, hours, and other terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, with the intention of reaching an agreement, or to resolve questions arising under the agreement;
- (2) "Bargaining unit" means a group of employees eligible to be represented by an exclusive bargaining representative as determined by the board under Section 7 of this Act;
- (3) "Board" means the State Employment Relations Board established in Section 3 of this Act;
- (4) "Confidential employee" means:
 - (a) Any employee who works in the personnel offices of a public employer and deals with information to be used by the public employer in collective bargaining; or
 - (b) Any employee who works in a close continuing relationship with public officers or representatives directly participating in collective bargaining on behalf of the public employer;
- (5) "Day" means a calendar day. In the event any deadline established by Sections 1 to 22 of this Act falls on a Saturday, Sunday, or legal holiday of the affected public employer, the deadline shall be extended to the next regular work day of the employer. Any period of time established by Sections 1 to 22 of this Act that is defined in terms of days shall begin on the day the action precipitating the time period is taken. The day shall end at the time the affected office normally closes for regular business;
- (6) "Eligible employee" means a public employee eligible to be represented by an exclusive bargaining representative under the provisions of Sections 1 to 22 of this Act. "Eligible employee" includes a person over whom the National Labor Relations Board has declined jurisdiction on the basis that the involved employee is an employee of a public employer, unless that person is excluded by this subsection. "Eligible employee" does not include:
 - (a) A person holding an elective office;
 - (b) An employee of the General Assembly or an employee of any other legislative body of the public employer whose principal duties are directly related to the legislative functions of the body;
 - (c) The chief executive officer of an agency;
 - (d) An employee on the staff of the chief executive of the public employer whose principal duties are directly related to the performance of the executive functions of the chief executive;
 - (e) A person who is a member of the organized militia while on active duty, or while acting in any capacity as a member of the organized militia;
 - (f) An employee of the board;
 - (g) A confidential employee;
 - (h) A management employee;
 - (i) An assistant Attorney General, or an assistant Commonwealth's or county attorney;
 - (j) A supervisor;
 - (k) An employee of a county board of election;
 - (l) An independent contractor;
 - (m) A casual employee;
 - (n) An employee covered by the National Labor Relations Act;
 - (o) An employee of the state Personnel Board created under KRS 18A.045;
 - (p) A member of a board, authority, or commission; or
 - (q) Any employee whose status is similar to any of the above described employees as determined by the board;

- (7) "Exclusive bargaining representative" means the public employee organization certified or recognized by the board as the exclusive bargaining representative of the eligible employees in a bargaining unit of a public employer under Section 6 of this Act;
- (8) "Firefighter" means a person employed by a fire department of a public employer and who is involved in activities associated with training, suppression, prevention, inspection, investigation, rescue, emergency, medical responses, or related activities as the result of an appointment from a duly established civil service eligibility list or other lawful appointee;
- (9) "Governing body" means the Kentucky General Assembly, a county fiscal court, a board of aldermen, a city council, an urban-county council, a consolidated local government council, a county school board, or any other duly elected or appointed body with the authority to determine personnel policy or appropriate the funds necessary to carry out a personnel policy;
- (10) "Management employee" means an employee:
- (a) Who formulates policy on behalf of the public employer;
 - (b) Who responsibly directs the implementation of policy; or
 - (c) Who may reasonably be required on behalf of the public employer:
 - 1. To assist in the preparation for the conduct of collective bargaining negotiations and to administer collectively negotiated agreements; or
 - 2. To have a major role in personnel administration. With respect to members of a faculty of an institution that is part of Kentucky's postsecondary education system, as defined in KRS 164.001, a person is not a management employee solely because of his or her involvement in the formulation or implementation of academic or institution policy. With respect to employees of a school district, assistant superintendents, principals, and assistant principals are management employees, but an employee is not a management employee solely because he or she participates in a site-based management arrangement such as a school council for school-based decision making, is a member of a work team, joint committee, or beginning teacher committee, or otherwise is involved on an occasional basis in the development or administration of management programs or policies;
- (11) "Public official" means an elected official or an employee of the public employer who does not meet the definition of an eligible employee;
- (12) "Person" means a public employee organization, a public employee, a public employer, or a public official;
- (13) "Police officer" means a person who is in the employ of a police department of a public employer as a full-time regular police officer with the power of arrest as the result of an appointment by a mayor, city commission, county/judge executive, or other governmental executive, board, civil service or merit board or agency authorized to appoint police, or a full-time deputy sheriff;
- (14) "Professional employee" means any employee engaged in work that predominantly involves the consistent exercise of discretion and judgment in its performance and requires knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course in a postsecondary institution or a hospital, as distinguished from a general academic education or from an apprenticeship; or an employee who has completed the courses of specialized instruction and is performing related work under the supervision of a professional person to qualify the employee to become a professional employee. For purposes of Sections 1 to 22 of this Act, police officers, teachers, and firefighters shall be deemed professional employees;
- (15) "Public employee" means any person who holds a position by appointment or employment in the service of a public employer and who provides services in return for wages;
- (16) "Public employee organization" means any bona fide organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with public employers concerning grievances, labor disputes, wages, hours, terms, and other conditions of employment of public employees;
- (17) "Public employer" means the state government or the government of any political subdivision of the state including any city, county, charter county, urban-county, consolidated local government, school district, institution that is part of Kentucky's postsecondary education system as defined in KRS 164.001, or any other unit of government that is governed by elected officials, or by a board that is appointed by a public employer or public employers and that has the authority to hire and dismiss employees without the permission of the public employer;
- (18) "Strike" means any action by a public employee in which he or she is absent from any portion of a work assignment without permission, or abstains wholly or in part from the full performance of duties without permission from the employer for the purpose of inducing, influencing, or coercing a change in wages, hours, terms, and other conditions of employment without permission from the employer. "Strike" includes a work slowdown, sick-out, and withholding of services on an intermittent basis. "Strike" does not include the withholding of services by a public employee or public employees in good faith because of abnormally dangerous conditions for work at the place of employment in respect to the normal job duties or functions;

- (19) "Supervisor" means any employee or official of a public employer having authority to hire, transfer, suspend, lay off, direct, recall, promote, assign, discipline, or discharge public employees, or effectively recommend those actions, if in connection with the foregoing, exercise of the authority is not of a mere routine or clerical nature, but requires use of independent judgment and the employee spends a preponderance of his or her time performing those responsibilities. An employee shall not be deemed to be a supervisor based solely on the following designations:
- (a) An employee of a school district who is a department chair, consulting teacher, or who participates in a school council for school-based decision making, a beginning teacher committee, or any similar program that occasionally may involve the employee in the performance of supervisory functions; or
- (b) A faculty member of an institution that is part of Kentucky's postsecondary education system as defined in KRS 164.001, who participates in decisions about courses, curriculum, personnel, or other matters of academic policy;
- (20) "Teacher" means any employee of a school district certified to teach in the public schools of this Commonwealth whose duties do not meet the definition of supervisor as defined in this section;
- (21) "Terms and conditions of employment" means wages, hours, fringe benefits, facilities, equipment and other physical aspects of employment, personnel policies, and other matters that affect the working environment of employees. With respect to the professional employees of a school district, matters that affect the working environment of employees include class size, curriculum development, and other educational policy matters that affect the content, structure, or quality of an educational program. If it acts in accordance with the procedural requirements of KRS 160.345, a school council for school-based decision making may adopt policies concerning the specific areas listed in subsection (3)(g) and (i) of KRS 160.345 even if those policies are in conflict with, and therefore supersede, a collective bargaining agreement negotiated under Sections 1 to 22 of this Act, unless the public employer and the bargaining representative previously have agreed or subsequently agreed otherwise; and
- (22) "Wages" means hourly rates of pay, salaries, or other forms of compensation for services rendered.

SECTION 3. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

- (1) There is hereby created the State Employment Relations Board. The board shall be attached to the Department of Labor for administrative purposes.
- (2) The board shall consist of three (3) members who shall be appointed by the Governor and subject to confirmation by the Senate in accordance with KRS 11.160.
- (3) A member of the board shall:
- (a) Be knowledgeable about collective bargaining;
- (b) Devote his or her full time to the duties of the board;
- (c) Hold no other public office; and
- (d) Allow no other responsibilities to interfere or conflict with his or her duties as a full-time member.
- No more than two (2) individuals belonging to the same political party shall serve on the board at the same time.
- (4) The Governor shall make the initial appointments to the board as follows: one (1) member shall be appointed to a term that expires July 15, 2009, one (1) member shall be appointed to a term that expires July 15, 2010 and one (1) member shall be appointed to a term that expires July 15, 2011. Subsequent members shall serve terms of four (4) years, which shall expire at four (4) year intervals from the original expiration date of the term. Board members may serve after the expiration date of the term but only until their successors are appointed and take office. Board members may begin service immediately upon appointment; however, if they are not confirmed by the Senate by the date of sine die adjournment of the next regular scheduled session of the General Assembly, the position becomes vacant and the Governor may not appoint that individual to a position on the board for a period of four (4) years from the day of rejection or adjournment by the Senate.
- (5) Any vacancy that occurs prior to the expiration of a term shall be filled by the Governor in the same manner as the initial appointment was made, and the new appointee shall serve only the remainder of the unexpired term or until a successor is appointed and takes office, whichever shall last occur.
- (6) The Governor shall appoint one (1) member to serve as chair for a term of two (2) years. The Governor may remove any member of the board, upon notice and public hearing, for neglect of duty or malfeasance in office, but for no other cause. A vacancy on the board does not impair the right of the remaining members to exercise all the powers of the board, and two (2) members of the board shall, at all times, constitute a quorum. The board shall have an official seal of which courts shall take judicial notice.
- (7) No later than December 31 of each year, the board shall make an annual report in writing to the Governor and to the General Assembly, reporting in detail the work it has done.
- (8) Compensation of the board members shall be at the rate of two hundred dollars (\$200) per day for each board meeting attended, except that the chair shall receive a salary ten percent (10%) greater than other board members for the period he or she serves as chair. The chair and the members are eligible for reappointment. In addition to compensation, all members shall be reimbursed for their necessary expenses incurred in the performance of their work as members.

- (9) The board shall appoint an executive director and other employees that it finds necessary for the proper performance of its duties and may prescribe their duties. The board may hire its own legal advisor, who shall appear for and represent the board and its agents in all legal proceedings. The board may utilize regional, local, or other agencies, and utilize voluntary and uncompensated services as needed. The board may arrange with the Federal Mediation and Conciliation Service for the assistance of mediators, arbitrators, and other personnel that service makes available. The board shall appoint all employees on the basis of training, practical experience, education, and character. The board shall give special regard to the practical training and experience that employees have for the particular position involved. All full-time employees of the board except the executive director, the personal secretaries and assistants of the executive director, and the board shall hold classified positions as defined in KRS 18A.005.
- (10) The board shall select and assign examiners, hearing officers and other agents, with due regard to their impartiality, judicial temperament, and knowledge, to conduct hearings. The board shall notify all parties to a hearing of the name of the examiner, hearing officer, or agent designated to collect information, issue reports, and conduct the hearing.
- (11) The principal office of the board shall be in Frankfort, but it may meet and exercise any or all of its powers at any other place within the Commonwealth. The board may, by one (1) or more of its employees, or any agents or agencies it designates, conduct in any part of this Commonwealth any proceeding, hearing, investigation, inquiry, or election necessary to the performance of its functions, but no person so designated may later sit in determination of an appeal of the decision resulting from that action.
- (12) In addition to the powers granted and functions required under other provisions of Sections 1 to 22 of this Act, the board shall:
- (a) Create a Bureau of Mediation to perform the functions required in Sections 1 to 22 of this Act. The bureau shall also establish, after consulting representatives of public employee organizations and public employers, panels of qualified persons to be available to serve as arbitrators, mediators, and conciliators;
 - (b) Conduct studies of problems involved in representation and negotiation and make recommendations for legislation;
 - (c) Hold hearings required under Sections 1 to 22 of this Act and, for the purpose of the hearings and inquiries, administer oaths and affirmations, examine witnesses and documents, take testimony and receive evidence, compel the attendance of witnesses and the production of documents by the issuance of subpoenas, and delegate these powers to any member of the board or any attorney-trial examiner, hearing officer, or agent appointed by the board for the performance of its functions;
 - (d) Train representatives of public employee organizations and public employers in the rules and techniques of collective bargaining procedures;
 - (e) Make studies and analyses of, and act as a clearinghouse for information relating to, conditions of employment of public employees throughout the Commonwealth and nation and request assistance, services, and data from any public employee organization or public employer. Public employee organizations or public employers shall provide assistance, services, and data that will enable the board to carry out its functions and powers;
 - (f) Make available to public employee organizations, public employers, mediators, arbitrators, conciliators, and joint study committees statistical data relating to wages, benefits, and employment practices in public and private employment applicable to various localities and occupations to assist them in resolving issues in negotiations; and
 - (g) Adopt, amend, and rescind policies and procedures, promulgate administrative regulations under KRS Chapter 13A, and exercise other powers appropriate to carry out the provisions of Sections 1 to 22 of this Act.
- (13) Any subpoena, notice of hearing, or other process or notice of the board issued under this section may be served personally, by certified mail, or by leaving a copy at the principal office or personal residence of the respondent required to be served. A return, made and verified by the individual making the service and setting forth the manner of service, is proof of service, and a return post office receipt, when certified mail is used, is proof of service. All process in any court to which application is made may be served in the county in which the person required to be served resides or is found.
- (14) Except as otherwise provided in Sections 1 to 22 of this Act, final decisions or orders of the board may be appealed to the Franklin Circuit Court by any party of record in a case or controversy before the board. Notice of a final order or decision of the board to the interested parties shall contain a certification by the chair of the board that a certified transcript of the record of the proceedings before the board had been filed with the clerk of the court as an appeal to the court. For the purposes of this section, the board has standing to bring its final order properly before the Franklin Circuit Court.

SECTION 4. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

- (1) Eligible employees have the right to:
- (a) Form, join, assist, or participate in, or refrain from forming, joining, assisting, or participating in, except as otherwise provided in Sections 1 to 22 of this Act, any employee organization of their own choosing;

- (b) With the exception of a strike, engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection;
 - (c) Be represented by an employee organization;
 - (d) Bargain collectively with their public employer; and
 - (e) Present grievances and have them adjusted without the intervention of the exclusive bargaining representative as long as the adjustment is consistent with the terms of the collective bargaining agreement in effect and as long as the exclusive bargaining representative has the opportunity to be present at the adjustment.
- (2) Nothing in Sections 1 to 22 of this Act shall prohibit public employers from electing to engage in collective bargaining, meet and confer discussions, or hold any other form of collective negotiations with public employees who are not eligible employees as defined in Section 2 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

- (1) A public employer shall extend to an exclusive bargaining representative designated in Section 6 of this Act the right to represent exclusively their eligible employees in the appropriate bargaining unit and the right to unchallenged and exclusive representation for a period of not less than twelve (12) months following the date of certification and thereafter, if the public employer and the exclusive bargaining representative enter into an agreement, for a period of not more than four (4) years from the date of signing the agreement. For purposes of this section, an extension of an agreement shall not be construed to affect the expiration date of the original agreement.
- (2) A public employer shall bargain collectively with an exclusive bargaining representative designated under Section 6 of this Act for purposes of effectuating the provisions of Sections 1 to 22 of this Act. The obligation to bargain collectively does not mean that either party is compelled to agree to a proposal, nor does it require making a concession.
- (3) When the board notifies a public employer that it has certified an exclusive bargaining representative for the eligible employees in an appropriate bargaining unit of the public employer, the public employer shall designate a representative and promptly notify the board and the exclusive bargaining representative of his or her identity and address.
- (4) Upon certification, the exclusive bargaining representative shall designate a representative and promptly notify the board and the public employer of his or her identity and address.
- (5) The board or any party shall address to the appropriate designated representative all communications concerned with collective bargaining relationships under Sections 1 to 22 of this Act.
- (6) The designated representative of a party may sign agreements resulting from collective bargaining on behalf of his or her designator, subject to the procedures set forth in Sections 1 to 22 of this Act.
- (7) Upon notification by the board that an exclusive bargaining representative has been certified to represent the eligible employees of a public employer, the public employer shall deduct dues, upon written authorization of the employee, and fair share payments from the wages of all eligible employees not paying dues and remit those dues and fair share payments on a monthly basis to the exclusive bargaining representative.

SECTION 6. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

- (1) A public employee organization or a group of public employee organizations seeking to become the exclusive bargaining representative of all the eligible employees of a public employer in an appropriate bargaining unit for the purposes of collective bargaining shall:
 - (a) File a request with the public employer with a copy to the board for recognition as the exclusive bargaining representative of their eligible employees in a bargaining unit. In the request for recognition, the public employee organization shall describe the bargaining unit, allege that a majority of the eligible employees of the public employer in the bargaining unit wish to be represented by the public employee organization, and support the request with substantial evidence based on, and in accordance with, requirements prescribed by the board demonstrating that the majority of the eligible employees in a bargaining unit of the public employer wish to be represented by the public employee organization.
 - (b) Within eight (8) calendar days of the receipt of a request, the public employer shall either request an election under Section 9 of this Act, or take the following action:
 - 1. Notify the board of the receipt of a request for recognition; and
 - 2. Post notices in each facility at which eligible employees are employed, setting forth the description of the bargaining unit, name of the public employee organization requesting recognition, and date of the request for recognition, and advising eligible employees that objections to certification must be filed with the board not later than fifteen (15) calendar days following the date of the request for recognition.
- (2) The board shall certify the public employee organization filing the request for recognition within sixteen (16) calendar days following the filing of the request for recognition, unless by the fifteenth day following the filing of the request for recognition the board receives:
 - (a) A petition from the public employer requesting an election in accordance with Section 9 of this Act;
 - (b) Substantial evidence based on and in accordance with requirements prescribed by the board demonstrating that

a majority of the eligible employees of the public employer do not wish to be represented by the public employee organization filing the request for recognition;

(c) Substantial evidence based on and in accordance with requirements prescribed by the board from another public employee organization demonstrating that at least ten percent (10%) of the eligible employees of the public employer wish to be represented by the other public employee organization; or

(d) Substantial evidence based on and in accordance with requirements prescribed by the board indicating that the proposed unit is not an appropriate unit according to Section 7 of this Act.

(3) Nothing in this section shall be construed to permit a public employer to recognize, or the board to certify, a public employee organization as an exclusive bargaining representative of all the eligible employees of a public employer under Sections 1 to 22 of this Act if there is in effect a lawful written agreement, contract, or memorandum of understanding between the public employer and another public employee organization that, on the effective date of this Act, has been recognized by the public employer as the exclusive bargaining representative of any or all of the eligible employees of the public employer. The prohibition against recognition or certification shall be enforced for a maximum of four (4) years from the effective date of this Act or on the expiration of the collective bargaining or similar agreement in effect on the effective date of this Act, whichever first occurs.

SECTION 7. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) A bargaining unit of a public employer other than the Commonwealth of Kentucky and the Commonwealth's postsecondary education system as defined in KRS 164.001 shall be determined by the board. The board shall decide in each case, in order to assure public employees the fullest freedom in exercising the rights guaranteed under Sections 1 to 22 of this Act, the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours, and other working conditions of the employees involved; the history of collective bargaining; and the desire of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmentation of bargaining units shall be avoided. Regardless of the establishment of multiple bargaining units for a public employer's employees, any election for representation by a collective bargaining representative shall receive the approval of a majority of the votes cast in an election in which all of the eligible employees are permitted to vote.

(2) A bargaining unit of employees of the Commonwealth, excluding employees of Kentucky's postsecondary education system as defined in KRS 164.001, shall be one (1) of the following:

- (a) Clerical, technical, and regulatory employees;
- (b) Administrative employees;
- (c) Labor and trades employees;
- (d) Employment and social services employees;
- (e) Health services employees;
- (f) State police officers;
- (g) Corrections, parole, and other law enforcement employees;
- (h) Professionals, specialists, scientific and related employees; or
- (i) Professional education employees.

(3) The board shall decide in each case the appropriate bargaining unit to which each job classification shall be assigned and the bargaining status of individual employees.

(4) Each institution that is part of Kentucky's postsecondary education system as defined in KRS 164.001 shall have a separate bargaining unit if a designation as an appropriate unit is consistent with the accreditation standards, or interpretations of those standards, governing postsecondary institutions or any department, school, or college of postsecondary institutions. For purposes of this section, any branch or regional campus of a postsecondary institution is part of that postsecondary institution. Notwithstanding any provision of Sections 1 to 22 of this Act to the contrary, the terms of any collective bargaining agreement relating to wages, hours, and terms and conditions of employment of faculty at postsecondary institutions shall be limited to the base compensation and other terms of employment for faculty members and shall in no way limit additional compensation or benefits the institution may want to extend to any existing or new faculty member. A bargaining unit of employees in each institution of the postsecondary education system shall be one (1) of the following:

- (a) All eligible nonprofessional employees;
- (b) All eligible professional employees except faculty;
- (c) All eligible faculty; or
- (d) All eligible public safety employees including police officers.

SECTION 8. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) If a public employer has granted recognition through a written contract, agreement, or memorandum of understanding to a public employee organization as the official or exclusive bargaining representative of any or all of the employees of the public employer, the status of that public employee organization shall be protected subject to the

time restriction in subsection (1) of Section 5 and subsection (3) of Section 6 of this Act. A public employee organization recognized as the exclusive bargaining representative of all or some of the employees of a public employer shall be deemed certified as their exclusive bargaining representative until another public employee organization has been certified by the board as the exclusive bargaining representative of the employees, or until the board decertifies it in accordance with Section 9 of this Act.

- (2) Nothing in Sections 1 to 22 of this Act shall be construed to permit a public employer to terminate or refuse to make payroll deductions of dues, fees, payments, or assessments on behalf of any exclusive bargaining representative, except that the deductions may not continue to be made after another public employee organization has been certified under Section 9 of this Act by the board, or if the exclusive bargaining representative has violated Section 16 or 17 of this Act. The public employer, when notified by the board that its employees have selected an exclusive bargaining representative, shall deduct dues, upon written authorization signed by the employee, and fair share payments from the wages of all eligible employees not paying dues and remit those dues or fair share payment on a monthly basis to the exclusive bargaining representative.
- (3) Nonofficial and nonexclusive recognition previously granted through an agreement or memorandum of understanding shall not preclude the board from:
 - (a) Determining an appropriate bargaining unit in accordance with Sections 1 to 22 of this Act;
 - (b) If necessary, adding classifications to the bargaining unit under an existing nonofficial and nonexclusive contract, agreement, or memorandum of understanding; and
 - (c) Holding a recognition-certification election to determine an exclusive representative for all additional employees deemed part of the appropriate unit.
- (4) Nothing in Sections 1 to 22 of this Act shall be construed to permit a skilled craft unit to be altered if there is in effect a lawful written agreement, contract, or memorandum of understanding between the public employer and an employee organization for the term of the agreement, contract, or memorandum of understanding that, on the effective date of this Act, has been recognized by a public employer as the designated or exclusive representative of the employees in that recognized bargaining unit, or which by tradition, custom, practice, election, or negotiation has been the only employee organization representing employees in that bargaining unit.
- (5) The provisions of Sections 1 to 22 of this Act shall not preclude any nonprofit, voluntary, bona fide organization that, by tradition, custom, and practice, has engaged in processing of grievances for public employees before a political subdivision or civil service commission on or before the effective date of this Act, from providing the services it has previously offered on a voluntary basis or from receiving a voluntary checkoff of dues, unless the public employees involved are in a bargaining unit represented by an exclusive bargaining representative.

SECTION 9. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

- (1) When a petition is filed, in accordance with requirements prescribed by the board:
 - (a) By any eligible employee or group of eligible employees, or any individual or public employee organization acting in their behalf, alleging that at least thirty percent (30%) of the eligible employees of the public employer wish to be represented for collective bargaining by an exclusive representative, or asserting that the designated official or exclusive bargaining representative is no longer the representative of at least thirty percent (30%) of the eligible employees of an appropriate unit and supported by thirty percent (30%) of the eligible employees in that unit, the board shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, the board shall provide for an appropriate hearing upon due notice to the parties; or
 - (b) By the employer alleging that one (1) or more public employee organizations have presented to it a claim to be recognized as the exclusive bargaining representative in an appropriate unit, the board shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, the board shall provide for an appropriate hearing upon due notice to the parties.
- (2) If the board finds upon the record of a hearing that a question of representation exists, or if the public employer requests an election in accordance with Section 6 of this Act, the board shall direct an election by secret ballot by on-site balloting, mail balloting, or a combination of the two. The board shall certify the results of the ballot.
- (3) Only the names of those employee organizations designated by more than ten percent (10%) of the employees in the unit found to be appropriate may be placed on the ballot. Nothing in this section shall be construed to prohibit the waiving of hearings by stipulation, in conformity with requirement of the board, for the purpose of a consent election.
- (4) The board shall conduct representation elections at times and places selected by the board subject to the following:
 - (a) The board shall give written notice of the time and place of an election at least twenty-two (22) calendar days before the election;
 - (b) The board shall establish procedures concerning the conduct of any election including, but not limited to, procedures to guarantee the secrecy of the ballot;
 - (c) The board shall include on the ballot a choice of "No Representation," except in runoff elections where two (2) employee organizations have received sufficient votes to have a runoff election as provided in paragraph (d) of this subsection;

- (d) In an election where there are more than two (2) choices and none of the choices on the ballot receives the support of a majority of the valid votes cast, the board shall within eight (8) calendar days conduct a runoff election. In that case, the ballot shall provide for a selection between the two (2) choices or parties receiving the highest and the second highest number of ballots cast in the election;
- (e) The board shall certify the public employee organization that receives the votes of a majority of the valid ballots cast in an election as the exclusive bargaining representative; and
- (f) The board may not conduct an election under this section in any appropriate bargaining unit where it has certified an election within the preceding twelve (12) month period, nor during the term of any lawful collective bargaining agreement between a public employer and an exclusive bargaining representative.
- (5) Petitions for elections may be filed with the board no sooner than one hundred twenty (120) calendar days or later than ninety (90) calendar days before the expiration date of any collective bargaining agreement, or after the expiration date, unless the public employer and exclusive bargaining representative enter into a new written agreement.
- (6) For the purposes of this section, extensions of agreements do not affect the expiration date of the original agreement.

SECTION 10. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

- (1) All matters pertaining to wages, hours, and other terms and conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement are subject to collective bargaining between the public employer and the exclusive bargaining representative.
- (2) The conduct and grading of classified service examinations provided to prospective members of the classified service under KRS Chapter 18A, rating of candidates, appointment of nonclassified personnel, establishment of eligible lists from the examinations, and original appointments from the eligible lists shall not be subjects for collective bargaining on behalf of public and state employees. In no event shall results of negotiations diminish any rights and responsibilities of public employees in state or local merit law.
- (3) Subject to the collective bargaining obligation established by subsection (1) of this section and all applicable laws and administrative regulations, each public employer shall have the exclusive right and responsibility to:
 - (a) Determine matters of inherent managerial policy that include, but are not limited to, areas of discretion or policy such as the functions and programs of the public employer, standards of services, its overall budget, utilization of technology, and organizational structure;
 - (b) Direct, supervise, evaluate, or hire employees;
 - (c) Maintain and improve the efficiency and effectiveness of governmental operations;
 - (d) Determine the overall methods, processes, means, or personnel by which governmental operations are to be conducted;
 - (e) Suspend, discipline, or discharge for just cause, or lay off, transfer, assign, schedule, promote, demote, or retain employees;
 - (f) Determine the adequacy of the workforce;
 - (g) Determine the overall mission of the employer as a unit of government;
 - (h) Effectively manage the workforce;
 - (i) Take actions to carry out the mission of the public employer as a governmental unit;
 - (j) Expend funds in compliance with its budget; and
 - (k) Perform other acts relative to the public employer's responsibility as may be set forth in a collective bargaining agreement.
- (4) The public employer is not required to bargain on subjects reserved to the management and direction of the governmental unit except those that affect wages, hours, and other terms and conditions of employment, and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement. The public employer may, at its option, in the interest of improving the delivery of public services, enter into an agreement with an exclusive bargaining representative concerning the matters itemized under subsection (3) of this section.

SECTION 11. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

- (1) The parties to any collective bargaining agreement under Sections 1 to 22 of this Act shall reduce the agreement to writing, which the parties shall execute in order for it to be effective.
- (2) The agreement shall contain a provision that provides for a grievance procedure that shall culminate with final and binding arbitration of unresolved grievances, and disputed interpretations of agreements, and that is valid and enforceable under its terms when entered into in accordance with Sections 1 to 22 of this Act. A public employee may file a grievance based on the collective bargaining agreement in accordance with subsection (1)(e) of Section 4 of this Act, but only the exclusive bargaining representative may take a grievance to final and binding arbitration. Either party to the agreement may bring suits for enforcement of an award by an arbitrator in the Circuit Court of any county in which a party resides or transacts business.
- (3) The agreement shall authorize the public employer to deduct periodic dues, initiation fees, and assessments of members

of the exclusive bargaining representative and its affiliated organizations upon presentation of a written deduction authorization signed by the employee.

- (4) The agreement may not require any employee to become a member of the exclusive bargaining representative. The agreement shall contain a provision that requires as a condition of employment that the eligible employees in the unit who are not members of the exclusive bargaining representative pay to the exclusive bargaining representative and its affiliated organization a fair share payment. The fair share payments shall not exceed dues paid by members of the public employee organization who are in the same bargaining unit. The fair share payment shall be equal to the membership dues that members of the exclusive bargaining representative are required to pay to the representative and its affiliated organization. Employees who are not members of the exclusive bargaining representative and who object to the payment of a fee equal to dues may obtain a reduction in the fair share payment reflecting the percentage of membership dues that equal the percentage of expenditures incurred by the exclusive bargaining representative and its affiliated organizations for activities other than collective bargaining, grievance adjustment, contract administration, and related activities that lawfully may be charged to objecting nonmember employees. The deduction of a fair share payment by the public employer from the payroll check of the employee and its payment to the public employee organization is automatic and does not require the written authorization of the employee.
- (5) Any public employee organization representing public employees in accordance with Sections 1 to 22 of this Act shall prescribe an internal procedure to determine a rebate of any excessive fair share payment, if any, for nonmembers that conforms to federal law, provided nonmembers make a timely demand on the employee organization for a determination of the fairness of the fair share payment within twenty-nine (29) calendar days of the date of the request. The determination of the amount of the rebate is conclusive on the parties except that the nonmember employee may file a challenge to the determination with the board within twenty-nine (29) calendar days of date of the determination. The board shall review the rebate determination and decide whether it was in conformity with federal law. At a minimum, the internal rebate procedure shall provide for a rebate of expenditures in support of partisan politics or ideological causes not germane to the work of the public employee organization and its affiliated organization in the realm of collective bargaining, grievance adjustment, contract administration, or related matters that lawfully may be charged to objecting nonmember employees.
- (6) Any public employee who has a sincerely held religious objection to joining or financially supporting an employee organization shall not be required to join or financially support a public employee organization as a condition of employment. Upon submission of proper proof of religious conviction to the board, the board shall declare the employee exempt from becoming a member of or financially supporting a public employee organization. The employee shall be required, in lieu of the fair share payment, to contribute over and above any amount that the employee has historically contributed to the fund, an amount of money equal to the fair share payment to a nonreligious charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code that is chosen by the employee from a list of three (3) or more funds designated in the applicable collective bargaining agreement by the public employer and the public employee organization to which the employee would otherwise be required to pay the fair share payment. If the agreement fails to designate nonreligious charitable funds, the employee may choose a fund meeting the same criteria. The employee shall furnish to the public employee organization written receipts evidencing the payment, and failure to make the payment or furnish the receipts shall be cause for and require the public employer to deduct any cash amounts from the employee's wages and remit these amounts to the charitable fund.
- (7) No public employer shall agree to a provision requiring that a public employee become a member of a public employee organization as a condition of securing or retaining employment.
- (8) No agreement shall contain an expiration date that is later than four (4) years from the date of execution. The parties may extend any agreement, but the extensions do not affect the expiration date of the original agreement.
- (9) Any collective bargaining agreement with a public employer, except the Commonwealth of Kentucky, whose chief executive is elected shall not extend beyond June 30 of the year after the chief executive is elected in a regularly scheduled election.

SECTION 12. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

- (1) A collective bargaining agreement between a public employer and an official or exclusive bargaining representative entered into according to Sections 1 to 22 of this Act shall govern the wages, hours, and terms and conditions of employment of the eligible public employees of the public employer. Where no agreement exists or where an agreement makes no specification about a matter, the public employer and public employees are subject to all applicable state or local laws or ordinances pertaining to the wages, hours, and terms and conditions of employment for public employees. Laws pertaining to civil rights, affirmative action, unemployment compensation, workers' compensation, the retirement of public employees, residency requirements, the minimum educational requirements contained in the Kentucky Revised Statutes pertaining to public education, including the requirement of certification of public school teachers, shall prevail over conflicting provisions of agreements between public employee organizations and public employers. The laws pertaining to minimum wages, overtime pay, rest periods, and occupational safety and health shall prevail over any conflicting provisions of the agreements if the terms of the agreement contain benefits or standards that are less than those required by law. The provisions of Sections 1 to 22 of this Act shall prevail over any and all other conflicting laws, resolutions, and provisions, present or future, except as otherwise specified in the provisions of Sections 1 to 22 of this Act or as otherwise specified by the General Assembly. Nothing in this section

shall prohibit or shall be construed to invalidate the provisions of an agreement establishing supplemental workers' compensation or unemployment compensation benefits or exceeding minimum requirements contained in the Kentucky Revised Statutes pertaining to public education or the minimum standards promulgated by the Kentucky Board of Education. Notwithstanding any provision of state law to the contrary, personnel administrators of public employees shall cooperate with and provide to public employee organizations appropriate identifying information of public employees including names and addresses to be used for the sole purpose of organization and representation activities. The information shall be provided to a public employee organization no later than fourteen (14) days following a finding by the board that there is reasonable cause to believe that a question of representation exists under Section 9 of this Act. Public employee organizations shall protect the confidentiality of employee identifying information and shall not provide this information to any other entity for any other purpose.

- (2) Any collective bargaining agreement negotiated under Sections 1 to 22 of this Act shall be divided into two (2) sections. One section shall contain the provisions over which the chief executive officer of the public employer has complete jurisdiction and authority and the second section shall contain the provisions that require the approval of the governing body of the public employer. The governing body may not assume authority that normally resides within the executive authority for the purpose of exerting undue influence over the outcome of collective bargaining negotiations.
- (3) The chief executive officer of a public employer may enter into an agreement with an authorized exclusive bargaining representative of the public employer's employees regarding those matters over which the chief executive has jurisdiction without the approval of the governing body of the public employer.
- (4) The chief executive officer of a public employer may negotiate wages, benefits, and other conditions of employment including changes in merit systems or personnel policies or other laws, administrative regulations, rules, or policies previously adopted by the governing body of the public employer and may submit them to the governing body, which may approve or reject the proposed changes. If presented by the chief executive officer as a package, the proposals shall be accepted or rejected as a whole. If they are presented as separate elements, each element shall be accepted or rejected as a whole.
- (5) While collective bargaining negotiations are being conducted, the governing body shall not conduct negotiations with an exclusive bargaining representative or any of its members except through the chief executive officer of the public employer, and the exclusive bargaining representative shall not conduct any negotiations with the governing body of a public employer or any member of the governing body except through the chief executive officer of the public employer.
- (6) While collective bargaining negotiations are being conducted, the chief executive officer or the governing body of a public employer or any member of that governing body may not conduct any negotiations with the members of a public employee organization.
- (7) The chief executive officer of the public employer shall submit to the appropriate governing body the applicable section of any proposed agreement, including agreements reached at the conclusion of the process described in Section 16 of this Act, within ten (10) calendar days after the date on which the parties finalize the agreement, unless otherwise specified, but if the appropriate governing body is not in session at the time, then on the first day it convenes. The governing body shall approve or disapprove funding requests related to the agreement or any other changes in the law required to implement the agreement but may not change, alter, or modify the agreement. The agreement signed by the chief executive officer shall be binding as to its terms relative to the authority of the chief executive officer, and shall not be submitted to the governing body for approval. If the governing body rejects that portion of the proposed agreement submitted to it by the chief executive officer, the exclusive bargaining representative may reopen that portion of the agreement that was rejected by the governing body.
- (8) If any or all of the employees of the government of the Commonwealth under the supervision of the Governor or any other statewide elected constitutional officer have an exclusive bargaining representative certified by the board as the exclusive bargaining representative of the eligible employees under the elected official's supervision, the elected official shall recognize the exclusive bargaining representative as the exclusive bargaining agent for those public employees. The elected official shall negotiate in good faith with the exclusive bargaining representative and if an agreement is reached, the elected official shall sign the agreement, which shall be binding among the parties relative to the authority of the Governor or other elected constitutional officer. The Governor or other statewide elected constitutional officer is authorized to sign and execute any collective bargaining agreement reached with respect to state government employees under the elected official's control prior to the 2009 Regular Session of the General Assembly that does not require supplemental appropriations with respect to personnel or changes in state law.
- (9) When the matters about which there is agreement are reduced to writing and approved by the exclusive bargaining representative and the governing body, the agreement is binding upon the governing body, the public employer, the exclusive bargaining representative, and the public employees covered by the agreement and their successors.

SECTION 13. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

- (1) It is an unfair labor practice for a public employer to:
 - (a) Interfere with, restrain, or coerce eligible public employees in the exercise of the rights guaranteed in Section 1 to 22 of this Act;

- (b) Initiate, create, dominate, or interfere with the formation or administration of any public employee organization, or contribute financial or other support to it;
 - (c) Discriminate in regard to hiring or tenure of employment or any term or condition of employment on the basis of the exercise of rights guaranteed by Sections 1 to 22 of this Act;
 - (d) Discharge or otherwise discriminate against an employee because he or she has filed charges or given testimony under Sections 1 to 22 of this Act;
 - (e) Refuse to bargain collectively with the exclusive bargaining representative of the public employer's employees;
 - (f) Establish a pattern or practice of repeated failures to timely process grievances and requests for arbitration of grievances;
 - (g) Lock out or otherwise prevent employees from performing their regularly assigned duties to bring pressure on the employees or a public employee organization to compromise or capitulate to the employer's terms regarding a labor relations dispute; or
 - (h) Cause or attempt to cause a public employee organization, its agents, or representatives to violate subsection (2) of this section.
- (2) It is an unfair labor practice for a public employee organization, its agents or representatives, or public employees to:
- (a) Restrain or coerce employees in the exercise of the rights guaranteed in Sections 1 to 22 of this Act; except that this section shall not be construed to impair the right of a public employee organization to prescribe its own rules with respect to acquisition or retention of membership, or in the selection of a representative for the purpose of collective bargaining or the adjustment of grievances;
 - (b) Cause or attempt to cause an employer to violate subsection (1) of this section;
 - (c) Refuse to bargain collectively with a public employer if the employee organization is certified as the exclusive bargaining representative of the public employees in a bargaining unit; except that an employee organization may, at any time, disclaim interest in representing the employees;
 - (d) Call, institute, maintain, or conduct a boycott against any public employer, or picket any place of business of a public employer because of a jurisdictional work dispute;
 - (e) Threaten, coerce, induce, or encourage any individual employed by any person to engage in a strike in violation of Section 17 of this Act;
 - (f) Refuse to handle goods or perform services, threaten, coerce, or restrain any person in an effort to force or require any person to cease dealing with or doing business with any other person;
 - (g) Force or require a public employer to recognize for representation purposes a public employee organization not certified by the board, except as otherwise provided in Section 6 of this Act;
 - (h) Fail to fairly represent all eligible public employees in a bargaining unit; except that a labor organization or its agents shall commit an unfair labor practice under this paragraph in duty of fair representation cases only by intentional misconduct in representing employees under Section 1 to 22 of this Act;
 - (i) Threaten, coerce, induce, or encourage any individual in connection with a labor relations dispute to picket or engage in picketing of the residence or a place of private employment of any public official or representative of a public official; or
 - (j) Engage in any picketing without giving written notice, including the date and time the picketing will commence, to the public employer and to the board not less than one (1) day prior to the action; and, once the notice is given, the parties may extend it by the written agreement of both.
- (3) The determination by the board or any court that a public official or employee has committed any of the acts prohibited by subsections (1) and (2) of this section shall not be made the basis of any charge for the removal from public office or the termination of employment or disciplinary acts against an employee except as provided in Section 14 of this Act, nor shall the officer or employee be subject to any suit for damages based on a determination by the board; however, nothing in this section shall prevent any party to a collective bargaining agreement from seeking enforcement of any law or the assessment of damages for a violation of the agreement against the other party to the agreement.
- (4) As to jurisdictional work disputes, the board shall hear and determine the dispute unless, within eight (8) calendar days, the parties to the dispute submit to the board satisfactory evidence that they have adjusted, or agreed upon the method for the voluntary adjustment of the dispute.
- (5) Expressing any view, argument, or opinion, or dissemination of them, whether in written, printed, graphic, or visual form, shall not constitute or be evidence of an unfair labor practice as defined in this section, if the expression contains no threat of reprisal or force or promise of benefit.
- (6) Allegations of unfair labor practices under subsection (1)(e) or subsection (2)(c) of this section or allegations of unfair labor practices during the settlement procedures set forth in Section 16 of this Act shall receive priority by the board.
- SECTION 14. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:
- (1) A violation of Section 13 of this Act is an unfair labor practice remediable by the board as specified in this section.

- (2) If a charge is filed with the board alleging that an unfair labor practice has been or is being committed, the board or its designated agent shall investigate the charge. If the board has probable cause for believing that a violation has occurred, the board shall issue a complaint stating the charge and shall conduct a hearing concerning the charge. The board shall cause the complaint to be served upon the charged party that shall contain a notice of the time at which the hearing on the complaint will be held before either the board, a board member, or a hearing officer not less than eight (8) calendar days after the service of the complaint. The board may not issue a notice of hearing based upon any unfair labor practice occurring more than ninety (90) calendar days prior to the filing of the charge with the board, unless the person aggrieved is prevented from filing the charge by reason of service in the Armed Forces, in which event the ninety (90) calendar day period shall be computed from the day of his or her discharge. If the board dismisses a complaint as frivolous, it may assess costs to the complainant according to its standards governing frivolous matters, and for that purpose, the board shall adopt a policy defining the standards by which the board will declare a complaint to be frivolous and the costs that will be assessed accordingly.
- (3) The board, board member, or hearing officer shall hold a hearing on the charge within twenty-two (22) calendar days after service of the complaint. The board may amend a complaint, upon receipt of a notice from the charging party, at any time prior to the close of the hearing, and the charged party shall, within eight (8) calendar days from receipt of the complaint or amendment to the complaint, file an answer to the complaint or amendment to the complaint. The agents of the board and the person charged are parties and may appear or otherwise present evidence at the hearing. At the discretion of the board, board member, or hearing officer, any interested party may intervene and present evidence at the hearing. The board, board member, or hearing officer shall be bound by the Kentucky Rules of Evidence.
- (4) A hearing officer who conducts the hearing shall reduce the evidence taken to writing and file it with the board. The hearing officer may thereafter take further evidence or hear further argument if notice is given to all interested parties. The hearing officer or board member shall issue to the parties a proposed decision, together with a recommended order, and file it with the board. If the parties file no exceptions within twenty-two (22) calendar days after service of the proposed decision, the recommended order shall become the order of the board effective as prescribed in the recommended order. If the parties file exceptions to the proposed report, the board shall determine whether substantial issues have been raised. The board may rescind or modify the proposed order of the hearing officer; however, if the board determines that the exceptions do not raise substantial issues of fact or law, it may refuse to grant review, and the recommended order shall become effective as it prescribed.
- (5) If upon the preponderance of the evidence taken the board believes that any person named in the complaint has engaged in any unfair labor practice, the board shall state its findings of fact and issue and cause to be served on the person an order requiring that he or she cease and desist from these unfair labor practices, and take affirmative action, including reinstatement of employees with or without back pay, and the suspension from employment or levy of a reasonable fine upon an employee, public employer, or official of any public employer as will effectuate the policies of Section 1 to 22 of this Act. If upon a preponderance of the evidence taken, the board believes that the person named in the complaint has not engaged in an unfair labor practice it shall state its findings of fact and issue an order dismissing the complaint.
- (6) In cases where the discharge of a public employee is at issue, the board may order the public employer to reinstate the public employee and further may order either the public employer or the public employee organization, depending on who was responsible for the unfair labor practice, to make payment of back pay to the public employee as the board determines. No order of the board shall require the reinstatement of any individual as an employee who has been suspended or discharged, or require the payment to him or her of any back pay, if the suspension or discharge was for just cause not related to rights provided in Section 4 of this Act and if the procedure contained in the collective bargaining agreement governing suspension or discharge was followed. The order of the board may require the party against whom the order is issued to make periodic reports showing the extent to which he or she has complied with the order.
- (7) Whenever a complaint alleges that a person has engaged in an unfair labor practice and that the complainant will suffer substantial and irreparable injury if not granted temporary relief, the board may petition the Circuit Court for appropriate injunctive relief pending the final adjudication of the matter by the board. The board may at any time upon reasonable notice, and in a manner it considers proper, modify or set aside, in whole or in part, any finding or order made or issued by it.

SECTION 15. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

- (1) The board or complaining party may petition the Circuit Court for enforcement of the board's order and for appropriate temporary relief or restraining order. The board shall certify and file in the court a transcript of the entire record in the proceeding, including the pleadings and evidence upon which the order was entered and the findings and order of the board. When the board petitions the court, the complaining party may intervene in the case as a matter of right. Upon the filing, the court shall cause notice of the filing to be served upon the person charged with committing the unfair labor practice.
- (2) The findings of the board as to the facts, if supported by substantial evidence, on the record considered as a whole, are conclusive. If either party applies to the court for leave to adduce additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there exist reasonable grounds for the failure to adduce the

evidence in the hearing before the board, its member, or agent, the court may order the board, or a board member or agent of the board, to take the additional evidence, and make it a part of the transcript. The board may modify its findings as to the facts, or make new findings, by reason of additional evidence taken and filed, and it shall file the modified or new findings, which, if supported by the evidence, are conclusive, and the board shall file its recommendations, if any, for modifying or setting aside its original order.

- (3) Any person aggrieved by any final order of the board granting or denying, in whole or in part, the relief sought may appeal to Circuit Court by filing in the Circuit Court a notice of appeal setting forth the order appealed from and the grounds of appeal. The court shall cause a copy of the notice to be served upon the board. Within fifteen (15) calendar days after the court receives a notice of appeal, the board shall file in the court a transcript of the entire record in the proceeding, certified by the board, including the pleadings and evidence upon which the order was based.
- (4) The Circuit Court has exclusive jurisdiction to grant temporary relief or a restraining order it considers proper, and to make and enter a decree enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part an order of the board. Upon the filing of any petition, the Circuit Court shall cause notice to be served upon the parties and may grant temporary relief or a restraining order it considers just and proper.
- (5) The commencement of proceedings under this section does not, unless specifically ordered by the court, operate as a stay of the board order.
- (6) The Circuit Court in the county in which the alleged unfair labor practice has occurred, or in which a person charged with committing an unfair labor practice resides or transacts business, shall have jurisdiction over the allegations of an unfair labor practice. The Circuit Court in the county in which a public employee organization maintains its principal office shall be deemed to have jurisdiction of the public employee organization. The service of legal process upon an officer or agent shall constitute service upon the public employee organization.

SECTION 16. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

- (1) The procedures contained in this section shall govern settlement of disputes between an exclusive bargaining representative and a public employer concerning termination or modification of an existing collective bargaining agreement, negotiation of a successor agreement, negotiation of an initial agreement, or resolution of a disagreement arising under the terms of an agreement.
- (2) If a collective bargaining agreement is in effect, any public employer or exclusive bargaining representative desiring to terminate or modify the existing agreement, or to negotiate a successor collective bargaining agreement, shall:
 - (a) Serve written notice upon the other party of the proposed termination or modification of an existing agreement, or negotiation of a successor agreement. The party shall serve the notice not less than sixty (60) calendar days prior to the expiration date of the existing agreement or, in the event the existing collective bargaining agreement does not contain an expiration date, not less than sixty (60) calendar days prior to the time it is proposed to make the termination or modification, or to make effective a successor agreement;
 - (b) Offer to bargain collectively with the other party for the purpose of modifying or terminating any existing agreement or negotiating a successor agreement; and
 - (c) Notify the board of the offer by serving upon the board a copy of the written notice to the other party and a copy of the existing collective bargaining agreement.
- (3) In the case of initial negotiations between a public employer, other than the Commonwealth, and an authorized exclusive bargaining representative, where a collective bargaining agreement has not been in effect between the parties, any party may serve notice upon the board and the other party setting forth the names and addresses of the parties and offering to meet, for a period of sixty (60) calendar days, with the other party for the purpose of negotiating a collective bargaining agreement.
- (4) Upon receipt of the notice, the parties shall begin to bargain collectively.
- (5) In the event the parties are unable to reach an agreement, they may submit, at any time after fifteen (15) calendar days from the beginning of the collective bargaining process, a request for mediation to the board. The mediator shall provide services to the parties for thirty (30) calendar days. Upon expiration of thirty (30) calendar days, or if the mediator determines and informs the parties that mediation services are no longer helpful prior to that deadline, either party may submit to the board a request for arbitration of the unresolved issues, provided that the parties by mutual agreement may utilize any other dispute settlement procedure to which they agree.
- (6) If properly submitted in accordance with subsection (5) of this section, the board shall submit the matter to an arbitrator in accordance with subsection (7) of this section. The board shall provide the parties with a list of five (5) qualified arbitrators, and the parties shall select a single arbitrator from the list by agreement or by the alternate striking of names. If the parties do not agree upon or select an arbitrator within five (5) calendar days after receiving the list of arbitrators from the board, the board shall on the sixth calendar day appoint an arbitrator from the list provided to the parties.
- (7) In accordance with this subsection, the arbitrator shall determine the facts in dispute and the fairness of each party's position and, within thirty (30) calendar days after his or her appointment, issue a decision that includes findings of fact and recommendations for the resolution of the dispute.

- (a) The arbitrator shall conduct hearings in accordance with administrative regulations promulgated by the board. The arbitrator shall establish a time and place for the hearing within the jurisdiction of the Commonwealth. At least five (5) calendar days before the hearing, each party shall submit to the arbitrator, to the opposing party, and to the board a written report summarizing the unresolved issues, the parties' final offer as to the issues, and the rationale for that position;
- (b) Upon request by the arbitrator, the board shall issue subpoenas for the hearing;
- (c) The arbitrator may administer oaths, shall hear testimony from the parties, and shall compile a written record of all testimony presented at the hearing;
- (d) Following a hearing or hearings adequate to reveal the facts, the arbitrator shall determine the fair resolution of each issue in dispute taking into consideration the following:
 - 1. Past collectively bargained agreements, if any, between the parties;
 - 2. Comparison of the issues relative to the employees in the bargaining unit involved with those issues related to other public and private employees doing comparable work, giving consideration to factors peculiar to the area and classification involved;
 - 3. The interests and welfare of the public, the ability of the public employer to finance and administer the issues proposed, and the effect of the adjustments on the normal standard of public service;
 - 4. The lawful authority of the public employer;
 - 5. The stipulations of the parties; and
 - 6. Other factors, not confined to those listed in this paragraph, that are normally or traditionally taken into consideration in the determination of the issues submitted to settlement through collective bargaining, mediation, or other impasse resolution procedures in public service or in private employment.
- (8) Based on the issues and evidence presented, the arbitrator shall issue a written decision that includes findings of fact and recommendations for the resolution of the dispute, and provide a true copy to the parties and the board. The arbitrator's decision also shall be released to the public.
- (9) The recommendations of the arbitrator shall be deemed approved in their entirety by the parties unless, within thirty (30) calendar days after receiving the arbitrator's decision, the exclusive bargaining representative or the governing body of the public employer notifies the other party and the board that it has voted to reject one or more of the arbitrator's recommendations. This notice shall include a statement of the reasons for the rejection.
- (10) Before voting to reject any of the recommendations of the arbitrator, the governing body or a duly authorized committee shall conduct a public hearing at which the exclusive bargaining representative and representative of the public employer shall be required to explain their positions with respect to the recommendations of the arbitrator.
- (11) Thereafter, the governing body shall vote, within thirty (30) calendar days of the release of the arbitrator's decision, to accept or reject the recommendations included in the arbitrator's decision. If the appropriate legislative body is not in session at the time, then the submission shall be within fourteen (14) calendar days after it convenes. As required by subsection (9) of this section, if the governing body votes to reject any of the arbitrator's recommendations, it shall be required to provide the exclusive bargaining representative and the public with written reasons for its rejection.
- (12) Within ten (10) calendar days after receiving a notice of rejection, the other party shall submit to the board and the rejecting party a notice indicating whether the other party has changed its previous position with regard to any of the arbitrator's recommendations.
- (13) The parties shall reduce to writing an agreement that includes all matters agreed to by the parties in collective bargaining and all of the recommendations of the arbitrator that have not been rejected by either party. This agreement shall govern the wages, hours, and terms and conditions of employment of the affected employees with regard to all matters covered by the agreement. With regard to any unresolved issues, the status quo as reflected in the prior collective bargaining agreement or the public employer's policies and practice shall remain in effect until the parties resolve those issues, provided that the public employer may, with written agreement of the exclusive bargaining representative, implement in whole or in part its last, best offer with regard to one or more of the unresolved issues.
- (14) The parties shall bear equally the cost of the mediation and arbitration procedure.
- (15) Mediators and arbitrators appointed under this section shall be residents of the Commonwealth.
- (16) Nothing in this section shall be construed to prohibit the parties, at any time, from voluntarily agreeing to submit any or all of the issues in dispute to any other alternative dispute settlement procedure.
- (17) Nothing in this section shall be construed to prohibit a party from seeking enforcement of a collective bargaining agreement in accordance with subsection (2) of Section 11 of this Act.
- (18) The board may promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the provisions of Sections 1 to 22 of this Act.

SECTION 17. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

- (1) No public employee or public employee organization may participate in a strike, as defined in Section 2 of this Act, against a public employer, or instigate or support in any manner, a strike. It is unlawful for a public employee or

exclusive bargaining representative to directly or indirectly induce, instigate, encourage, authorize, ratify, or participate in any of the conduct prohibited by this section. A public employer may not authorize, consent to, or condone a strike, and may not pay or agree to compensate a public employee for any time that a public employee participates in a strike. A public employer may not pay or agree to pay any increase in compensation or benefits to, or improve the conditions of employment for, any public employee in response to or as a result of a violation of this section. A public employer may not negotiate or bargain with an exclusive bargaining representative whose members are on strike. Any violation of this section shall subject the violator to any or all of the following penalties:

- (a) In the case of a public employee organization determined by the board to have organized or instigated a strike, suspension or revocation of the organization's certification as the exclusive bargaining representative for the public employees, revocation of the right of the public employee organization to have the public employer deduct dues and fair share payments from the compensation of public employees for one (1) year, and fines up to twenty-five percent (25%) of the total dues and fair share payment receipts of the public employee organization for one (1) year;
- (b) In the case of a public employee, the employee shall not be paid for any day the employee is determined by the board to have participated in a strike. In addition, the public employee shall be assessed a fine in an amount equal to the employee's daily compensation for each day the employee is determined by the board to have been on strike. If the board determines that a public employee encouraged other employees to participate in a strike or otherwise precipitated or attempted to precipitate a strike, the public employee shall be terminated;
- (c) In the case of an employee or official of a public employee organization determined by the board to have instigated, encouraged, or otherwise promoted any strike as defined under Section 2 of this Act, the employee shall be terminated or reassigned to duties not related to representing the subject public employees, and the employee shall be ineligible for reinstatement to employment with or for the subject public employees for up to one (1) year from the date the violation first occurs;
- (d) In the case of an official of a public employer or an employee exempt from the definition of an eligible employee under Section 2 of this Act who has been determined by the board to have instigated, encouraged, or participated in conduct contrary to the good faith implementation of a public employee collective bargaining agreement, including but not limited to the advocacy of lockouts and repeated unfair labor practices enumerated under Section 13 of this Act, the official, with the exception of publicly elected officials, shall be terminated, and the employee shall be ineligible for reinstatement for up to one (1) year from the date the violation last occurs. Public officials, including elected public officials, shall be fined an amount equal to one (1) day's pay for each day they are found by the board to have violated any provision of Sections 1 to 22 of this Act.

(2) Penalties prescribed by this section shall be assessed by the board.

(3) No penalty assessed by the board may be waived by the board except after a determination has been made by the board that the person or organization assessed the penalty did not commit the offense.

(4) Fines assessed by the board shall be paid to the board and collected by the board.

(5) No collective bargaining agreement may contain a provision to waive violations of the law or penalties assessed as a result of violations of the law as determined by the board.

SECTION 18. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, the following negotiations and impasse procedures shall be followed by the Commonwealth and an exclusive bargaining representative of state employees:

(a) A request for negotiations shall be filed in writing by the exclusive bargaining representative to the Governor or appropriate statewide elected official no later than September 1 of odd-numbered years for collective bargaining agreements that are to become effective on July 1 of the following year;

(b) Negotiations shall begin no later than September 10 in the year the request was filed;

(c) If an impasse occurs during negotiations, and if no agreement is reached by the parties by November 1 of the year the request was filed, either party may submit a request for mediation to the board; and

(d) The mediator shall provide services to the parties until December 1 of the year the request was filed. If the mediator determines that mediation services are no longer helpful or if the December 1 deadline occurs, the unresolved issues shall be submitted to the fact-finding procedure set forth in Section 16 of this Act.

(2) An exclusive bargaining representative of state employees certified prior to January 1, 2009, may request to negotiate, and the Commonwealth shall bargain in good faith with the exclusive bargaining representative, but the economic terms of the agreement shall be within the limitations of established appropriations and the agreement shall expire on June 30, 2009.

(3) Collective bargaining agreements between the Commonwealth and an exclusive bargaining representative representing state employees shall extend for four (4) year terms and shall terminate on June 30 of the first even-numbered year following the year in which the Governor is elected, except that wage and compensation issues shall be renegotiated for two (2) year periods, beginning July 1 of each even-numbered year and ending on June 30 of the next even-numbered

year, and submitted to the General Assembly for approval by February 1 of each even-numbered year.

SECTION 19. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Formal charges, petitions, complaints, orders, evidence, and other proceedings instituted by the board under Sections 1 to 22 of this Act are public records and available for inspection or copying subject to provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884. All hearings on complaints or petitions conducted in accordance with Sections 1 to 22 of this Act are open to the public. However, notes, memoranda, and records of collective bargaining sessions shall not be considered public records.

SECTION 20. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

No person shall purposely refuse to obey a lawful order of the board, nor shall any person prevent or attempt to prevent any member of the board or any agent of the board from performing his or her lawful duties.

SECTION 21. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

- (1) Every public employee organization that is certified or recognized as a representative of public employees under Sections 1 to 22 of this Act shall file with the board a registration report, signed by its principal officer. The report shall be in a form prescribed by the board and accompanied by two (2) copies of the public employee organization's constitution and bylaws. The board shall accept a filing by a statewide, national, or international employee organization of its constitution and bylaws in lieu of the filing requirement of documents by each subordinate organization. The exclusive bargaining representative or other public employee organization originally filing its constitution and bylaws shall report promptly to the board all changes or amendments to its constitution and bylaws.
- (2) Every public employee organization that has been or seeks to be designated as a representative of public employees under Sections 1 to 22 of this Act shall file with the board an annual report. The form of the report and the time of its filing shall be prescribed by the board, and the report shall contain the following information:
 - (a) The names and addresses of the organization, any parent organization or organizations with which it is affiliated, and all Kentucky organization officers;
 - (b) The name and address of its local agent for service of process;
 - (c) A general description of the public employees whom the organization represents or seeks to represent;
 - (d) The amount of the initiation fee and monthly dues members are required to pay;
 - (e) A pledge, in a form prescribed by the board, that the organization will comply with the laws of the Commonwealth and that it will accept members without regard to age, race, color, sex, creed, religion, ancestry, national origin, handicap, or physical disability as required by applicable state or federal law; and
 - (f) A financial report sufficient to disclose its general financial condition including assets and liabilities but that does not otherwise disclose confidential information about its operations.
- (3) The local bylaws of each public employee organization shall:
 - (a) Require that the organization keep accurate accounts of all income and expenses, prepare an annual financial report, keep open for inspection by any member of the organization its accounts, and make loans to officers and agents only on terms and conditions available to all members;
 - (b) Prohibit business or financial interests of its officers and agents, their spouses, minor children, parents, or otherwise, in conflict with the fiduciary obligation of those persons to the organization;
 - (c) When specifically requested by the board, require every official who is designated as a fiscal officer of a public employee organization and who is responsible for funds or other property of the organization or trust in which an organization is interested, or a subsidiary organization, to be bonded with the amount, scope, and form of the bond determined by the board; and
 - (d) Require periodic elections of officers by secret ballot subject to recognized safeguards concerning the equal right of all members to nominate, seek office, and vote in the elections, the right of individual members to participate in the affairs of the organization, and fair and equitable procedures in disciplinary actions.
- (4) The board shall prescribe guidelines necessary to govern the establishment and reporting of trusteeships over public employee organizations. The establishment of trusteeships is permissible only if the constitution or bylaws of the organization set forth reasonable procedures.
- (5) The board may withhold certification of a public employee organization that willfully refuses to register or file required annual reports, or that willfully refuses to comply with other provisions of this section. The board may revoke a certification of a public employee organization for willfully failing to comply with this section. The board may enforce the prohibitions contained in this section by petitioning the Circuit Court of the county in which the violation occurred for an injunction. Persons complaining of a violation of this section shall file the complaint with the board.
- (6) Upon written request to the board of any member of a certified public employee organization and if the board determines the necessity for an audit, the board may require the public employee organization to provide a certified audit of its financial records.
- (7) Any public employee organization subject to the Labor-Management Reporting and Disclosure Act of 1959, 29 U.S.C.

sec. 401, as amended, may file copies with the board of all reports it is required to file under that Act in lieu of compliance with all parts of this section other than subsection (1) of this section.

SECTION 22. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

- (1) No member of the same local, state, national, or international organization as the public employee organization with which the public employer is bargaining, or a member who has an interest in the outcome of the bargaining, which interest is in conflict with the interest of the public employer, shall participate on behalf of the public employer in the collective bargaining process, except that the member may, where entitled, vote on the ratification of an agreement.
- (2) The public employer shall immediately remove any member who violates subsection (1) of this section from his or her role, if any, in the collective bargaining negotiations or in any matter connected with the negotiations.

Section 23. This Act shall not be construed as repealing any of the laws of the Commonwealth relating to collective bargaining, specifically in KRS Chapters 67A, 67C, 70, 78 and 345, but it shall be held and construed as ancillary and supplemental thereto.

HB 492, AN ACT relating to administrative law judges.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.213 is amended to read as follows:

- (1) The Governor shall make all appointments to the board, and appoint the administrative law judges and the executive director of the Office of Workers' Claims, subject to the consent of the Senate in accordance with KRS 11.160, and in accordance with this section, KRS 342.215, 342.228, and 342.230 by choosing from names presented to him by the Workers' Compensation Nominating Commission.
- (2) The Workers' Compensation Nominating Commission shall consist of seven (7) members appointed by the Governor as follows:
 - (a) Two (2) members shall be attorneys experienced in the practice of workers' compensation, one (1) of whom customarily represents claimants, and one (1) of whom customarily represents employers. Both shall serve terms of two (2) years, but their successors shall be appointed to terms of four (4) years.
 - (b)
 1. One (1) member of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of three (3) years; and
 2. Two (2) members of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of four (4) years.
 3. Thereafter, as each term expires, the vacancy so created shall be filled by an appointee from the same political party for a term of four (4) years.
 - (c) Appointments to fill the unexpired term of a member shall be for the remainder of the term.
 - (d) The members shall annually select a chairman of the nominating commission.
- (3) Notwithstanding the provisions of subsection (2) of this section, at least three (3) members of the Workers' Compensation Nominating Commission shall be individuals who directly derive no earned income from the workers' compensation program. In order to satisfy the requirement of this subsection, the Governor may remove any existing member of the Workers' Compensation Nominating Commission and replace that member with an individual who does not derive earned income from the workers' compensation program. On or before March 1, 1997, the Governor shall submit to the Senate a list of the members of the commission identifying the positions they fill and the terms they shall serve in accordance with the provisions of this section.
- (4) The executive director shall monitor the workload of the administrative law judges and, whenever a vacancy occurs, determine whether filling the position is necessary to expeditious resolution of claims brought under this chapter. One hundred twenty (120) days prior to the expiration of the terms of the administrative law judges, and when a vacancy occurs under other circumstances, the executive director shall certify to the Workers' Compensation Nominating Commission that filling the position is necessary and the Workers' Compensation Nominating Commission shall act to fill only such positions as have been certified as necessary by the executive director.
- (5)
 - (a) The Workers' Compensation Nominating Commission shall consult with the executive director, chief administrative law judge, and a member of the Workers' Compensation Board as to the performance in office of the administrative law judges. The Workers' Compensation Nominating Commission may recommend retention of any sitting administrative law judge, or present to the Governor the names of three (3) qualified individuals nominated for the position. The Workers' Compensation Nominating Commission shall report its recommendation for retention to the Governor no later than thirty (30) days after receipt from the executive director of certification of the necessity to fill the position and shall render to the Governor its list of nominees to fill vacancies within sixty (60) days of receipt of the executive director's certification. The list submitted to the Governor shall contain the nominees who meet the qualifications and requirements contained in Section 2 of this Act. The name of an

individual who has been rejected by the Governor when recommended for retention shall not be presented thereafter as a nominee for the same position. No sitting administrative law judge shall be nominated to fill more than one (1) vacancy except for separate vacancies as an administrative law judge.

- (b) Within thirty (30) days of receipt of the recommendation, the Governor may reject recommendations of retention, in which event the Workers' Compensation Nominating Commission shall, within thirty (30) days, reconvene and present a list of the names of three (3) nominees for each position for which a recommendation for retention has been rejected by the Governor.
- (6) The Governor shall appoint the executive director of the Office of Workers' Claims from a list of three (3) names submitted by the nominating commission. The list submitted to the Governor shall contain names of individuals who meet the qualifications and requirements contained in KRS 342.228. The executive director shall be subject to Senate confirmation in accordance with KRS 11.160.
- (7) (a) The Governor shall appoint the members of the Workers' Compensation Board. The nominating commission shall present to the Governor a list of three (3) candidates for appointment to the board no later than thirty (30) days prior to the expiration of a board member's term. For the purpose of filling vacancies on the board which occur for reasons other than an expiration of term, the nominating commission shall present a list of three (3) names to the Governor no later than sixty (60) days after a vacancy occurs.
- (b) If the Governor fails to appoint a member of the board within thirty (30) days following receipt of a list of names from the nominating commission, the previous appointee may remain in the position until the ninetieth day following the date the nominating commission provided the Governor with its list of names, at which time he shall vacate the position.
- (8) The nominating commission shall meet as often as necessary to perform its responsibilities, and the members shall be reimbursed from funds collected pursuant to KRS 342.122 for necessary expenses in the manner and amounts prescribed for state employees by KRS 45.101 and the administrative regulations promulgated under the authority of that statute. In addition, each member of the nominating commission shall be paid at a rate of one hundred dollars (\$100) per day for each meeting attended, and these expenses shall be financed from funds collected pursuant to KRS 342.122.

Section 2. KRS 342.230 is amended to read as follows:

- (1) The executive director, within the limits of appropriations therefor and except as otherwise specifically provided in this chapter, shall establish and fill any positions, including medical services and advice, necessary to carry on the office's work. The employees of the Office of Workers' Claims, except the executive director, administrative law judges, and board members, shall be members of the classified service.
- (2) The executive director of the Office of Workers' Claims shall have immediate supervision of the employees of the office, perform duties assigned him, and have complete authority to carry out all the administrative functions relating to the Office of Workers' Claims. The executive director with the assistance of the board shall train and instruct the administrative law judges on an ongoing basis; assign cases; and monitor the caseloads of the administrative law judges and the Workers' Compensation Board to ensure timely disposition of cases; keep and be the custodian of the records of the board and the administrative law judges; annually report the activities of the board and the administrative law judges to the Governor; and devote his full time to the duties of his office. The executive director shall be paid a salary not less than the salary of a member of the board.
- (3) The Governor shall appoint, with the consent of the Senate in accordance with KRS 11.160 for a term of four (4) years, not more than nineteen (19) administrative law judges, each of whom shall be an attorney and shall have five (5) years' experience in the Commonwealth in the practice of workers' compensation law~~[-or-a-related-field]~~, and extensive knowledge of workers' compensation law, and shall be paid the same salary as a Circuit Judge. Each administrative law judge may be employed for additional terms with the consent of the Senate in accordance with KRS 11.160. The Governor, at least thirty (30) days prior to the expiration of a term of an administrative law judge, shall provide the name of the individual whom he intends to appoint to the position to the chairman of the Senate Labor and Industry Committee. These administrative law judges shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by statute and shall render final decisions, orders, or awards. Administrative law judges may, in receiving evidence, make rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.
- (4) To ensure that the administrative law judges perform their responsibilities competently and issue decisions consistent with this chapter, the executive director shall, at least twice annually, conduct training and education seminars in workers' compensation law; administrative law; and methods and procedures for writing well-reasoned, clear, correct, and concise opinions, orders, or awards.
- (5) The Governor may at any time remove the executive director or any member of the board. The executive director may remove any administrative law judge. A member of the board or an administrative law judge may be removed for good cause including: violation of the code of judicial ethics or the code of ethics applicable to the executive branch of the Commonwealth. In addition, an administrative law judge or a member of the board may be removed for the persistent or repeated failure to perform satisfactorily the specific duties assigned in this chapter, including the requirement of timely disposition of cases, review of attorney's fees, and failure to attend training and continuing education programs required by

this section.

- (6) Any vacancy in the term of an administrative law judge, which occurs prior to the expiration of the term, shall be filled if necessary by appointment of the Governor in accordance with subsection (3) of this section within sixty (60) days from the date the vacancy occurs, with the consent of the Senate in accordance with KRS 11.160, for the remainder of the term.
- (7)
 - (a) Effective at 12 midnight, December 31, 1997, the terms of administrative law judges who were appointed to fill the five (5) administrative law judge positions which were created in 1990 shall end, and the term of the chief administrative law judge who was appointed under subsection (8) of this section shall end. On January 1, 1998, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.
 - (b) Effective at 12 midnight, December 31, 1999, the terms of administrative law judges who were appointed to fill the ten (10) administrative law judge positions which were created in 1987 shall end. On January 1, 2000, the Governor shall make four (4) year appointments to fill as many of these positions as are necessary to fulfill the duties assigned to administrative law judges under this chapter.
- (8) One (1) of the administrative law judges appointed pursuant to this section shall be appointed as a chief administrative law judge, to have the same qualifications, powers, duties, and requirements as those of other administrative law judges. The chief administrative law judge shall not be assigned regular dockets but shall instead assist the executive director by doing all scheduling of the administrative law judges, handling dockets assigned to the administrative law judges in case of an emergency, providing supervision of the administrative law judges, and providing educational opportunities for the administrative law judges. The chief administrative law judge shall be paid at the same rate as the administrative law judges plus an additional three thousand dollars (\$3,000) per year. At any time the executive director may replace the chief administrative law judge with one (1) of the other administrative law judges at which time the former chief administrative law judge shall resume the duties assigned to the other administrative law judges pursuant to this chapter. The term of the chief administrative law judge employed in 1994 shall expire on December 31, 1997. On January 1, 1998, the executive director shall employ a person in this position for a four (4) year term.

HB 493, AN ACT relating to the Workers' Compensation Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.213 is amended to read as follows:

- (1) The Governor shall make all appointments to the board, and appoint the administrative law judges and the executive director of the Office of Workers' Claims, subject to the consent of the Senate in accordance with KRS 11.160, and in accordance with this section, KRS 342.215, 342.228, and 342.230 by choosing from names presented to him by the Workers' Compensation Nominating Commission.
- (2) The Workers' Compensation Nominating Commission shall consist of seven (7) members appointed by the Governor as follows:
 - (a) Two (2) members shall be attorneys experienced in the practice of workers' compensation, one (1) of whom customarily represents claimants, and one (1) of whom customarily represents employers. Both shall serve terms of two (2) years, but their successors shall be appointed to terms of four (4) years.
 - (b)
 1. One (1) member of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of three (3) years; and
 2. Two (2) members of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of four (4) years.
 3. Thereafter, as each term expires, the vacancy so created shall be filled by an appointee from the same political party for a term of four (4) years.
 - (c) Appointments to fill the unexpired term of a member shall be for the remainder of the term.
 - (d) The members shall annually select a chairman of the nominating commission.
- (3) Notwithstanding the provisions of subsection (2) of this section, at least three (3) members of the Workers' Compensation Nominating Commission shall be individuals who directly derive no earned income from the workers' compensation program. In order to satisfy the requirement of this subsection, the Governor may remove any existing member of the Workers' Compensation Nominating Commission and replace that member with an individual who does not derive earned income from the workers' compensation program. On or before March 1, 1997, the Governor shall submit to the Senate a list of the members of the commission identifying the positions they fill and the terms they shall serve in accordance with the provisions of this section.
- (4) The executive director shall monitor the workload of the administrative law judges and, whenever a vacancy occurs, determine whether filling the position is necessary to expeditious resolution of claims brought under this chapter. One hundred twenty (120) days prior to the expiration of the terms of the administrative law judges, and when a vacancy occurs

under other circumstances, the executive director shall certify to the Workers' Compensation Nominating Commission that filling the position is necessary and the Workers' Compensation Nominating Commission shall act to fill only such positions as have been certified as necessary by the executive director.

- (5) (a) The Workers' Compensation Nominating Commission shall consult with the executive director, chief administrative law judge, and a member of the Workers' Compensation Board as to the performance in office of the administrative law judges. The Workers' Compensation Nominating Commission may recommend retention of any sitting administrative law judge, or present to the Governor the names of three (3) qualified individuals nominated for the position. The Workers' Compensation Nominating Commission shall report its recommendation for retention to the Governor no later than thirty (30) days after receipt from the executive director of certification of the necessity to fill the position and shall render to the Governor its list of nominees to fill vacancies within sixty (60) days of receipt of the executive director's certification. The name of an individual who has been rejected by the Governor when recommended for retention shall not be presented thereafter as a nominee for the same position. No sitting administrative law judge shall be nominated to fill more than one (1) vacancy except for separate vacancies as an administrative law judge.
- (b) Within thirty (30) days of receipt of the recommendation, the Governor may reject recommendations of retention, in which event the Workers' Compensation Nominating Commission shall, within thirty (30) days, reconvene and present a list of the names of three (3) nominees for each position for which a recommendation for retention has been rejected by the Governor.
- (6) The Governor shall appoint the executive director of the Office of Workers' Claims from a list of three (3) names submitted by the nominating commission. The list submitted to the Governor shall contain names of individuals who meet the qualifications and requirements contained in KRS 342.228. The executive director shall be subject to Senate confirmation in accordance with KRS 11.160.
- (7) (a) The Governor shall appoint the members of the Workers' Compensation Board. The nominating commission shall present to the Governor a list of three (3) candidates for appointment to the board no later than thirty (30) days prior to the expiration of a board member's term. The list submitted to the Governor shall contain names of individuals who meet the qualifications and requirements contained in Section 2 of this Act. For the purpose of filling vacancies on the board which occur for reasons other than an expiration of term, the nominating commission shall present a list of three (3) names to the Governor no later than sixty (60) days after a vacancy occurs.
- (b) If the Governor fails to appoint a member of the board within thirty (30) days following receipt of a list of names from the nominating commission, the previous appointee may remain in the position until the ninetieth day following the date the nominating commission provided the Governor with its list of names, at which time he shall vacate the position.
- (8) The nominating commission shall meet as often as necessary to perform its responsibilities, and the members shall be reimbursed from funds collected pursuant to KRS 342.122 for necessary expenses in the manner and amounts prescribed for state employees by KRS 45.101 and the administrative regulations promulgated under the authority of that statute. In addition, each member of the nominating commission shall be paid at a rate of one hundred dollars (\$100) per day for each meeting attended, and these expenses shall be financed from funds collected pursuant to KRS 342.122.

Section 2. KRS 342.215 is amended to read as follows:

- (1) The Workers' Compensation Board is hereby created and established. The board shall rule on appeals of decisions rendered by administrative law judges under this chapter. The board shall rule on an appeal of a decision of an administrative law judge no later than sixty (60) days following the date on which the last appeal brief was filed.
- (2) The Workers' Compensation Board shall consist of three (3) members appointed by the Governor. Each member shall hold no other public office and shall devote his full time to the duties of his office.
- (3) Of the members of the board appointed under this section, one (1) shall serve a term that shall expire on January 4, 2002; one (1) shall serve a term that shall expire on January 4, 2003; and one (1) shall serve a term that shall expire on January 4, 2004, as designated by the Governor at the time of appointment. Thereafter, each term of a board member shall run for four (4) years from the date of expiration of the term for which the member's predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of a term shall be appointed for the remainder of the term. The Governor shall not appoint a member of the board to fill the unexpired term of another board member, nor shall the Governor reappoint a member of the board who has been removed from his position prior to the expiration of his term. The members of the board shall ~~have the qualifications required of appeals court judges, except for residence in a district, and shall~~ receive the same salary and shall be subject to the same standards of conduct as required of appeals court judges, and shall have eight (8) years of experience in the Commonwealth in the practice of workers' compensation law. The Governor shall designate a member of the board to serve as chairman. Any vacancy in the chairmanship shall be filled by the Governor. The Governor may at any time remove any member for cause after furnishing him with a written copy of the charges against him and giving him a public hearing if he requests it.

- (4) A decision concurred in by any two (2) of the three (3) members shall constitute a decision of the board.
- (5) Members of the Workers' Compensation Board and the administrative law judges shall be members of the Kentucky Employees Retirement System.
- (6) The Workers' Compensation Board shall be attached to the Office of the Secretary in the Environmental and Public Protection Cabinet.

The Committee Substitute to **HB 493** is as follows:

HB 493, AN ACT relating to the Workers' Compensation Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.213 is amended to read as follows:

- (1) The Governor shall make all appointments to the board, and appoint the administrative law judges and the executive director of the Office of Workers' Claims, subject to the consent of the Senate in accordance with KRS 11.160, and in accordance with this section, KRS 342.215, 342.228, and 342.230 by choosing from names presented to him by the Workers' Compensation Nominating Commission.
- (2) The Workers' Compensation Nominating Commission shall consist of seven (7) members appointed by the Governor as follows:
 - (a) Two (2) members shall be attorneys experienced in the practice of workers' compensation, one (1) of whom customarily represents claimants, and one (1) of whom customarily represents employers. Both shall serve terms of two (2) years, but their successors shall be appointed to terms of four (4) years.
 - (b)
 - 1. One (1) member of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of three (3) years; and
 - 2. Two (2) members of the political party having the largest number of registered voters and one (1) member of the political party having the second largest number of registered voters shall serve a term of four (4) years.
 - 3. Thereafter, as each term expires, the vacancy so created shall be filled by an appointee from the same political party for a term of four (4) years.
 - (c) Appointments to fill the unexpired term of a member shall be for the remainder of the term.
 - (d) The members shall annually select a chairman of the nominating commission.
- (3) Notwithstanding the provisions of subsection (2) of this section, at least three (3) members of the Workers' Compensation Nominating Commission shall be individuals who directly derive no earned income from the workers' compensation program. In order to satisfy the requirement of this subsection, the Governor may remove any existing member of the Workers' Compensation Nominating Commission and replace that member with an individual who does not derive earned income from the workers' compensation program. On or before March 1, 1997, the Governor shall submit to the Senate a list of the members of the commission identifying the positions they fill and the terms they shall serve in accordance with the provisions of this section.
- (4) The executive director shall monitor the workload of the administrative law judges and, whenever a vacancy occurs, determine whether filling the position is necessary to expeditious resolution of claims brought under this chapter. One hundred twenty (120) days prior to the expiration of the terms of the administrative law judges, and when a vacancy occurs under other circumstances, the executive director shall certify to the Workers' Compensation Nominating Commission that filling the position is necessary and the Workers' Compensation Nominating Commission shall act to fill only such positions as have been certified as necessary by the executive director.
- (5)
 - (a) The Workers' Compensation Nominating Commission shall consult with the executive director, chief administrative law judge, and a member of the Workers' Compensation Board as to the performance in office of the administrative law judges. The Workers' Compensation Nominating Commission may recommend retention of any sitting administrative law judge, or present to the Governor the names of three (3) qualified individuals nominated for the position. The Workers' Compensation Nominating Commission shall report its recommendation for retention to the Governor no later than thirty (30) days after receipt from the executive director of certification of the necessity to fill the position and shall render to the Governor its list of nominees to fill vacancies within sixty (60) days of receipt of the executive director's certification. The name of an individual who has been rejected by the Governor when recommended for retention shall not be presented thereafter as a nominee for the same position. No sitting administrative law judge shall be nominated to fill more than one (1) vacancy except for separate vacancies as an administrative law judge.
 - (b) Within thirty (30) days of receipt of the recommendation, the Governor may reject recommendations of retention, in which event the Workers' Compensation Nominating Commission shall, within thirty (30) days, reconvene and present a list of the names of three (3) nominees for each position for which a recommendation for retention has

been rejected by the Governor.

- (6) The Governor shall appoint the executive director of the Office of Workers' Claims from a list of three (3) names submitted by the nominating commission. The list submitted to the Governor shall contain names of individuals who meet the qualifications and requirements contained in KRS 342.228. The executive director shall be subject to Senate confirmation in accordance with KRS 11.160.
- (7) (a) The Governor shall appoint the members of the Workers' Compensation Board. The nominating commission shall present to the Governor a list of three (3) candidates for appointment to the board no later than thirty (30) days prior to the expiration of a board member's term. The list submitted to the Governor shall contain names of individuals who meet the qualifications and requirements contained in Section 2 of this Act. For the purpose of filling vacancies on the board which occur for reasons other than an expiration of term, the nominating commission shall present a list of three (3) names to the Governor no later than sixty (60) days after a vacancy occurs.
- (b) If the Governor fails to appoint a member of the board within thirty (30) days following receipt of a list of names from the nominating commission, the previous appointee may remain in the position until the ninetieth day following the date the nominating commission provided the Governor with its list of names, at which time he shall vacate the position.
- (8) The nominating commission shall meet as often as necessary to perform its responsibilities, and the members shall be reimbursed from funds collected pursuant to KRS 342.122 for necessary expenses in the manner and amounts prescribed for state employees by KRS 45.101 and the administrative regulations promulgated under the authority of that statute. In addition, each member of the nominating commission shall be paid at a rate of one hundred dollars (\$100) per day for each meeting attended, and these expenses shall be financed from funds collected pursuant to KRS 342.122.

Section 2. KRS 342.215 is amended to read as follows:

- (1) The Workers' Compensation Board is hereby created and established. The board shall rule on appeals of decisions rendered by administrative law judges under this chapter. The board shall rule on an appeal of a decision of an administrative law judge no later than sixty (60) days following the date on which the last appeal brief was filed.
- (2) The Workers' Compensation Board shall consist of three (3) members appointed by the Governor. Each member shall hold no other public office and shall devote his full time to the duties of his office.
- (3) Of the members of the board appointed under this section, one (1) shall serve a term that shall expire on January 4, 2002; one (1) shall serve a term that shall expire on January 4, 2003; and one (1) shall serve a term that shall expire on January 4, 2004, as designated by the Governor at the time of appointment. Thereafter, each term of a board member shall run for four (4) years from the date of expiration of the term for which the member's predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of a term shall be appointed for the remainder of the term. The Governor shall not appoint a member of the board to fill the unexpired term of another board member, nor shall the Governor reappoint a member of the board who has been removed from his position prior to the expiration of his term. The members of the board shall ~~have the qualifications required of appeals court judges, except for residence in a district, and shall~~ receive the same salary and shall be subject to the same standards of conduct as required of appeals court judges, and shall have eight (8) years of experience in the Commonwealth in the practice, administration, or adjudication of workers' compensation law. The Governor shall designate a member of the board to serve as chairman. Any vacancy in the chairmanship shall be filled by the Governor. The Governor may at any time remove any member for cause after furnishing him with a written copy of the charges against him and giving him a public hearing if he requests it.
- (4) A decision concurred in by any two (2) of the three (3) members shall constitute a decision of the board.
- (5) Members of the Workers' Compensation Board and the administrative law judges shall be members of the Kentucky Employees Retirement System.
- (6) The Workers' Compensation Board shall be attached to the Office of the Secretary in the Environmental and Public Protection Cabinet.

HB 495, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.320 is amended to read as follows:

- (1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of an administrative law judge pursuant to the statutes and administrative regulations.
- (2) In an original claim, attorney's fees for services under this chapter on behalf of an employee shall be subject to the following maximum limits:
 - (a) Twenty percent (20%) of the first twenty-five thousand dollars (\$25,000) of the award, fifteen percent (15%) of the next ten thousand dollars (\$10,000), and five percent (5%) of the remainder of the award, not to exceed a maximum fee of twelve thousand dollars (\$12,000). This fee shall be paid by the employee from the proceeds of the award or settlement.

- (b) Attorney-client employment contracts entered into and signed after July 14, 2000, shall be subject to the conditions of paragraph (a) of this subsection.
- (3) In approving an allowance of attorney's fees, the administrative law judge shall consider the extent, complexity, and quality of services rendered, and in the case of death, the Remarriage Tables of the Dutch Royal Insurance Institute. An attorney's fee may be denied or reduced upon proof of solicitation by the attorney. However, this provision shall not be construed to preclude advertising in conformity with standards prescribed by the Kentucky Supreme Court.
- (4) No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an attorney's fee shall be submitted within thirty (30) days following finality of the claim. Except when the attorney's fee is to be paid by the employer or carrier, the attorney's fee shall be paid in one (1) of the following ways:
- (a) The employee may pay the attorney's fee out of his personal funds or from the proceeds of a lump-sum settlement; or
- (b) The administrative law judge, upon request of the employee, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the employee in equal installments over the duration of the award or until the attorney's fee has been paid, commuting sufficient sums to pay the fee.
- (5) At the commencement of the attorney-client relationship, the attorney shall explain to the employee the methods by which this section provides for the payment of the attorney's fee, and the employee shall select the method in which his attorney's fee is to be paid. His selection and statement that he fully understands the method to be used shall be submitted by his attorney, on a notarized form signed by the employee, at the time the motion for approval of the attorney's fee is submitted. The executive director shall develop the format and content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of an attorney's fees and contain an explanation in nontechnical language of each method.
- (6) The General Assembly declares that by the enactment of KRS 342.316(3), it is the legislative intent to encourage settlement and prompt administrative handling of those claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the administrative law judge shall give due regard to this legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.
- (7) In a claim that has been reopened pursuant to the provisions of this chapter, an attorney's fee may be awarded by the administrative law judge subject to the limits set forth in subsection (2) of this section. In awarding the attorney's fee, the administrative law judge shall consider the factors set forth in subsection (3) of this section. If no additional amount is recovered upon reopening, no attorney's fee shall be awarded. No attorney's fee shall be allowed or approved exceeding the amounts provided in subsection (2)(a) of this section applicable to any additional amount recovered.
- (8) Attorney's fees for representing employers in proceedings under this chapter pursuant to contract with the employer shall be subject to approval of the administrative law judge in the same manner as prescribed for attorney representation of employees. Employer attorney's fees are subject to the limitation of twelve thousand dollars (\$12,000) maximum fees except that fees for representing employers shall not be dependent upon the result achieved. Employer attorney's fees may be paid on a periodic basis while a claim is adjudicated and the payments need not be approved until the claims resolution process is completed. Fees for legal services in presenting a claim for reimbursement from the Kentucky coal workers' pneumoconiosis fund shall not exceed one thousand dollars (\$1,000). All such approved fees shall be paid by the employer and in no event shall exceed the amount the employer agreed by contract to pay.
- (9) Notwithstanding the provisions of subsections (2) and (7) of this section, KRS 342.310, or any other provision of this chapter, if an injured worker prevails in a proceeding brought to enforce medical benefits awarded in an original claim or a reopening under this chapter, attorney fees may be awarded by an administrative law judge not to exceed twenty thousand dollars (\$20,000). In awarding the attorney fees provided in this subsection, the administrative law judge shall consider the factors set forth in subsection (3) of this section. The amount of attorney fees awarded under this subsection shall be exclusive of and in addition to attorney fees awarded pursuant to subsection (2) of this section in an original claim for benefits, attorney fees assessed pursuant to KRS 342.310, or attorney fees assessed or awarded under any other provision of this chapter. Attorney fees awarded under this subsection shall be paid by the employer or the employer's carrier, as applicable.

Section 2. KRS 342.310 is amended to read as follows:

- (1) If any administrative law judge, the board, or any court before whom any proceedings are brought under this chapter determines that such proceedings have been brought, prosecuted, or defended without reasonable ground, he or it may assess the whole cost of the proceedings which shall include actual expenses but not be limited to the following: court costs, travel expenses, deposition costs, physician expenses for attendance fees at depositions, attorney fees, and all other out-of-pocket expenses upon the party who has so brought, prosecuted, or defended them.
- (2) If any administrative law judge, the board, or any court before whom any proceedings are brought under this chapter determines that a party has committed acts in violation of KRS 342.335(1) or (2), that party may be ordered to make restitution for any compensation paid as a result of the commission of such acts.

- (3) Attorney fees assessed or awarded pursuant to subsection (1) of this section shall be exclusive of and not deducted from the amount of attorney fees payable under Section 1 of this Act.

The Committee on Tourism Development and Energy reported HB 261, with Committee Substitute attached thereto, and SB 74, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 261, AN ACT relating to natural gas rate stabilization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

- (1) A public utility providing natural gas distribution service to a minimum of fifteen thousand (15,000) customers, in its discretion and at any time, may elect to have the terms of this section apply to its rates and charges for gas distribution service, on a prospective basis, by filing a notice of the election with the Public Service Commission. Upon receipt of the notice of the election, the commission shall proceed to make the findings and establish the ongoing procedures required for adjustment in base rates to be made under this section. In carrying out the procedures established by this section with respect to such an election, the commission shall rely upon and utilize the approved rates, charges, revenues, expenses, capital structure, returns, and other matters established in the public utility's most recent general rate proceeding pursuant to KRS 278.190; provided, however, that the most recent such order must have been issued no more than five (5) years prior to the initial election to come under the terms of this section. A public utility may combine an election under this section with the filing of a rate proceeding pursuant to KRS 278.190 and the commission shall include the findings required by this section in its rate orders issued in the KRS 278.190 proceedings, and the election shall remain in effect until the next general rate proceeding.
- (2) The election by a utility to have the terms of this section apply to its rates and charges for gas distribution service, once made, shall remain in effect until the next general rate proceeding pursuant to KRS 278.190 for the public utility, at which time the public utility may then elect to continue the applicability of this section to its rates and charges or elect to opt out of the provisions of this section. The applicant may withdraw its request to come under the terms of this section at any time before the entry of a final order of the commission on the merits of the proceeding in which the election is made or on a petition for rehearing in the proceeding.
- (3) In issuing its order pursuant to this section and in addition to the other requirements of KRS 278.190, if a proceeding pursuant to that section is required:
 - (a) The commission shall specify a range for the utility's cost of equity that includes a band of fifty (50) basis points (0.50 percentage points) below and fifty (50) basis points (0.50 percentage points) above the cost of equity on which rates have been set; and
 - (b) The commission shall separately state the amount of the utility's net plant in service, construction work in progress, accumulated deferred income taxes, inventory, working capital, and other rate base components. It also shall state the utility's depreciation expense, operating and maintenance expense, income taxes, taxes other than income taxes, other components of income for return, revenues, capital structure, cost of debt, overall cost of capital, and earned return on common equity. The figures stated shall be those which the commission has determined to be the appropriate basis on which rates were set in the applicable orders.
- (4) The utility shall file with the commission monitoring reports for each twelve (12)-month period ending on March 31, June 30, September 30, and December 31 of each year, the filings to be made no later than the fifteenth day of the third month following the close of the period. These quarterly monitoring reports shall include the following:
 - (a) The utility's actual net plant in service, construction work in progress, accumulated deferred income taxes, inventory, working capital, and other rate base components. The report shall also show the utility's depreciation expense, operating and maintenance expense, income taxes, taxes other than income taxes, other components of income for return, revenues, capital structure, cost of debt, overall cost of capital, and earned return on common equity;
 - (b) All applicable accounting and pro-forma adjustments which are:
 1. Historically permitted or required by the commission for the utility in question, or for similarly situated utilities;
 2. Authorized by general principles of utility accounting; or
 3. Authorized by accounting letters or orders issued by the commission. This authorization may occur either in a general rate hearing or in any other type of filing or hearing that the commission considers appropriate. However, other parties shall be given sufficient opportunity to review and provide comments on any proposed accounting letter or order issued after the initial order allowing future base rate adjustments pursuant to this section;
 - (c) Pro forma adjustments to annualize for the twelve (12)-month period any rate adjustments imposed pursuant to this section or other events affecting only part of the period covered by the filing so that the annualization is

required to show the effects of those events on the utility's earnings going forward; and

- (d) Pro forma or other adjustments required to properly account for atypical, unusual, or nonrecurring events.
- (5) In the monitoring report filed for the twelve (12)-month period ending March 31 of each year, the utility shall provide additional schedules indicating the following revenue calculations:
 - (a) If the utility's earnings exceed the upper end of the range established in the order, the utility shall calculate the reduction in revenue required to lower its return on equity to the midpoint of the range established in the order; or
 - (b) If the utility's earnings are below the lower range established in the order, the utility shall calculate the additional revenue required to increase its return on equity to the midpoint of the range established in the order.
- (6) The utility also shall provide a schedule that specifies changes in its tariff rates required to achieve any indicated change in revenue.
- (7) The proposed rate changes, filed by the utility, shall conform as nearly as practicable with the revenue allocation principles contained in the most recent rate order.
- (8) The commission shall review the monitoring report filed pursuant to this section to determine compliance with its terms. Based upon that review, the commission shall order the utility to make the adjustments to tariff rates necessary to achieve the revenues indicated in this section.
- (9) The procedures contained in this subsection shall apply to monitoring reports related to the quarter ending March 31:
 - (a) The utility shall file the monitoring reports with the commission on or before June 15 and simultaneously shall mail or electronically transmit copies to any interested parties who have requested in writing to receive them;
 - (b) Interested parties shall be allowed until July 15 to file comments in writing to the commission concerning the monitoring report;
 - (c) In cases where the monitoring report indicates that rate adjustments are required, or where it otherwise appears to the commission that an adjustment in rates may be warranted under this section, the commission shall conduct an audit of the monitoring report and specify any changes that the commission determines to be necessary to correct errors in the report or to otherwise bring the report into compliance with this section. The commission's review shall be provided to the utility and made available to all interested parties no later than September 1;
 - (d) Interested parties shall be allowed until September 15 to file written comments with the commission related to the commission's review and shall simultaneously mail or electronically transmit copies of these comments to the utility and to all parties who previously appeared and filed comments;
 - (e) On or before October 15, the commission shall issue an initial order setting forth any changes required in the utility's request to adjust rates under this section. In the absence of such an initial order, the gas rate adjustment contained in the utility's filing shall be considered to be granted as filed;
 - (f) Any gas rate adjustments authorized under the terms of this section shall take effect for all bills rendered on or after the first billing cycle of November of that year.
- (10) Within thirty (30) days of the issuance of an initial order pursuant to subsection (9) of this section, or within thirty (30) days of the failure by the commission to issue an order as required pursuant to this section, any aggrieved party may petition the commission for review of the initial order or failure to issue an order and all interested parties of record shall have a right to be heard at an evidentiary hearing on the matter.
- (11) After conducting the hearing required under this section, the commission shall issue a final order that:
 - (a) Sets forth any changes that are required to the rates approved in the initial order issued under this section;
 - (b) Determines the amount of any overcollection or undercollection by the utility that resulted from collection of the rates authorized in the initial order as compared to the rates authorized in the final order under this section; and
 - (c) Establishes a credit to refund the amount of any overcollection, or a surcharge to collect the amount of any undercollection, that arose during the time that the rates approved in the initial order were collected, and that requires the utility to apply the credit or surcharge until such time as the overcollection or undercollection is remedied.
- (12) The commission shall issue any final order required under this section by April 15 of the year following the year in which the monitoring report was filed. The final order shall make the corrected rates and the credit or surcharge, if any, effective as of the first billing cycle of May of that year.
- (13) The provisions of KRS 278.400, 278.410, and 278.450 concerning rehearing and appeal, respectively, shall apply to the orders issued pursuant to this section.
- (14) The review of initial orders pursuant to KRS 278.410 is limited to issues related to compliance with the terms of this section. Matters determined in orders pursuant to subsection (3) are not subject to review except in full rate proceedings pursuant to KRS 278.190. Any proceedings pursuant to this section are without prejudice to the right of the commission to issue, or any interested party to request issuance of, a rule to show cause why a full rate proceeding

should not be initiated, nor does this section limit the right of a utility to file an application pursuant to KRS 278.190 for an adjustment to its rates and charges, nor does it impose the restrictions on filings pursuant to KRS 278.190.

- (15) In the event the commission shall require additional personnel for the purpose of performing its duties under this section, all salaries, benefits, expenses and charges incurred by the commission for these positions shall be borne proportionately by the natural gas utilities regulated pursuant to this section.**

The Committee Substitute to HB 261 is as follows:

HB 261, AN ACT relating to natural gas rate stabilization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

WHEREAS, a general rate proceeding for natural gas utilities in Kentucky has transaction costs for all parties that may be lessened without a loss of accountability under modified rate-setting approaches; and

WHEREAS, when examining rate-making options, it is important to maintain vigorous protection of consumer interests; and

WHEREAS, the declining sales by natural gas utilities to retail ratepayers has caused a loss of recovery on fixed assets, and some exploration of regulatory mechanisms to decouple sales from return on investment in transportation and delivery of natural gas is needed in order to make the utilities whole;

NOW, THEREFORE,

Section 1. There shall be a study conducted of rate structures and rate-setting methodology for natural gas utilities. The study shall be conducted by the Natural Gas Rate Stabilization Task Force of the Legislative Research Commission.

Section 2. The task force membership shall be appointed by the Legislative Research Commission or its co-chairs and shall include:

- (a) Representatives from two major natural gas utilities;
- (b) A representative of the Attorney General's Office of Rate Intervention;
- (c) A representative of the Public Service Commission;
- (d) A representative of the Kentucky Resources Council;
- (e) A member of the House of Representatives, who shall be co-chair; and
- (f) A member of the Senate, who shall be co-chair.

Final membership of the task force is subject to the consideration and approval of the Legislative Research Commission.

Section 3. The task force shall meet monthly at the call of the chairs, beginning after July 1, 2007.

Section 4. The task force shall examine rate-making policy and consider ways in which utilities may be fairly compensated for natural gas distribution services. The task force shall consider:

- (1) Methods which are not linked directly to sales;
- (2) All aspects of rate-making, including intervention, discovery, burden of proof, appeals, and timelines;
- (3) Costs to all parties of alternative rate-setting approaches; and
- (4) Methods by which the process can be streamlined and made less expensive.

Section 5. The task force shall make a report to the Legislative Research Commission no later than December 1, 2007. The report shall contain recommendations for legislative action, if appropriate.

Section 6. Provisions of this Act notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

SB 74, AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

- (1) The General Assembly finds that the work of ConnectKentucky in the deployment and adoption of telecommunications services and information technology across the state has resulted in enhanced economic development and public safety for Kentucky communities, improved health care and educational opportunities, and a better quality of life for Kentucky citizens. Further, continued progress in the deployment and adoption of advanced telecommunications services is vital to ensuring that Kentucky remains competitive and continues to create business and job growth. The General Assembly finds that Kentucky must encourage and support the partnership of the public and private sectors in the continued growth of telecommunications and information technology for Kentucky citizens and businesses.**

- (2) The Department for Local Government shall:**

- (a) Track the deployment and adoption of telecommunications and information technology in Kentucky;
 - (b) Enable public-private partnerships among telecommunications providers and relevant government entities to encourage the deployment and adoption of advanced telecommunications services;
 - (c) Serve as a resource for citizens and other government agencies to address concerns and questions regarding telecommunications and information technology issues; and
 - (d) Report progress on deployment and adoption to the Legislative Research Commission upon request and at least annually.
- (3) The Department for Local Government may contract with a nonprofit organization to accomplish the objectives set forth in this section. The organization shall have an established competency in working with public and private sectors to accomplish wide-scale deployment and adoption of telecommunications and information technology.
- (4) Nothing herein shall be construed as giving the Department for Local Government any authority, regulatory or otherwise, over providers of telecommunications and information technology.
- Section 2. KRS 147A.021 is amended to read as follows:
- (1) The Department for Local Government shall have the following powers and duties:
- (a) To require any reports from local governments that will enable it adequately to provide the technical and advisory assistance authorized by this section.
 - (b) To encourage, conduct, or participate in training courses in procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists.
 - (c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the department to carry out its duties under this section.
 - (d) At its discretion, to compile and publish annually a report on local government.
- (2) The Department for Local Government shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, the following programs:
- (a) Demonstration cities and metropolitan development act as amended with the exception of Title I of the Housing and Community Development Act of 1974 as amended through 1981;
 - (b) Farmers Home Administration;
 - (c) Veterans Administration Act as amended, as it pertains to housing.
- (3) The Department for Local Government shall provide technical assistance and information to units of local government, including but not limited to:
- (a) Personnel administration;
 - (b) Ordinances and codes;
 - (c) Community development;
 - (d) Appalachian Regional Development Program;
 - (e) Economic Development Administration Program;
 - (f) Intergovernmental Personnel Act Program;
 - (g) Land and Water Conservation Fund Program;
 - (h) Area Development Fund Program;
 - (i) Gas System Restoration Project;
 - (j) Joint Funding Administration Program;
 - (k) State clearinghouse for A-95 review;
 - (l) The memorandums of agreement with the area development districts to provide management assistance to local governments; and
 - (m) The urban development office.
- (4) The Department for Local Government shall exercise all of the functions of the state local finance officer provided in KRS Chapters 66, 68, and 131 relating to the control of funds of counties, cities, and other units of local government.
- (5) Upon request of the Administrative Office of the Courts, the Department for Local Government shall evaluate the financial condition of any local unit of government selected to participate in a court facilities construction or renovation project under KRS 26A.160 and shall certify to the Administrative Office of the Courts the local unit of government's ability to participate in the project.
- (6) The Department for Local Government shall encourage telecommunications and information technology deployment and adoption throughout Kentucky in accordance with Section 1 of this Act.

The House Committee Substitute to SB 74 is as follows:

SB 74, AN ACT relating to local government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

- (1) The General Assembly finds that the work of ConnectKentucky in the deployment and adoption of broadband services and information technology across the state has resulted in enhanced economic development and public safety for Kentucky communities, improved health care and educational opportunities, and a better quality of life for Kentucky citizens. Further, continued progress in the deployment and adoption of broadband services is vital to ensuring that Kentucky remains competitive and continues to create business and job growth. The General Assembly finds that Kentucky must encourage and support the partnership of the public and private sectors in the continued growth of telecommunications and information technology for Kentucky citizens and businesses.
- (2) The Department for Local Government shall:
 - (a) Track the deployment and adoption of broadband and information technology in Kentucky;
 - (b) Enable public-private partnerships among broadband providers and relevant government entities to encourage the deployment and adoption of advanced broadband services;
 - (c) Serve as a resource for all citizens, broadband providers, and technology businesses regarding broadband and information technology issues;
 - (d) Report progress on deployment and adoption to the Legislative Research Commission upon request and at least annually; and
 - (e) Ensure notification to the public of the availability of public funds for broadband and information technology investments prior to awarding any contracts or grants.
- (3) The Department for Local Government may contract with a nonprofit organization to accomplish the objectives set forth in this section. The organization shall have an established competency in working with public and private sectors to accomplish wide-scale deployment and adoption of broadband and information technology.
- (4) Nothing herein shall be construed as giving the Department for Local Government any authority, regulatory or otherwise, over providers of telecommunications and information technology.

Section 2. KRS 147A.021 is amended to read as follows:

- (1) The Department for Local Government shall have the following powers and duties:
 - (a) To require any reports from local governments that will enable it adequately to provide the technical and advisory assistance authorized by this section.
 - (b) To encourage, conduct, or participate in training courses in procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists.
 - (c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the department to carry out its duties under this section.
 - (d) At its discretion, to compile and publish annually a report on local government.
- (2) The Department for Local Government shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, the following programs:
 - (a) Demonstration cities and metropolitan development act as amended with the exception of Title I of the Housing and Community Development Act of 1974 as amended through 1981;
 - (b) Farmers Home Administration;
 - (c) Veterans Administration Act as amended, as it pertains to housing.
- (3) The Department for Local Government shall provide technical assistance and information to units of local government, including but not limited to:
 - (a) Personnel administration;
 - (b) Ordinances and codes;
 - (c) Community development;
 - (d) Appalachian Regional Development Program;
 - (e) Economic Development Administration Program;
 - (f) Intergovernmental Personnel Act Program;
 - (g) Land and Water Conservation Fund Program;
 - (h) Area Development Fund Program;

- (i) Gas System Restoration Project;
 - (j) Joint Funding Administration Program;
 - (k) State clearinghouse for A-95 review;
 - (l) The memorandums of agreement with the area development districts to provide management assistance to local governments; and
 - (m) The urban development office.
- (4) The Department for Local Government shall exercise all of the functions of the state local finance officer provided in KRS Chapters 66, 68, and 131 relating to the control of funds of counties, cities, and other units of local government.
- (5) Upon request of the Administrative Office of the Courts, the Department for Local Government shall evaluate the financial condition of any local unit of government selected to participate in a court facilities construction or renovation project under KRS 26A.160 and shall certify to the Administrative Office of the Courts the local unit of government's ability to participate in the project.
- (6) The Department for Local Government shall encourage broadband and information technology deployment and adoption throughout Kentucky in accordance with Section 1 of this Act.**

The Committee on Natural Resources and Environment reported **HB 442**, with Committee Substitute attached thereto, **HB 521**, **HJR 130**, **HCR 131**, and **SB 47** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 442, AN ACT relating to brownfields.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224A.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Administrative fee" means a fee assessed and collected by the authority from borrowers under assistance agreements, to be used for operational expenses of the authority.
- (2) "Applicable interest rate" means the rate of interest which shall be used as part of the repayment criteria for an assistance agreement between a governmental agency and the authority, and shall be determined by the authority pertinent to the source of funds from which the assistance agreement is funded.
- (3) "Assistance agreement" means the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for a lease, loan, services, or grant to the governmental agency or for the purchase of obligations issued by the governmental agency, and for the repayment thereof to the authority by the governmental agency.
- (4) "Authority" means the Kentucky Infrastructure Authority, which is created by this chapter.
- (5) "Authority revenues" means the totality of all:
 - (a) Service charges;
 - (b) Utility tax receipts, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority;
 - (c) Any gifts, grants, or loans received, to the extent not otherwise required to be applied;
 - (d) Any and all appropriations made to the authority by the General Assembly of the Commonwealth of Kentucky, to the extent not otherwise required to be applied;
 - (e) All moneys received in repayment of and for interest on any loans made by the authority to a governmental agency, except as provided in KRS 224A.111, 224A.1115, and 224A.112, or as principal of and interest on any obligations issued by a governmental agency and purchased by the authority, or as receipts under any assistance agreement;
 - (f) The proceeds of bonds or long-term debt obligations of governmental agencies pledged to the payment of bond anticipation notes issued by the authority on behalf of the said governmental agency to provide interim construction financing; and
 - (g) Payments under agreements with any agencies of the state and federal government.
- (6) "Borrower or borrowing entity" means any agency of the state or its political subdivisions, any city, or any special district created under the laws of the state acting individually or jointly under interagency or interlocal cooperative agreements to enter into assistance agreements with the authority.
- (7) "Brownfield project" means inventory, characterization, assessment, planning, targeted site assessments, remediating, and site preparation and redevelopment at brownfield sites where financial assistance will protect human health and the environment, and either promote economic development or enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes.**
- (8) "Brownfield site" means "brownfield site" as defined in KRS 65.680(4).**

- ~~(9)~~~~(7)~~ "Community flood damage abatement project" means any structural or nonstructural study, plan, design, construction, development, improvement, or other activity to provide for flood control.
- ~~(10)~~~~(8)~~ "Construction" means and includes, but is not limited to:
- (a) Preliminary planning to determine the economic and engineering feasibility of infrastructure projects, the engineering, architectural, legal, fiscal, and economic investigations, and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the construction of infrastructure~~[-or solid waste]~~ projects;
 - (b) The erection, building, acquisition, alteration, remodeling, improvement, or extension of infrastructure or solid waste projects; and
 - (c) The inspection and supervision of the construction of infrastructure or solid waste projects and all costs incidental to the acquisition and financing of same. This term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, infrastructure or solid waste projects.
- ~~(11)~~~~(9)~~ "Dams" means any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:
- (a) Is or will be twenty-five (25) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the Environmental and Public Protection Cabinet; or
 - (b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre feet or more.
- ~~(12)~~~~(10)~~ "Distribution facilities" means all or any part of any facilities, devices, and systems used and useful in obtaining, pumping, storing, treating, and distributing water for agricultural, industrial, commercial, recreational, public, and domestic use.
- ~~(13)~~~~(11)~~ "Environmental and Public Protection Cabinet" means the Kentucky Environmental and Public Protection Cabinet, or its successor, said term being meant to relate specifically to the state agency which is designated as the water pollution agency for the Commonwealth of Kentucky, for purposes of the federal act.
- ~~(14)~~~~(12)~~ "Federal act" means the Federal Clean Water Act (33 U.S.C. secs. 1251 et seq.) as said federal act may be amended from time to time in the future, or any other enactment of the United States Congress providing funds that may assist in carrying out the purposes of the authority.
- ~~(15)~~~~(13)~~ "Federally assisted wastewater revolving fund" means that fund which will receive federal and state funds or the proceeds from the sale of revenue bonds of the authority for the purpose of providing loans to finance construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act.
- ~~(16)~~~~(14)~~ "Governmental agency" means any incorporated city or municipal corporation, or other agency, or unit of government within or a department or a cabinet of the Commonwealth of Kentucky, now having or hereafter granted, the authority and power to finance, acquire, construct, or operate infrastructure~~[-or solid waste]~~ projects. This definition shall specifically apply but not by way of limitation to incorporated cities; counties, including any counties containing a metropolitan sewer district; sanitation districts; water districts; water associations if these associations are permitted to issue interest-bearing obligations which interest would be excludable from gross income under Section 103 of the Internal Revenue Code of 1986 as amended; sewer construction districts; metropolitan sewer districts; sanitation taxing districts; and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another in accordance with any regional or area compact, or intergovernmental cooperative agreements), now or hereafter established in accordance with the laws of the Commonwealth of Kentucky having and possessing the described powers described in this subsection.
- ~~(17)~~~~(15)~~ "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing, or recovery of any natural resources, including heat and radioactivity, together with any sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating, or manufacturing processes.
- ~~(18)~~~~(16)~~ "Infrastructure project" means any construction or acquisition of treatment works, distribution facilities, or water resources projects instituted by a governmental agency or an investor-owned water utility which is approved by the authority and, if required, by the Environmental and Public Protection Cabinet, Public Service Commission, or other agency; solid waste projects; dams; storm water control and treatment systems; ***brownfield projects***; gas or electric utility; broadband deployment project~~[-or]~~ any other public utility or public service project which the authority finds would assist in carrying out the purposes set out in KRS 224A.300; ***or any other public utility or public service project that will enhance economic development opportunities in the Commonwealth.***
- ~~(19)~~~~(17)~~ "Infrastructure revolving fund" means that fund which will receive state funds, the proceeds from the sale of revenue bonds of the authority or other moneys earmarked for that fund for the purpose of providing loans or grants to finance construction or acquisition of infrastructure projects as defined in this section.

- ~~(20)~~~~(18)~~ "Loan or grant" means moneys to be made available to governmental agencies by the authority for the purpose of defraying all or any part of the total costs incidental to construction or acquisition of any infrastructure project.
- ~~(21)~~~~(19)~~ "Market interest rate" means the interest rate determined by the authority under existing market conditions at the time the authority shall provide financial assistance to a governmental agency.
- ~~(22)~~~~(20)~~ "Obligation of a governmental agency" means a revenue bond, bond anticipation note, revenue anticipation note, lease, or other obligation issued by a governmental agency under KRS 58.010 et seq. or other applicable statutes.
- ~~(23)~~~~(21)~~ "Person" means any individual, firm, partnership, association, corporation, or governmental agency.
- ~~(24)~~~~(22)~~ "Pollution" means the placing of any noxious or deleterious substances ("pollutants"), including sewage and industrial wastes, in any waters of the state or affecting the properties of any waters of the state in a manner which renders the waters harmful or inimical to the public health or to animal or aquatic life, or to the use, present or future, of these waters for domestic water supply, industrial or agricultural purposes, or recreational purposes.
- ~~(25)~~~~(23)~~ "Prioritization schedules" means the list of wastewater treatment works, distribution facilities and water resources projects which the Environmental and Public Protection Cabinet has evaluated and determined to be of priority for receiving financial assistance from the federally assisted wastewater revolving fund and the federally assisted drinking water revolving fund, or the list of infrastructure projects which the authority has evaluated and determined to be of priority for receiving financial aid from the infrastructure revolving fund. The evaluation by the authority of infrastructure projects for water systems shall be undertaken with input from the appropriate area development district. The evaluation by the authority of infrastructure for broadband deployment projects shall be undertaken with consideration given to input from area development districts, telecommunications businesses, information services, technology industries, governmental entities, and Kentucky-based nonprofit organizations, including ConnectKentucky.
- ~~(26)~~~~(24)~~ "Solid waste project" means construction, renovation, or acquisition of a solid waste facility which shall be instituted and owned by a governmental agency.
- ~~(27)~~~~(25)~~ "Recovered material" means those materials which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis.
- ~~(28)~~~~(26)~~ "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material but does not mean a solid waste facility if solid waste generated by a recovered material processing facility is managed in accordance with KRS Chapter 224 and administrative regulations adopted by the cabinet.
- ~~(29)~~~~(27)~~ "Revenue bonds" means special obligation bonds issued by the authority as provided by the provisions of this chapter, which are not direct or general obligations of the state, and which are payable only from a pledge of, and lien upon, authority revenues as provided in the resolution authorizing the issuance of the bonds, and shall include revenue bond anticipation notes.
- ~~(30)~~~~(28)~~ "Service charge" means any monthly, quarterly, semiannual, or annual charge to be imposed by a governmental agency, or by the authority, for any infrastructure project financed by the authority, which service charge arises by reason of the existence of, and requirements of, any assistance agreement.
- ~~(31)~~~~(29)~~ "Sewage" means any of the waste products or excrements, or other discharges from the bodies of human beings or animals, which pollute the waters of the state.
- ~~(32)~~~~(30)~~ "Solid waste" means "solid waste" as defined by KRS 224.01-010(31)(a).
- ~~(33)~~~~(31)~~ "Solid waste facility" means any facility for collection, handling, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether the facility is associated with facilities generating the waste or otherwise, but does not include a container located on property where the waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility.
- ~~(32)~~ ~~"Solid waste revolving fund" means that fund which shall receive state funds, the proceeds from the sale of revenue bonds of the authority, or other moneys earmarked for the purpose of providing loans or grants to finance solid waste projects defined in this section.]~~
- ~~(34)~~~~(33)~~ "State" means the Commonwealth of Kentucky.
- ~~(35)~~~~(34)~~ "System" means the system owned and operated by a governmental agency with respect to ~~solid waste projects, treatment works, or~~ infrastructure projects financed as provided by the assistance agreement between the governmental agency and the authority.
- ~~(36)~~~~(35)~~ "Treatment works" or "wastewater treatment works" means all or any part of any facilities, devices, and systems used and useful in the storage, treatment, recycling, and reclamation of wastewater or the abatement of pollution, including facilities for the treatment, neutralization, disposal of, stabilization, collecting, segregating, or holding of wastewater, including without limiting the generality of the foregoing, intercepting sewers, outfall sewers, pumping power stations, and

other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, and any wastewater treatment works, including site acquisition of the land that will be an integral part of the wastewater treatment process, or is used for ultimate disposal of residues resulting from wastewater treatment, together with any other facilities which are deemed to be treatment works in accordance with the federal act.

~~(37)~~~~(36)}~~ "Variable rate revenue bonds" means revenue bonds the rate of interest on which fluctuates either automatically by reference to a predetermined formula or index or in accordance with the standards set forth in KRS 224A.120.

~~(38)~~~~(37)}~~ "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants derived from the prior use of these waters.

~~(39)~~~~(38)}~~ "Water resources" means all waters of the state occurring on the surface, in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available, or which may be made available to agricultural, industrial, commercial, recreational, public, and domestic users.

~~(40)~~~~(39)}~~ "Water resources project" means any structural or nonstructural study, plan, design, construction, development, improvement, or any other activity including programs for management, intended to conserve and develop the water resources of the state and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures.

~~(41)~~~~(40)}~~ "Waters of the state" means all streams, lakes, watercourses, waterways, ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural, surface, or underground waters.

~~(42)~~~~(41)}~~ "Utility tax" means the tax which may be imposed by the authority on every purchase of water or sewer service in the Commonwealth of Kentucky.

~~(43)~~~~(42)}~~ "Broadband deployment project" means the construction, provision, development, operation, maintenance, leasing, or improvement of broadband infrastructure, broadband services, or technologies that constitute a part of, or are related to, broadband infrastructure or broadband services, to provide for broadband service in unserved areas of the Commonwealth.

~~(44)~~~~(43)}~~ "Unserved area" means any place where broadband service is not available.

The Committee Substitute to **HB 442** is as follows:

HB 442, AN ACT relating to brownfields.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224A.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Administrative fee" means a fee assessed and collected by the authority from borrowers under assistance agreements, to be used for operational expenses of the authority.
- (2) "Applicable interest rate" means the rate of interest which shall be used as part of the repayment criteria for an assistance agreement between a governmental agency and the authority, and shall be determined by the authority pertinent to the source of funds from which the assistance agreement is funded.
- (3) "Assistance agreement" means the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for a lease, loan, services, or grant to the governmental agency or for the purchase of obligations issued by the governmental agency, and for the repayment thereof to the authority by the governmental agency.
- (4) "Authority" means the Kentucky Infrastructure Authority, which is created by this chapter.
- (5) "Authority revenues" means the totality of all:
 - (a) Service charges;
 - (b) Utility tax receipts, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority;
 - (c) Any gifts, grants, or loans received, to the extent not otherwise required to be applied;
 - (d) Any and all appropriations made to the authority by the General Assembly of the Commonwealth of Kentucky, to the extent not otherwise required to be applied;
 - (e) All moneys received in repayment of and for interest on any loans made by the authority to a governmental agency, except as provided in KRS 224A.111, 224A.1115, and 224A.112, or as principal of and interest on any obligations issued by a governmental agency and purchased by the authority, or as receipts under any assistance agreement;
 - (f) The proceeds of bonds or long-term debt obligations of governmental agencies pledged to the payment of bond anticipation notes issued by the authority on behalf of the said governmental agency to provide interim construction financing; and

- (g) Payments under agreements with any agencies of the state and federal government.
- (6) "Borrower or borrowing entity" means any agency of the state or its political subdivisions, any city, or any special district created under the laws of the state acting individually or jointly under interagency or interlocal cooperative agreements to enter into assistance agreements with the authority.
- (7) **"Brownfield project" means inventory, characterization, assessment, planning, targeted site assessments, remediating, and site preparation and redevelopment at brownfield sites where financial assistance will protect human health and the environment, and either promote economic development or enable the creation of, preservation of, or addition to parks, greenways, undeveloped property, other recreational property, or other property used for nonprofit purposes.**
- (8) **"Brownfield site" means "brownfield site" as defined in KRS 65.680(4).**
- ~~(9)~~~~(7)~~ "Community flood damage abatement project" means any structural or nonstructural study, plan, design, construction, development, improvement, or other activity to provide for flood control.
- ~~(10)~~~~(8)~~ "Construction" means and includes, but is not limited to:
- (a) Preliminary planning to determine the economic and engineering feasibility of infrastructure projects, the engineering, architectural, legal, fiscal, and economic investigations, and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures, and other actions necessary to the construction of infrastructure ~~or solid waste~~ projects;
- (b) The erection, building, acquisition, alteration, remodeling, improvement, or extension of infrastructure or solid waste projects; and
- (c) The inspection and supervision of the construction of infrastructure or solid waste projects and all costs incidental to the acquisition and financing of same. This term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, infrastructure or solid waste projects.
- ~~(11)~~~~(9)~~ "Dams" means any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:
- (a) Is or will be twenty-five (25) feet or more in height from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the Environmental and Public Protection Cabinet; or
- (b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre feet or more.
- ~~(12)~~~~(10)~~ "Distribution facilities" means all or any part of any facilities, devices, and systems used and useful in obtaining, pumping, storing, treating, and distributing water for agricultural, industrial, commercial, recreational, public, and domestic use.
- ~~(13)~~~~(11)~~ "Environmental and Public Protection Cabinet" means the Kentucky Environmental and Public Protection Cabinet, or its successor, said term being meant to relate specifically to the state agency which is designated as the water pollution agency for the Commonwealth of Kentucky, for purposes of the federal act.
- ~~(14)~~~~(12)~~ "Federal act" means the Federal Clean Water Act (33 U.S.C. secs. 1251 et seq.) as said federal act may be amended from time to time in the future, or any other enactment of the United States Congress providing funds that may assist in carrying out the purposes of the authority.
- ~~(15)~~~~(13)~~ "Federally assisted wastewater revolving fund" means that fund which will receive federal and state funds or the proceeds from the sale of revenue bonds of the authority for the purpose of providing loans to finance construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act.
- ~~(16)~~~~(14)~~ "Governmental agency" means any incorporated city or municipal corporation, or other agency, or unit of government within or a department or a cabinet of the Commonwealth of Kentucky, now having or hereafter granted, the authority and power to finance, acquire, construct, or operate infrastructure ~~or solid waste~~ projects. This definition shall specifically apply but not by way of limitation to incorporated cities; counties, including any counties containing a metropolitan sewer district; sanitation districts; water districts; water associations if these associations are permitted to issue interest-bearing obligations which interest would be excludable from gross income under Section 103 of the Internal Revenue Code of 1986 as amended; sewer construction districts; metropolitan sewer districts; sanitation taxing districts; and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another in accordance with any regional or area compact, or intergovernmental cooperative agreements), now or hereafter established in accordance with the laws of the Commonwealth of Kentucky having and possessing the described powers described in this subsection.
- ~~(17)~~~~(15)~~ "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing, or recovery of any natural resources, including heat and radioactivity, together with any sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating, or manufacturing processes.
- ~~(18)~~~~(16)~~ "Infrastructure project" means any construction or acquisition of treatment works, distribution facilities, or water

resources projects instituted by a governmental agency or an investor-owned water utility which is approved by the authority and, if required, by the Environmental and Public Protection Cabinet, Public Service Commission, or other agency; solid waste projects; dams; storm water control and treatment systems; **brownfield projects**; gas or electric utility; broadband deployment project; ~~or~~ any other public utility or public service project which the authority finds would assist in carrying out the purposes set out in KRS 224A.300.

- ~~(19)~~~~(17)~~ "Infrastructure revolving fund" means that fund which will receive state funds, the proceeds from the sale of revenue bonds of the authority or other moneys earmarked for that fund for the purpose of providing loans or grants to finance construction or acquisition of infrastructure projects as defined in this section.
- ~~(20)~~~~(18)~~ "Loan or grant" means moneys to be made available to governmental agencies by the authority for the purpose of defraying all or any part of the total costs incidental to construction or acquisition of any infrastructure project.
- ~~(21)~~~~(19)~~ "Market interest rate" means the interest rate determined by the authority under existing market conditions at the time the authority shall provide financial assistance to a governmental agency.
- ~~(22)~~~~(20)~~ "Obligation of a governmental agency" means a revenue bond, bond anticipation note, revenue anticipation note, lease, or other obligation issued by a governmental agency under KRS 58.010 et seq. or other applicable statutes.
- ~~(23)~~~~(21)~~ "Person" means any individual, firm, partnership, association, corporation, or governmental agency.
- ~~(24)~~~~(22)~~ "Pollution" means the placing of any noxious or deleterious substances ("pollutants"), including sewage and industrial wastes, in any waters of the state or affecting the properties of any waters of the state in a manner which renders the waters harmful or inimical to the public health or to animal or aquatic life, or to the use, present or future, of these waters for domestic water supply, industrial or agricultural purposes, or recreational purposes.
- ~~(25)~~~~(23)~~ "Prioritization schedules" means the list of wastewater treatment works, distribution facilities and water resources projects which the Environmental and Public Protection Cabinet has evaluated and determined to be of priority for receiving financial assistance from the federally assisted wastewater revolving fund and the federally assisted drinking water revolving fund, or the list of infrastructure projects which the authority has evaluated and determined to be of priority for receiving financial aid from the infrastructure revolving fund. The evaluation by the authority of infrastructure projects for water systems shall be undertaken with input from the appropriate area development district. The evaluation by the authority of infrastructure for broadband deployment projects shall be undertaken with consideration given to input from area development districts, telecommunications businesses, information services, technology industries, governmental entities, and Kentucky-based nonprofit organizations, including ConnectKentucky.
- ~~(26)~~~~(24)~~ "Solid waste project" means construction, renovation, or acquisition of a solid waste facility which shall be instituted and owned by a governmental agency.
- ~~(27)~~~~(25)~~ "Recovered material" means those materials which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis.
- ~~(28)~~~~(26)~~ "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material but does not mean a solid waste facility if solid waste generated by a recovered material processing facility is managed in accordance with KRS Chapter 224 and administrative regulations adopted by the cabinet.
- ~~(29)~~~~(27)~~ "Revenue bonds" means special obligation bonds issued by the authority as provided by the provisions of this chapter, which are not direct or general obligations of the state, and which are payable only from a pledge of, and lien upon, authority revenues as provided in the resolution authorizing the issuance of the bonds, and shall include revenue bond anticipation notes.
- ~~(30)~~~~(28)~~ "Service charge" means any monthly, quarterly, semiannual, or annual charge to be imposed by a governmental agency, or by the authority, for any infrastructure project financed by the authority, which service charge arises by reason of the existence of, and requirements of, any assistance agreement.
- ~~(31)~~~~(29)~~ "Sewage" means any of the waste products or excrements, or other discharges from the bodies of human beings or animals, which pollute the waters of the state.
- ~~(32)~~~~(30)~~ "Solid waste" means "solid waste" as defined by KRS 224.01-010(31)(a).
- ~~(33)~~~~(31)~~ "Solid waste facility" means any facility for collection, handling, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether the facility is associated with facilities generating the waste or otherwise, but does not include a container located on property where the waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility.
- ~~[(32)]~~ "Solid waste revolving fund" means that fund which shall receive state funds, the proceeds from the sale of revenue bonds of the authority, or other moneys earmarked for the purpose of providing loans or grants to finance solid waste projects defined in this section.

~~(34)~~~~(33)~~ "State" means the Commonwealth of Kentucky.

~~(35)~~~~(34)~~ "System" means the system owned and operated by a governmental agency with respect to ~~solid waste projects, treatment works, or~~ infrastructure projects financed as provided by the assistance agreement between the governmental agency and the authority.

~~(36)~~~~(35)~~ "Treatment works" or "wastewater treatment works" means all or any part of any facilities, devices, and systems used and useful in the storage, treatment, recycling, and reclamation of wastewater or the abatement of pollution, including facilities for the treatment, neutralization, disposal of, stabilization, collecting, segregating, or holding of wastewater, including without limiting the generality of the foregoing, intercepting sewers, outfall sewers, pumping power stations, and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, and any wastewater treatment works, including site acquisition of the land that will be an integral part of the wastewater treatment process, or is used for ultimate disposal of residues resulting from wastewater treatment, together with any other facilities which are deemed to be treatment works in accordance with the federal act.

~~(37)~~~~(36)~~ "Variable rate revenue bonds" means revenue bonds the rate of interest on which fluctuates either automatically by reference to a predetermined formula or index or in accordance with the standards set forth in KRS 224A.120.

~~(38)~~~~(37)~~ "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants derived from the prior use of these waters.

~~(39)~~~~(38)~~ "Water resources" means all waters of the state occurring on the surface, in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available, or which may be made available to agricultural, industrial, commercial, recreational, public, and domestic users.

~~(40)~~~~(39)~~ "Water resources project" means any structural or nonstructural study, plan, design, construction, development, improvement, or any other activity including programs for management, intended to conserve and develop the water resources of the state and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures.

~~(41)~~~~(40)~~ "Waters of the state" means all streams, lakes, watercourses, waterways, ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural, surface, or underground waters.

~~(42)~~~~(41)~~ "Utility tax" means the tax which may be imposed by the authority on every purchase of water or sewer service in the Commonwealth of Kentucky.

~~(43)~~~~(42)~~ "Broadband deployment project" means the construction, provision, development, operation, maintenance, leasing, or improvement of broadband infrastructure, broadband services, or technologies that constitute a part of, or are related to, broadband infrastructure or broadband services, to provide for broadband service in unserved areas of the Commonwealth.

~~(44)~~~~(43)~~ "Unserved area" means any place where broadband service is not available.

HB 521, AN ACT relating to underground petroleum storage tanks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.60-130 is amended to read as follows:

- (1) The Environmental and Public Protection Cabinet, Department for Environmental Protection, Division of Waste Management, shall:
 - (a) Establish by administrative regulation the policy, guidelines, and procedures to administer the financial responsibility and petroleum storage tank accounts of the petroleum storage tank environmental assurance fund. In adopting administrative regulations to carry out this section, the division may distinguish between types, classes, and ages of petroleum storage tanks. The division may establish a range of amounts to be paid from the fund, or may base payments on methods such as pay for performance, task order, or firm fixed pricing, which are designed to provide incentives for contractors to more tightly control corrective action costs, and shall establish criteria to be met by persons who contract to perform corrective action to be eligible for reimbursement from the fund. The criteria may include the certification of individuals, partnerships, and companies. Criteria shall be established to certify laboratories that contract to perform analytical testing related to the underground storage tank program. Owners and operators shall have all required analytical testing performed by a certified laboratory to be eligible for fund participation. Persons who contract with petroleum storage tank owners or operators shall not be paid more than the amount authorized by the division for reimbursement from the fund for the performance of corrective action. At a minimum, the division shall promulgate administrative regulations that will insure an unobligated balance in the fund adequate to meet financial assurance requirements and corrective action requirements of KRS 224.60-135(2) and (4). If the unobligated balance in the fund is not adequate to meet the requirements of this paragraph, the division shall obligate funds necessary to meet these requirements;
 - (b) Establish by administrative regulation the criteria to be met to be eligible to participate in the financial responsibility and petroleum storage tank accounts and to receive reimbursement from these accounts. The division

may establish eligibility criteria for the petroleum storage tank account based upon the financial ability of the petroleum storage tank owner or operator. Owners or operators seeking coverage under the petroleum storage tank account shall file for eligibility and for financial assistance with the division on or before January 15, 2008. To insure cost effectiveness, the division shall promulgate administrative regulations specifying the circumstances under which prior approval of corrective action costs shall be required for those costs to be eligible for reimbursement from the fund. In promulgating administrative regulations to carry out this section, the division may distinguish between types, classes, and ages of petroleum storage tanks and the degree of compliance of the facility with any administrative regulations of the cabinet promulgated pursuant to KRS 224.60-105 or applicable federal regulations;

- (c) Establish a financial responsibility account within the fund which may be used by petroleum storage tank owners and operators to demonstrate financial responsibility as required by administrative regulations of the cabinet or the federal regulations applicable to petroleum storage tanks, consistent with the intent of the General Assembly as set forth in KRS 224.60-120(5). The account shall receive four-tenths of one cent (\$0.004) from the one and four-tenths cent (\$0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. To be eligible to use this account to demonstrate compliance with financial responsibility requirements of the cabinet or federal regulations, or to receive reimbursement from this account for taking corrective action and for compensating third parties for bodily injury and property damage, the petroleum storage tank owner or operator shall meet the eligibility requirements established by administrative regulation promulgated by the division;
- (d) Establish a small operator assistance account within the fund which may be used by the division to make or participate in the making of loans, to purchase or participate in the purchase of the loans, which purchase may be from eligible lenders, or to insure loans made by eligible lenders;
- (e) Establish a petroleum storage tank account within the fund to be used to pay the costs of corrective action due to a release from a petroleum storage tank not eligible for reimbursement from the financial responsibility account. Reimbursements of corrective action projects performed under the petroleum storage tank account shall be carried out on or before July 15, 2013. Any corrective action costs incurred after this date that were authorized in a directive letter issued by the cabinet shall not be eligible for reimbursement under the petroleum storage tank account. Nothing contained in this paragraph shall make any expenses for corrective action of a site incurred after July 15, 2013, ineligible for reimbursement, if the owner or operator did not receive a directive letter from the cabinet due to the site being ranked lower in priority and if the expenses are identified as eligible for reimbursement in the cost reimbursement manual. The account shall receive one cent (\$0.01) from the one and four-tenths cent (\$0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145. This account shall not be used to compensate third parties for bodily injury and property damage. Within three (3) months after July 15, 2004, the division shall develop a plan to address the payment of claims and completion of corrective action at facilities eligible for reimbursement from this account. The division shall establish a ranking system in accordance with subsection (5) of Section 2 of this Act to be used for the distribution of amounts from this account for the purpose of corrective action. In promulgating administrative regulations to carry out this section, the division shall, in addition to the requirements set forth in subsection (5) of Section 2 of this Act, consider the financial ability of the petroleum storage tank owner or operator to perform corrective action and the extent of damage caused by a release into the environment from a petroleum storage tank;
- (f) Hear complaints brought before the division regarding the payment of claims from the fund in accordance with KRS 224.10-410 to 224.10-470;
- (g) Establish and maintain necessary offices within this state, appoint employees and agents as necessary, and prescribe their duties and compensation;
- (h) Employ, in accordance with the procedures found in KRS 45A.690 to 45A.725 for awarding personal service contracts, a qualified actuary to perform actuarial studies, as directed by the division, for determining an appropriate reserve in the financial responsibility account and the petroleum storage tank account sufficient to satisfy the obligations in each account for all eligible facilities and to satisfy future liabilities and expenses necessary to operate each account. The division shall, by administrative regulation, set the entry level for participation in the fund;
- (i) Authorize expenditures from the fund to carry out the purpose of KRS 224.60-105 to 224.60-160, including reasonable costs of administering the fund, the procurement of legal services, and the procurement of analytical testing services when necessary to confirm the accuracy of analytical testing results obtained by a petroleum storage tank owner or operator. The expenditures shall be paid from the appropriate account;
- (j) Establish a small operators' tank removal account within the fund to reimburse the reasonable cost of tank system removal for small owners and operators. The account shall not be used when an owner or operator is removing the tank with the intention of replacing or upgrading the tank. In promulgating administrative regulations to carry out this paragraph, the division may distinguish among owners and operators based on income, number of tanks, number of facilities, and types and classes of tanks;
- (k) Establish by administrative regulation the policy, guidelines, and procedures to perform financial audits of any petroleum storage tank owner or operator receiving reimbursement from the fund or any entity contracting or

2007 Regular Session

subcontracting to provide corrective action services for facilities eligible for fund reimbursement. Financial audits shall be limited to those files, records, computer records, receipts, and other documents related to corrective action performed at a facility where the costs of corrective action have been reimbursed by the fund. Files, records, computer records, receipts, and other documents related to corrective action reimbursed by the fund shall be subject to a financial audit for a period of three (3) years after the date of final reimbursement from the fund. Results of the audits shall be protected from disclosure as allowed by KRS 61.878(1)(c). Financial auditing services may be contracted for or personnel may be employed as needed to implement the requirements of this paragraph;

- (l) Be authorized to enter and inspect any facility intending to seek reimbursement for the cost of corrective action to determine the reasonableness and necessity of the cost of corrective action. The division may collect soil or water samples or require storage tank owners or operators to split samples with the division for analytical testing. Refusal to allow entry and inspection of a facility or refusal to allow the division to collect or split samples shall make the facility ineligible for fund participation;
- (m) Have inspectors on site at all tank system removals. Failure to comply with this provision shall make the facility ineligible for fund participation. A petroleum storage tank owner or operator may request through certified mail that the division schedule an inspector to be present at an upcoming tank removal. If the request is made at least two (2) weeks before the time for the removal and an inspector fails to be present at the time scheduled, the tank removal may proceed without making the facility ineligible for fund participation unless the owner is notified by the division no later than ten (10) days prior to the proposed date that an inspector is not available on the proposed date, in which event a representative of the division shall contact the operator and schedule a new date. If no inspector is present at the rescheduled date, the removal may then proceed without penalty; and
- (n) Establish that the deadline for submission of final reimbursement requests under the petroleum storage tank account is two (2) years after receipt of a no further action letter; and
- (o) Establish by administrative regulation a preapproved advanced clean-up program. The cabinet may apportion no more than three million dollars (\$3,000,000) in the financial responsibility account and five million dollars (\$5,000,000) in the petroleum storage tank account for reimbursement of preapproved advanced clean-up projects. The program shall allow corrective action on sites eligible for clean-up through the financial assurance account or the petroleum storage tank account that have been ranked lower in prioritization for clean-up. The owner or operator shall obtain written preapproval from the cabinet for the scope of work and corrective action costs. The cabinet may impose a cost-share requirement on the owner or operator of not more than thirty percent (30%) of the total cost of the project. The cabinet may select projects under this paragraph by competitive bidding the cost-share borne by the owner or operator and to assign higher priority to projects which have a contract for sale. The owner or operator shall pay approved contractors directly for corrective action. Expenses incurred by the owner or operator for corrective action under the preapproved plan shall remain eligible for reimbursement under the program. The cabinet may delay the reimbursement of corrective action costs until such time that the cabinet issues directive letters for similarly-ranked sites. Reimbursement of claims for corrective action shall not exceed those in the cost reimbursement manual and corrective action shall conform to a preapproved corrective action plan. The cabinet may negotiate a fixed-price reimbursement to the owner or operator for the site.

The funding and operations of the small operator assistance account and the small operator's tank removal account shall end on July 15, 2008.

- (2) The division may advise the cabinet on the promulgation of administrative regulations concerning petroleum storage tanks.
- (3) The division may sue and be sued in its own name.
- (4) The division may transfer funds from the petroleum storage tank account to the small operator tank removal account as needed to satisfy the obligations, future liabilities, and expenses necessary to operate that account. The division may transfer funds to the financial responsibility account as needed to maintain within that account sufficient funds to demonstrate financial responsibility and to ensure payment of claims as provided in subsection (1)(c) of this section.

Section 2. KRS 224.60-137 is amended to read as follows:

- (1) It is the intent of the General Assembly, when funds are available, that the University of Kentucky update the study completed in July 1995, and recommend amendments to standards for levels of petroleum contamination, including lead and other additives, requiring corrective action to adequately protect human health, safety, and the environment established in administrative regulations promulgated by the cabinet, based on new information or changes in federal law.
- (2) The division shall contract with the University of Kentucky when funds are available.
- (3) The cabinet shall, by administrative regulation, adopt standards for corrective action for a release into the environment from a petroleum storage tank. The administrative regulations shall adequately protect human health, safety, and the environment, and may consider the study and any revisions or amendments to it performed for the division, except as necessary to comply with federal law.
- (4) Within ninety (90) days of July 15, 2002, the cabinet shall develop an inventory of facilities eligible for reimbursement from the financial responsibility account and the petroleum storage tank account and information on the current status of

each facility within the corrective action process. The cabinet shall update the inventory and the status of the facilities and submit the information quarterly to the Legislative Research Commission.

- (5) *The cabinet shall rank in order the site inventory for the purpose of issuing directive letters. Sites participating in the financial responsibility account shall be ranked higher than and be reimbursed before those participating in the petroleum storage tank account. Furthermore, sites that are in the corrective action process for ten (10) years or more and that have not received a letter of no further action shall be given priority in the ranking system over those with less than ten (10) years.*

Section 3. KRS 224.60-140 is amended to read as follows:

- (1) There is hereby created the petroleum storage tank environmental assurance fund. The fund shall consist of a financial responsibility account and a petroleum storage tank account. Each account shall be maintained as a separate and distinct interest-bearing account. Interest credited to an account shall be retained in that account. All of the following amounts shall be deposited in the fund:
 - (a) Four-tenths of one cent (\$0.004) from the one and four-tenths cent (\$0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145 to the financial responsibility account;
 - (b) One cent (\$0.01) from the one and four-tenths cent (\$0.014) paid on each gallon of gasoline and special fuels received in this state pursuant to KRS 224.60-145 to the petroleum storage tank account;
 - (c) Money appropriated by the General Assembly for deposit in each account;
 - (d) Any money recovered by the fund pursuant to this section shall be deposited in the appropriate account; and
 - (e) Any money collected in the form of penalties levied pursuant to KRS 224.60-155 shall be deposited to the appropriate account.
- (2) Money in the fund, financial responsibility account, and the petroleum storage tank account shall be used by the division for the following purposes:
 - (a) To reimburse petroleum storage tank owners or operators for the costs, expenses, and other obligations incurred for corrective action required by the cabinet to be undertaken as the result of a release into the environment from a petroleum storage tank. *The cabinet shall develop a cost reimbursement manual for contractors and owners and operators that establishes specific unit costs reimbursable under the program. The cabinet shall reimburse petroleum storage tank owners or operators for the necessary and reasonable costs of the disposal and replacement of impacted soil and other backfill, and for the disposal of impacted pit water, following the removal of contaminated soil and water, within and outside the excavation zone.* Reimbursement shall be limited to only those costs, expenses, and other obligations incurred to comply with corrective action requirements established in law or administrative regulation by the cabinet. Additional costs related to compliance with a local program operating under KRS 224.60-105(4) shall be neither reimbursable by the fund nor imposed on the owner or operator. Reimbursement shall not include the costs related to the removal, or actions incidental to the removal, of a tank system except as authorized under KRS 224.60-130(1)(j);
 - (b) For payment of or reimbursement for third-party claims for bodily injury and property damage, related to a facility eligible for participation in the financial responsibility account, which are asserted against a petroleum storage tank owner or operator as a result of a release into the environment from a petroleum storage tank;
 - (c) To pay the reasonable, prorated costs incurred by the division in administering each account; and
 - (d) The cost to operate the small operators' assistance account pursuant to KRS 224.60-130(1)(d), the small operators' tank removal account pursuant to KRS 224.60-130(1)(j), to perform or contract for the performance of financial audits conducted under KRS 224.60-130(1)(k), and to employ sufficient inspectors to carry out the provisions of KRS 224.60-130 and to set forth their duties. These costs shall be prorated to each account.
- (3) The use of the fund shall not exceed one million dollars (\$1,000,000) per occurrence for corrective action and one million dollars (\$1,000,000) per occurrence for compensating third parties for bodily injury and property damage.
- (4) Money in the fund may be used by the cabinet for costs incurred by the cabinet for corrective action taken pursuant to KRS 224.60-135(2) and (4).
- (5) The fund shall be used to guarantee payment of reasonable costs and expenses to a contractor performing corrective action under contract with a petroleum storage tank owner or operator subject to entry level amounts payable by the petroleum storage tank owner or operator. Money in the fund shall be obligated to secure the guarantee.
- (6) A petroleum storage tank owner or operator may apply to the division for reimbursement from the fund of costs to perform corrective action, except that the petroleum storage tank owner or operator shall be responsible for and shall not be reimbursed for an amount equal to the entry level into the fund as set pursuant to administrative regulation of the division.
- (7) The division or its designated agent shall issue all decisions made on claims filed pursuant to this section in writing, with notification to all appropriate parties, within ninety (90) days after submission of the claim, unless all parties to the claim agree in writing to an extension of time. The division shall by phone or facsimile transmission immediately notify the claim applicant and its consultant, if applicable, when the claim is determined to be deficient. The notification shall provide sufficient information to allow the applicant and its consultant, if applicable, to begin to correct the deficiency. The

division shall then notify the applicant and its consultant, if applicable, by certified mail of the deficiency. The notice shall indicate how many days remain in the ninety (90) day review period from the time of mailing. The review period shall be tolled pending submittal of information responding to the deficiency, but not to exceed thirty (30) days. When the division receives information that corrects the deficiency, or at the end of the thirty (30) day period, the division shall complete the review of the claim within the time remaining in the ninety (90) day review period. Nothing in this section shall be construed as preventing the fund from making partial reimbursement as appropriate. **If a final determination or order in a proceeding under KRS 224.10-420 holds that the cabinet wrongfully denied a claim for reimbursement, the owner or operator of a petroleum storage tank or the contractor performing the corrective action may submit for reimbursement, along with the original claim, reasonable and necessary attorney's fees incurred in connection with the proceeding, not to exceed ten thousand dollars (\$10,000). Nothing contained in this subsection shall be construed to prevent a party to the proceeding from exhausting any administrative or judicial remedies provided under law.**

- (8) Except as provided in subsection (9), any costs incurred and payable from the fund for corrective action taken pursuant to KRS 224.60-135(2) shall be recovered by the division from the petroleum storage tank owner or operator which released the petroleum or petroleum products into the environment.
- (9) The liability of a petroleum storage tank owner or operator subject to a cost recovery under this section shall not exceed an amount equal to the entry level into the fund, the division's cost incurred in the cost recovery, and any penalties applied in accordance with KRS 224.60-155. This amount shall include any expenditures made by the petroleum storage tank owner or operator for the release into the environment from the petroleum storage tank that is the subject of the cost of recovery.
- (10) The amount of costs determined pursuant to subsections (8) and (19) of this section shall be recoverable in a civil action. This subsection does not deprive a party of any defense the party may have.
- (11) Money recovered by the division pursuant to this section shall be deposited in the appropriate account.
- (12) Upon motion and sufficient showing by any party, the court shall join to the action any person who may be liable for costs or expenditures recoverable pursuant to this section.
- (13)
 - (a) Any party found liable for any costs or expenditures recoverable under this section who establishes that only a portion of those costs or expenditures are attributable to their actions, shall pay only for that portion.
 - (b) If the trier of fact finds the evidence insufficient to establish each party's portion of costs or expenditures pursuant to subsection (12) of this section, the court shall apportion those costs or expenditures, to the extent practicable according to equitable principles among the defendants.
 - (c) The appropriate account shall pay any portion of the judgment in excess of the aggregate amount of costs or expenditures apportioned under paragraphs (a) and (b) of this subsection.
- (14)
 - (a) No indemnification, hold harmless, conveyance, or similar agreement shall be effective to transfer any liability for costs recoverable under this section. This subsection shall not bar any agreement to insure, hold harmless, or indemnify a party to the agreement for any costs under KRS 224.60-105 to 224.60-160.
 - (b) The entry of judgment against any party to the action shall not bar any future action by the fund against any other person who is later discovered to be potentially liable for costs paid from the fund.
 - (c) Payment of any claim by the fund pursuant to KRS 224.60-105 to 224.60-160 shall be subject to the state acquiring by subrogation the rights of the claimant to recover those costs of corrective action for which it has compensated the claimant from the person responsible or liable for the release.
- (15) This section shall not be construed as authorizing recovery for costs of corrective action resulting from any release authorized or permitted pursuant to state or federal law.
- (16) The cabinet shall attempt, to the maximum extent practicable, to secure or obtain funds that may be available for corrective actions under federal laws. However, nothing in this subsection shall prevent the cabinet from expending any funds available under KRS 224.60-105 to 224.60-160 if such federal funds are determined to be unavailable.
- (17) The fund shall not be used for corrective action, reimbursement, or third-party liability resulting from releases from petroleum storage tanks used exclusively for storage of fuel used in the operation of a commercial ship or vessel oil tanks used exclusively for storage of fuel used for the purposes of powering locomotives.
- (18)
 - (a) Any person filing a claim for reimbursement from the division shall, prior to filing the claim for reimbursement, ensure full payment of the claims of all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor or materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement.
 - (b) A vendor or subcontractor may waive, in writing, his right to receive full payment before the person files the claim for reimbursement. Any vendor or subcontractor who waives, in writing, his right to full payment shall also waive, in writing, his right to take legal recourse against the division and the underground storage tank facility owner or operator for nonpayment from a prime contractor for work performed or materials supplied to the prime contractor during corrective action at an underground storage tank facility. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall acknowledge in the written waiver that his, his heirs', successors', and assigns' sole recourse for the nonpayment of work performed or materials supplied to a prime contractor during corrective action at an underground storage tank facility is to

proceed against the prime contractor for whom he performed the work or supplied materials. Any vendor or subcontractor who waives, in writing, his right to full payment prior to the filing of the claim for reimbursement shall release and discharge any liens filed as a result of work performed or materials provided at the underground storage tank facility. Subcontractor and vendor waivers must be made on standard forms furnished by the division. Their signatures must be notarized.

- (c) Unless the provisions of paragraph (b) of this subsection apply, any person filing a claim for reimbursement from the division shall certify, by affidavit, on standard forms furnished by the division, that all vendors and subcontractors who have performed work or supplied materials related to corrective action at an underground storage tank facility, where labor and materials supplied by a vendor or subcontractor form a basis for at least part of the claim for reimbursement, have been paid in full as of the date of submission of the claim for reimbursement. A single affidavit may be made for each claim for reimbursement, provided, however, that the representations made in the affidavit shall be applied to each vendor or subcontractor individually, and, where false, shall be treated, as to each vendor or subcontractor, as a separate violation for the purpose of applying any criminal statute.
 - (d) Any person with responsibility for administering the division who believes, or has information, that an affidavit submitted pursuant to this subsection contains false or misleading information, or any person with responsibility for administering the division who believes or has information that an application for financial assistance or a claim for reimbursement contains false or misleading information, shall provide that information to the Commonwealth's attorney whose jurisdiction includes the county where the majority of the subject underground storage tank facility is located. That person may additionally provide the information to any other interested prosecutor with jurisdiction to prosecute crimes pertaining to an application for financial assistance or the claim for reimbursement.
- (19) Any person who knowingly makes a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be responsible for and shall not be reimbursed for any amounts incurred based upon the false statement, representation, or certification. Any costs incurred and paid from the fund which are based on a false statement, representation, or certification in an application for reimbursement from the fund, or in any supporting documentation attached thereto, shall be recovered by the fund administrators from the person who asserted the false statement, representation, or certification.

Section 4. KRS 224.60-145 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, there is established a petroleum environmental assurance fee to be paid by dealers on each gallon of gasoline and special fuels received in this state.
- (2) All deductions detailed in KRS 138.240(2) and all credits detailed in KRS 138.358 are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.
- (3) The fee shall be reported and paid to the Department of Revenue at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.
- (4) The petroleum environmental assurance fee shall be set at one and four-tenths cent (\$0.014) for each gallon. Four-tenths of a cent (\$0.004) per gallon shall be deposited in the financial responsibility account and one cent (\$0.01) shall be deposited in the petroleum storage tank account. **This provision shall not be suspended in any executive branch budget bill nor shall any funds contained in the financial responsibility account or the petroleum storage tank account be transferred to the general fund or to the road fund.**
- (5) Within thirty (30) days of the close of fiscal year 2001-2002 and each fiscal year thereafter, the state budget director shall review the balance of each account to determine if a surplus exists. "Surplus" means funds in excess of the amounts necessary to satisfy the obligations in each account for all eligible facilities, to satisfy future liabilities and expenses necessary to operate each account, and to maintain an appropriate reserve in the financial responsibility account to demonstrate financial responsibility and compensate for third-party claims. The state budget director shall report the determination to the Interim Joint Committee on Appropriations and Revenue. ~~After a determination that a surplus exists, the surplus shall be transferred to a restricted account and retained until appropriated by the General Assembly.~~
- (6) All provisions of law related to the Department of Revenue's administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the Department of Revenue by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by KRS 224.60-105 to 224.60-160.
- (7) The Department of Revenue shall refund the fee imposed by KRS 224.60-145(1) to any person who paid the fee provided they are entitled to a refund of motor fuel tax under KRS 138.344 to KRS 138.355 and to any person who paid the fee on transactions exempted under KRS 224.60-145(2).
- (8) Notwithstanding any other provisions of KRS 65.180, 65.182, 68.600 to 68.606, 139.470, 183.165, 224.60-115, 224.60-130, 224.60-137, 224.60-140, 224.60-142, and this section to the contrary, the small operator assistance account and small operator tank removal account established under KRS 224.60-130 shall continue in effect until July 15, 2008, and thereafter until all eligible claims related to tanks registered by that date are resolved, and sufficient money shall be allocated to and maintained in that account to assure prompt payment of all eligible claims, and to provide for removal of tanks for eligible owners and operators as directed by this chapter.

HJR 130, A JOINT RESOLUTION relating to Emergency Action Plans for high and significant hazard dams.

WHEREAS, there exist numerous impoundments in the Commonwealth that are classified as "high" or "significant" hazard structures, the failure of which could pose a hazard to life, or cause serious economic or property loss; and

WHEREAS, the Federal Emergency Management Agency has published "Emergency Action Planning Guidelines for Dams," that defines the need for, and provides guidance for preparation and implementation of Emergency Action Plans (EAPs) for such high or significant hazard impoundments; and

WHEREAS, according to the most recent report of the Federal Management Agency to Congress under the National Dam Safety Program Act, only one percent of state-regulated high and significant hazard potential dams in Kentucky have developed EAPs; and

WHEREAS, since 1994, the development of EAPs has been recommended by the Mine Safety and Health Administration for coal mine waste impoundments; and

WHEREAS, the Environmental and Public Protection Cabinet has enabling authority pursuant to KRS 151.125 to develop, after notice and comment, such administrative regulations as are deemed necessary or useful for the safe construction, enlargement, repair, alteration, maintenance, and operation of dams or reservoirs, and the authority is broad enough to encompass a requirement for development and submission of EAPs to the Division of Water or Division of Mine Reclamation and Enforcement, as applicable under KRS 151.250(3); and

WHEREAS, the protection of life and property and maintenance of an appropriate level of emergency preparedness is in the best interests of the owners of high and significant hazard impounding structures and downstream populations alike;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Environmental and Public Protection Cabinet is directed to promulgate, within 90 days of the effective date of this Resolution, regulations requiring development, submission for approval, and implementation of Emergency Action Plans for all high and significant hazard impoundments regulated under KRS Chapters 151 and 350. The regulations shall provide a reasonable timeframe for development and submission of the EAPs, consistent with hazard classification, and shall, to the extent possible, coordinate submission, review, and public notice and comment on EAPs with submission of other permits and certifications by the agency.

HCR 131, A CONCURRENT RESOLUTION establishing a task force on the disposal of electronic waste.

WHEREAS, technological advancements have spawned a lucrative electronics industry whose backbone is variety of small, popular, handheld devices like MP3 players, wireless telephones, and PDAs; and

WHEREAS, many of these electronic devices quickly become obsolete or damaged, and they are eventually thrown away generating tons of electronic scrap waste, or "e-scrap"; and

WHEREAS, e-scrap has become a focus of national attention due to the hazardous nature of some e-scrap components and the value of recycling those components; and

WHEREAS, the United States Environmental Protection Agency estimates that e-scrap constitutes approximately one to two percent of the solid waste stream and that approximately three billion units of e-scrap will be disposed of over the remainder of this decade; and

WHEREAS, in Kentucky as much as 99,000 tons of e-scrap was generated in 2004, and although e-scrap is not tracked by state or federal governments, a sizable portion of that waste is thought to be deposited into contained landfills rather than recycled; and

WHEREAS, many states, including Arkansas, Louisiana, New Mexico and Texas, have enacted legislation to study, implement, or create incentives for electronics recycling programs;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to establish an E-scrap Task Force. The task force shall study the recycling of e-scrap waste in the Commonwealth.

Section 2. The E-scrap Task Force of the Legislative Research Commission shall be composed of fifteen members and shall include the following:

- (1) Three members of the Senate, including the Senate co-chair, appointed by the Legislative Research Commission;
- (2) Three members of the House of Representatives, including the House co-chair, appointed by the Legislative Research Commission;
- (3) The Director of the Division of Waste Management, Environmental and Public Protection Cabinet, or a designee;
- (4) One member appointed by the Legislative Research Commission who shall represent recyclers of e-scrap;

- (5) One member appointed by the Legislative Research Commission who shall represent an environmental group;
- (6) One member appointed by the Legislative Research Commission who shall represent the Kentucky Resources Council;
- (7) One member appointed by the Legislative Research Commission who shall represent a local government with an existing recycling program;
- (8) One member appointed by the Legislative Research Commission who shall represent a state-funded university;
- (9) Two members who shall represent manufacturers or producers; and
- (10) One member who shall represent a retailer.

Section 3. The E-scrap Task Force shall:

- (1) Examine ways to increase recycling of e-scrap in the Commonwealth;
- (2) Identify financial incentives to encourage participation by recyclers of e-scrap; and
- (3) Identify ways to make recycling easy and affordable for the consumer of electronic devices.

Section 4. The E-scrap Task Force shall meet not less than three (3) times during the 2007 interim. The task force shall report its findings and recommendations to the Legislative Research Commission for referral to the appropriate committee or committees no later than December 1, 2007.

Section 5. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issued identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

SB 47, AN ACT relating to certification of miners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

In lieu of an examination prescribed by law or regulation, the board may enter into a reciprocal agreement with another state regarding the certification of miners. The board may, pursuant to a reciprocal agreement, issue to any person holding a certificate issued by another state a certificate permitting him or her to perform similar tasks in the Commonwealth if:

- (1) The board finds that the requirements for certification in the other state are substantially equivalent to those of Kentucky;*
- (2) The person passes only the applicable part of the examination with regard to Kentucky law which is uniquely different from the other state;*
- (3) The person has submitted proof, in accordance with KRS 351.182, that he or she is drug and alcohol free;*
- (4) The person's retraining is sufficient to meet Kentucky requirements; and*
- (5) The person's certification in Kentucky or in any other state has not been suspended, revoked, or probated.*

The Committee on State Government reported **HB 181**, with Committee Substitute attached thereto, **HB 227**, **SB 55**, **SB 56**, **SB 58**, **SB 59**, **SB 76**, **SB 79**, with Committee Substitute attached thereto, **SB 85**, with Committee Substitute attached thereto, and **SB 144** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 181, AN ACT relating to equal employment opportunity in state contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.560 is amended to read as follows:

As used in KRS 45.570 to 45.640, unless the context requires otherwise:

- (1) "Contract" means any binding legal relationship between the Commonwealth of Kentucky and a contractor for supplies and services, including construction, or for the use of Commonwealth property, in which the parties, respectively, do not stand in the relationship of employer and employee.
- (2) "Contractor" means any prime contractor holding a contract with the Commonwealth of Kentucky government, and shall include subcontractors when the context so indicates.
- (3) "Contracting agency" means the person or persons, board, commission, court, council, governing body, employee, or official which is authorized by law to purchase or contract for supplies, materials, services, or equipment for the state.
- (4) "Subcontractor" means any person, including a corporation, partnership, or business association of any kind, who holds an agreement or purchase order to perform all or any part of the work or to make or furnish any article or service required for the performance of a negotiated contract or of a subcontract entered thereunder.
- (5) "Cabinet" means the Finance and Administration Cabinet.
- (6) "Equal employment opportunity job categories" means the major employment classifications described by the United States Equal Employment Opportunity Commission.*

Section 2. KRS 45.570 is amended to read as follows:

- (1) Except in contracts exempted in accordance with KRS 45.590, all government contracting agencies of the Commonwealth of Kentucky, any county, city, town, school district, water district, hospital district, or other political subdivision of the state shall include in every directly or indirectly publicly funded contract for supplies, materials, services, or equipment hereinafter entered into the following provisions:
- (2) During the performance of this contract, the contractor agrees as follows:
 - (a) The contractor ~~shall~~will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age forty (40) and over, disability, veteran status, or national origin;
 - (b) The contractor ~~shall~~will take affirmative action in regard to employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, so as to ensure that applicants are employed and that employees during employment are treated without regard to their race, color, religion, sex, age forty (40) and over, disability, veteran status, or national origin~~;~~ however, when layoffs occur, employees shall be laid off according to seniority with the youngest employee being laid off first. When employees are recalled, this shall be done in the reverse of the way the employees were laid off~~;~~;
 - (c) The contractor ~~shall~~will state in all solicitations or advertisements for employees placed by or on behalf of the contractor that all qualified applicants ~~shall~~will receive consideration for employment without regard to race, color, religion, sex, age forty (40) and over, disability, veteran status, or national origin;
 - (d) The contractor ~~shall~~will post notices in conspicuous places, available to employees and applicants for employment, setting forth the provisions of the nondiscrimination clauses required by this section; and
 - (e) The contractor ~~shall~~will send a notice to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding advising the labor union or workers' representative of the contractor's commitments under the nondiscrimination clauses.

Section 3. KRS 45.590 is amended to read as follows:

A contractor or subcontractor otherwise subject to the provisions of KRS 45.570 is exempt as to any affirmative action or reporting requirements if:

- (1) The contract or subcontract awarded is in the amount of five hundred thousand dollars (\$500,000)~~[\$250,000]~~ or less, and the amount of the contract is not a subterfuge to avoid compliance with the provisions of KRS 45.560 to 45.640;
- (2) The contractor or subcontractor utilizes the services of fewer than eight (8) employees during the course of the contract;
- (3) The contractor or subcontractor employs only family members or relatives;
- (4) The contractor or subcontractor employs only persons having a direct ownership interest in the business, and such interest is not a subterfuge to avoid compliance with the provisions of KRS 45.560 to 45.640;
- (5) The contract is for standard commercial supplies, to the extent that the commercial supplies do not relate to the contract or subcontract awarded;
- (6) The contract is for raw materials; or
- (7) The subcontract is below the second-tier level of contracts.

The Finance and Administration Cabinet may establish additional exemptions to any affirmative action or reporting requirements by promulgating administrative regulations in accordance with the provisions of KRS Chapter 13A.

Section 4. KRS 45.600 is amended to read as follows:

- (1) Any party not otherwise exempted by KRS 45.590 and intending to submit a bid on any contract covered by the provisions of KRS 45.560 to 45.640 shall within a time frame set by the contracting agency in the bid documents~~[reasonable period of time as determined by the Finance and Administration Cabinet]~~ submit to the contracting agency~~[and the cabinet]~~ upon being declared the successful bidder:
 - (a) A statement of intent to comply in full with all requirements of the Kentucky Civil Rights Act, and to submit data required by KRS 45.560 to 45.640 upon being designated the successful bidder.
 - (b) A breakdown of the bidding party's existing work force, indicating the race, ethnicity, gender, and equal employment opportunity job category~~[sex, age, position held, county and state of residence, and date of employment]~~ of each employee.
 - (c) A breakdown of subcontracts valued at five hundred thousand dollars (\$500,000) or more, indicating specific items of work on the contract for which the contractor has submitted or intends to submit a bid to the Commonwealth of Kentucky.

The reports~~[This report]~~ shall be submitted in a manner as shall be prescribed by the cabinet and on forms devised by the cabinet and supplied by the contracting agency.

- (2) Within ten (10) days after the receipt of the reports~~[this report]~~, the cabinet shall determine whether the bidding party's work force is reflective of the percentage of available minorities and women in the area from which the bidding party's

employees are drawn. If a determination is made that the bidding party's work force is reflective of the percentage of available minorities and women in this drawn area, the bidding party shall be "certified" and be thereby qualified to bid on any contract covered by KRS 45.560 to 45.640 without filing additional data for a period of one (1) year ~~six (6) months~~.

- (3) If it is determined by the cabinet that the bidding party's work force reflects an underutilization of minorities or women, the bidding party and contracting agency shall be so notified, and no certification shall be issued. The bidding party shall then have the option of filing with the contracting agency and the cabinet, an affirmative action program, indicating goals and timetables for recruiting and hiring minorities or women throughout the contractors' work force. The cabinet shall be available, upon the request of any contractor, to furnish technical assistance in fulfilling the requirements of KRS 45.560 to 45.640.
 - (4) If the bidding party is subsequently awarded the contract being sought, failure to comply with the goals and timetables set forth in the affirmative action plan shall be an unlawful practice under KRS 45.560 to 45.640 and shall constitute a material breach of the contract.
 - (5) If the cabinet determines that the submitted affirmative action program does not fulfill the provisions of KRS 45.560 to 45.640, the bidding party and contracting agency shall be so notified, and no certification shall be granted.
 - (6) If the bidding party's work force is not reflective of the percentage of minorities or women in the drawing area and the bidding party ~~he~~ has complied with all other affirmative action requirements in KRS 45.560 to 45.640, the bidding party ~~he~~ may certify by verified affidavit that the bidding party ~~he~~ has made every reasonable effort to comply with said percentage requirements, and the bidding party ~~he~~ shall thereafter be entitled to all the benefits of KRS 45.560 to 45.640.
- Section 5. KRS 45.610 is amended to read as follows:

- (1) For the length of the contract, each contractor shall hire minorities and women from other sources within the drawing area, should the union with which he has collective bargaining agreements be unwilling to supply sufficient minorities or women to satisfy the agreed upon goals and timetables.
- (2) Each contractor shall, for the length of the contract, furnish such information as required by KRS 45.560 to 45.640 and by such rules, regulations, and orders issued pursuant thereto and will permit access to all books and records pertaining to his employment practices and work sites by the contracting agency and the cabinet for purposes of investigation to ascertain compliance with KRS 45.560 to 45.640 and such rules, regulations, and orders issued pursuant thereto.

Section 6. KRS 45.620 is amended to read as follows:

- (1) The Finance and Administration Cabinet may investigate the employment practices of any contractor or subcontractor to determine if any of the provisions of KRS 45.560 to 45.640 have been violated. If any contractor is found by the cabinet to have engaged in an unlawful practice under KRS 45.560 to 45.640 ~~this chapter~~ during the course of performing under a contract or subcontract covered under KRS 45.560 to 45.640, the cabinet shall so certify to the contracting agency and such certification shall be binding upon the contracting agency unless it is reversed in the course of judicial review.
- (2) If the contractor is found to have committed an unlawful practice under KRS 45.560 to 45.640, the contracting agency may cancel or terminate the contract, conditioned upon a program for future compliance approved by the contracting agency and the cabinet. The contracting agency may declare such a contractor ineligible to bid on further contracts with that agency until such time as the contractor complies in full with the requirements of KRS 45.560 to 45.640.
- (3) The equal employment provisions of KRS 45.560 to 45.640 may be met in part by a contractor by subcontracting to a minority or woman contractor or subcontractor. For the provisions of KRS 45.560 to 45.640, a minority or woman contractor or subcontractor shall mean a business that is owned and controlled by one (1) or more persons disadvantaged by racial, ~~or~~ ethnic, or gender circumstances.

Section 7. KRS 45.630 is amended to read as follows:

Any provision of KRS 45.560 to 45.640 notwithstanding, no contractor shall be required to terminate an existing employee ~~upon proof that that employee was employed prior to the date of the contract~~.

SECTION 8. A NEW SECTION OF KRS 45.560 TO 45.640 IS CREATED TO READ AS FOLLOWS:

The Finance and Administration Cabinet may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to carry out the provisions of KRS 45.560 to 45.640.

The Committee Substitute to **HB 181** is as follows:

HB 181, AN ACT relating to equal employment opportunity in state contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.560 is amended to read as follows:

As used in KRS 45.570 to 45.640, unless the context requires otherwise:

- (1) "Contract" means any binding legal relationship between the Commonwealth of Kentucky and a contractor for supplies and services, including construction, or for the use of Commonwealth property, in which the parties, respectively, do not stand in the relationship of employer and employee.

- (2) "Contractor" means any prime contractor holding a contract with the Commonwealth of Kentucky government, and shall include subcontractors when the context so indicates.
- (3) "Contracting agency" means the person or persons, board, commission, court, council, governing body, employee, or official which is authorized by law to purchase or contract for supplies, materials, services, or equipment for the state.
- (4) "Subcontractor" means any person, including a corporation, partnership, or business association of any kind, who holds an agreement or purchase order to perform all or any part of the work or to make or furnish any article or service required for the performance of a negotiated contract or of a subcontract entered thereunder.
- (5) "Cabinet" means the Finance and Administration Cabinet.
- (6) **"Equal employment opportunity job categories" means the major employment classifications described by the United States Equal Employment Opportunity Commission.**

Section 2. KRS 45.570 is amended to read as follows:

- (1) Except in contracts exempted in accordance with KRS 45.590, all government contracting agencies of the Commonwealth of Kentucky, any county, city, town, school district, water district, hospital district, or other political subdivision of the state shall include in every directly or indirectly publicly funded contract for supplies, materials, services, or equipment hereinafter entered into the following provisions:
- (2) During the performance of this contract, the contractor agrees as follows:
 - (a) The contractor ~~shall~~will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age ~~forty (40) and over, disability, veteran status,~~ or national origin;
 - (b) The contractor ~~shall~~will take affirmative action in regard to employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, so as to ensure that applicants are employed and that employees during employment are treated without regard to their race, color, religion, sex, age ~~forty (40) and over, disability, veteran status,~~ or national origin; ~~however, when layoffs occur, employees shall be laid off according to seniority with the youngest employee being laid off first. When employees are recalled, this shall be done in the reverse of the way the employees were laid off;~~
 - (c) The contractor ~~shall~~will state in all solicitations or advertisements for employees placed by or on behalf of the contractor that all qualified applicants ~~shall~~will receive consideration for employment without regard to race, color, religion, sex, age ~~forty (40) and over, disability, veteran status,~~ or national origin;
 - (d) The contractor ~~shall~~will post notices in conspicuous places, available to employees and applicants for employment, setting forth the provisions of the nondiscrimination clauses required by this section; and
 - (e) The contractor ~~shall~~will send a notice to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding advising the labor union or workers' representative of the contractor's commitments under the nondiscrimination clauses.

Section 3. KRS 45.590 is amended to read as follows:

A contractor or subcontractor otherwise subject to the provisions of KRS 45.570 is exempt as to any affirmative action or reporting requirements if:

- (1) The contract or subcontract awarded is in the amount of ~~five hundred thousand dollars (\$500,000)~~five hundred thousand dollars (\$500,000) or less, and the amount of the contract is not a subterfuge to avoid compliance with the provisions of KRS 45.560 to 45.640;
- (2) The contractor or subcontractor utilizes the services of fewer than eight (8) employees during the course of the contract;
- (3) The contractor or subcontractor employs only family members or relatives;
- (4) The contractor or subcontractor employs only persons having a direct ownership interest in the business, and such interest is not a subterfuge to avoid compliance with the provisions of KRS 45.560 to 45.640; ~~or~~
- (5) **The subcontract is below the second-tier level of contracts.**

Section 4. KRS 45.600 is amended to read as follows:

- (1) Any party not otherwise exempted by KRS 45.590 and intending to submit a bid on any contract covered by the provisions of KRS 45.560 to 45.640 shall within a ~~time frame set by the contracting agency in the bid documents~~reasonable period of time as determined by the Finance and Administration Cabinet submit to the contracting agency ~~and the cabinet~~ upon being declared the successful bidder:
 - (a) A statement of intent to comply in full with all requirements of the Kentucky Civil Rights Act, and to submit data required by KRS 45.560 to 45.640 upon being designated the successful bidder.
 - (b) A breakdown of the bidding party's existing work force, indicating the race, ~~ethnicity, gender, and equal employment opportunity job category~~sex, age, position held, county and state of residence, and date of employment of each employee.
 - (c) **A breakdown of subcontracts valued at five hundred thousand dollars (\$500,000) or more, indicating specific items of work on the contract for which the contractor has submitted or intends to submit a bid to the**

Commonwealth of Kentucky.

The reports~~[This report]~~ shall be submitted in a manner as shall be prescribed by the cabinet and on forms devised by the cabinet and supplied by the contracting agency.

- (2) Within ten (10) days after the receipt of the reports~~[this report]~~, the cabinet shall determine whether the bidding party's work force is reflective of the percentage of available minorities and women in the area from which the bidding party's employees are drawn. If a determination is made that the bidding party's work force is reflective of the percentage of available minorities and women in this drawn area, the bidding party shall be "certified" and be thereby qualified to bid on any contract covered by KRS 45.560 to 45.640 without filing additional data for a period of one (1) year~~six (6) months~~.
- (3) If it is determined by the cabinet that the bidding party's work force reflects an underutilization of minorities or women, the bidding party and contracting agency shall be so notified, and no certification shall be issued. The bidding party shall then have the option of filing with the contracting agency and the cabinet, an affirmative action program, indicating goals and timetables for recruiting and hiring minorities or women throughout the contractors' work force. The cabinet shall be available, upon the request of any contractor, to furnish technical assistance in fulfilling the requirements of KRS 45.560 to 45.640.
- (4) If the bidding party is subsequently awarded the contract being sought, failure to comply with the goals and timetables set forth in the affirmative action plan shall be an unlawful practice under KRS 45.560 to 45.640 and shall constitute a material breach of the contract.
- (5) If the cabinet determines that the submitted affirmative action program does not fulfill the provisions of KRS 45.560 to 45.640, the bidding party and contracting agency shall be so notified, and no certification shall be granted.
- (6) If the bidding party's work force is not reflective of the percentage of minorities or women in the drawing area and the bidding party~~[he]~~ has complied with all other affirmative action requirements in KRS 45.560 to 45.640, the bidding party~~[he]~~ may certify by verified affidavit that the bidding party~~[he]~~ has made every reasonable effort to comply with said percentage requirements, and the bidding party~~[he]~~ shall thereafter be entitled to all the benefits of KRS 45.560 to 45.640.

Section 5. KRS 45.610 is amended to read as follows:

- (1) For the length of the contract, each contractor shall hire minorities and women from other sources within the drawing area, should the union with which he has collective bargaining agreements be unwilling to supply sufficient minorities or women to satisfy the agreed upon goals and timetables.
- (2) Each contractor shall, for the length of the contract, furnish such information as required by KRS 45.560 to 45.640 and by such rules, regulations, and orders issued pursuant thereto and will permit access to all books and records pertaining to his employment practices and work sites by the contracting agency and the cabinet for purposes of investigation to ascertain compliance with KRS 45.560 to 45.640 and such rules, regulations, and orders issued pursuant thereto.

Section 6. KRS 45.620 is amended to read as follows:

- (1) The Finance and Administration Cabinet may investigate the employment practices of any contractor or subcontractor to determine if any of the provisions of KRS 45.560 to 45.640 have been violated. If any contractor is found by the cabinet to have engaged in an unlawful practice under KRS 45.560 to 45.640~~[this chapter]~~ during the course of performing under a contract or subcontract covered under KRS 45.560 to 45.640, the cabinet shall so certify to the contracting agency and such certification shall be binding upon the contracting agency unless it is reversed in the course of judicial review.
- (2) If the contractor is found to have committed an unlawful practice under KRS 45.560 to 45.640, the contracting agency may cancel or terminate the contract, conditioned upon a program for future compliance approved by the contracting agency and the cabinet. The contracting agency may declare such a contractor ineligible to bid on further contracts with that agency until such time as the contractor complies in full with the requirements of KRS 45.560 to 45.640.
- (3) The equal employment provisions of KRS 45.560 to 45.640 may be met in part by a contractor by subcontracting to a minority or woman contractor or subcontractor. For the provisions of KRS 45.560 to 45.640, a minority or woman contractor or subcontractor shall mean a business that is owned and controlled by one (1) or more persons disadvantaged by racial,~~[-or]~~ ethnic, or gender circumstances.

Section 7. KRS 45.630 is amended to read as follows:

Any provision of KRS 45.560 to 45.640 notwithstanding, no contractor shall be required to terminate an existing employee~~[upon proof that that employee was employed prior to the date of the contract]~~.

SECTION 8. A NEW SECTION OF KRS 45.560 TO 45.640 IS CREATED TO READ AS FOLLOWS:

The Finance and Administration Cabinet may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to carry out the provisions of KRS 45.560 to 45.640.

HB 227, AN ACT relating to the Kentucky Economic Development Partnership.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11A.045 is amended to read as follows:

- (1) No public servant, his spouse, or dependent child knowingly shall accept any gifts or gratuities, including travel expenses, meals, alcoholic beverages, and honoraria, totaling a value greater than twenty-five dollars (\$25) in a single calendar year from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.
- (2) Nothing in KRS Chapter 11A shall prohibit or restrict the allocation of or acceptance by a public servant of a ticket for admission to a sporting event if the ticket or admission is paid for by the public servant at face value or is paid for at face value by the individual to whom the ticket is allocated.
- (3) Nothing in KRS 11A.001 to 11A.110 shall prohibit or restrict the acceptance by a public servant of the Cabinet for Economic Development or by any other public servant working directly with the cabinet on an economic incentive package of anything of economic value as a gift or gratuity, if the gift or gratuity:
 - (a) Was not solicited by the public servant;
 - (b) Was accepted by the public servant in the performance of his or her official duties and in compliance with guidelines to be established by the Cabinet for Economic Development~~Kentucky Economic Development Partnership~~ which shall include requirements that all gifts or gratuities of a reportable value under KRS 11A.050(3)(k) be registered with the Cabinet for Economic Development~~Kentucky Economic Development Partnership~~ and with the Executive Branch Ethics Commission and that all tangible property with a value in excess of twenty-five dollars (\$25), other than food and beverages consumed on the premises, shall be turned over to the Cabinet for Economic Development within thirty (30) days of receipt. In filing reports of gifts or gratuities with the Executive Branch Ethics Commission, the Cabinet for Economic Development may delete information identifying the donors if the cabinet believes identification of the donors would damage economic development; and
 - (c) Was not accepted under circumstances which would create a violation of KRS Chapter 521.

Section 2. KRS 12.027 is amended to read as follows:

When the Governor~~[,] the Kentucky Economic Development Partnership as created in KRS 154.10-010,~~ or another elected official effects a temporary reorganization under KRS 12.028, the Governor~~[,] the Kentucky Economic Development Partnership,~~ or the other official shall do so by executive order~~[or, in the case of the Kentucky Economic Development Partnership, by resolution filed with the Legislative Research Commission and the Secretary of State,]~~ which shall clearly designate the order or resolution as one relating to reorganization. The Secretary of State shall keep a copy of all executive orders relating to organization.

Section 3. KRS 12.028 is amended to read as follows:

- (1) Recognizing the necessity for grouping related functions of organizational units and administrative bodies in order to promote greater economy, efficiency and improved administration, the Governor~~[,] the Kentucky Economic Development Partnership as created in KRS 154.10-010,~~ and other elected state executive officers may propose to the General Assembly, for its approval, changes in the state government organizational structure which may include the creation, alteration or abolition of any organizational unit or administrative body and the transfer of functions, personnel, funds, equipment, facilities, and records from one (1) organizational unit or administrative body to another.
- (2) Recognizing that changes in the state government organizational structure may need to be made as rapidly as possible to achieve greater economy, efficiency, and improved administration as the needs of government dictate, the Governor~~[,] the Kentucky Economic Development Partnership as created in KRS 154.10-010,~~ and other elected state executive officers may, between sessions of the General Assembly, temporarily effect a change in the state government organizational structure as described in subsection (1) of this section if such temporary reorganization plan is first reviewed by the interim joint legislative committee with appropriate jurisdiction. The Governor may not effect a temporary reorganization plan under this subsection that would change the organizational structure of an organizational unit or administrative body headed by~~[,] the Kentucky Economic Development Partnership as created in KRS 154.10-010, or]~~ another elected state executive officer unless requested in writing by that officer. An elected state executive officer other than the Governor may only change the organizational structure of an organizational unit or administrative body that he heads.
- (3) Any reorganization proposed under subsection (1) or (2) of this section shall be set forth in a reorganization plan which shall be filed with the Legislative Research Commission. The plan shall include:
 - (a) An explanation of each proposed change, including the need for the change;
 - (b) An estimate of any reduction or increase in expenditures, itemized as far as practicable, which the promulgating officer expects will result from the reorganization;
 - (c) A description of any improvements in the management, delivery of state services, and efficiency of state government operations which the promulgating officer expects will be realized as a result of the reorganization; and
 - (d) Specification of the effects of the reorganization on the budget and personnel of each affected organizational unit or administrative body, including but not limited to the amount of funds and the number of employees that will be transferred from one (1) organizational unit or administrative body to another, any reductions in the state work

force resulting from the reorganization, and the methods to be utilized to achieve such reductions.

- (4) When a proposed reorganization plan is submitted for review under subsection (2) of this section the presiding co-chairman of the Legislative Research Commission shall determine which interim joint legislative committee has appropriate jurisdiction and shall refer the plan to such committee within ten (10) days after the director of the Legislative Research Commission receives the proposal. The interim joint legislative committee to which it is referred shall review the plan to determine whether the plan can reasonably be expected to achieve greater economy, efficiency or improved administration in state government. The committee shall report its findings to the Legislative Research Commission. The committee shall review and report on the plan within sixty (60) days after it is filed with the Legislative Research Commission. If the committee does not report on a proposed plan within the time specified in this subsection, the plan shall be considered reviewed by the interim joint legislative committee with appropriate jurisdiction.
- (5) A temporary reorganization effected under subsections (2) to (4) of this section shall be terminated ninety (90) days after sine die adjournment of the next regular session of the General Assembly unless otherwise specified by the General Assembly. The Governor~~[- the Kentucky Economic Development Partnership as created in KRS 154.10-010,]~~ or other officer who promulgated a temporary reorganization plan under this section shall recommend legislation to the General Assembly to confirm the temporary reorganization plan. The subject matter of each executive order relating to reorganization shall be presented to the General Assembly in a separate bill. If the General Assembly fails to enact the temporary reorganization plan or an alternative to such plan, the organizational structure that existed immediately prior to the implementation of the temporary plan shall be reinstated upon the termination of the temporary plan. If the General Assembly fails to enact a temporary reorganization plan, the Governor~~[- the Kentucky Economic Development Partnership as created in KRS 154.10-010,]~~ and other elected state executive officers shall not effect the plan prior to the next succeeding session of the General Assembly.
- (6) The Legislative Research Commission or the legislative program review and investigations committee may monitor the implementation of any reorganization plan to determine the extent to which the anticipated improvements in economy, efficiency, or administration have been realized as a result of the reorganization and shall report its findings to the General Assembly.
- (7) Funds transferred due to reorganization shall be maintained in separately designated accounts. Any excess funds resulting from a reorganization shall lapse to the general fund surplus account.

Section 4. KRS 154.01-010 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

- (1) "Agribusiness" or "agricultural business entity" means any person, partnership, limited partnership, corporation, limited liability company, or any other entity engaged in a business that processes raw agricultural products, including timber, or provides value-added functions with regard to raw agricultural products;
- (2) "Approved business network" or "approved flexible industrial network" means a business network comprising three (3) or more business firms or industries which have been identified as key industries and targeted by the state's strategic economic development plan for special consideration and assistance by the agencies of the Commonwealth;
- (3) "Authority" means the Kentucky Economic Development Finance Authority, consisting of a committee as set forth in KRS 154.20-010;
- ~~(4) "Board" means the Kentucky Economic Development Partnership, an administrative body within the meaning of KRS 12.010, and the governing body of the Cabinet for Economic Development, as created and established in KRS 154.10-010;~~
- ~~(5) "Business network" or "flexible industrial network" means a formalized, collaborative mechanism organized by and operating among three (3) or more industrial entities, business enterprises, or private sector firms for the purposes of, but not limited to: pooling expertise; improving responses to changing technology or markets; lowering the risks to individual entities of accelerated modernization; encouraging new technology investments, new market development, and employee skills improvement; and developing a system of collective intelligence among participating entities;~~
- ~~(6) "Cabinet" means the Cabinet for Economic Development as established under KRS 12.250[- and governed by the Kentucky Economic Development Partnership];~~
- ~~(7) "Commonwealth" means the Commonwealth of Kentucky;~~
- ~~(8) "Cost of a project" means the cost of the acquisition, construction, reconstruction, conversion, or leasing of any industrial, commercial, health care, agricultural, or forestry enterprise, or any part thereof, to carry out the purposes and objectives of this chapter, including but not limited to acquisition of land or interest in land, buildings, structures, or other planned or existing planned improvements to land, including leasehold improvements, machinery, equipment, or furnishings; working capital; and administrative costs, including but not limited to engineering, architectural, legal, and accounting fees which are necessary for the project;~~
- ~~(9) "Local and regional economic development interest" means any local business or economic development interest, including but not limited to chambers of commerce, business development associations, industrial development organizations, area development districts, and public economic development entities;~~
- ~~(10) "Industrial entity" means any corporation, limited liability company, partnership, limited partnership, person, or any other legal entity, domestic or foreign, which will itself or through its subsidiaries or affiliates, engage in an industrial~~

improvement project in the Commonwealth;

- ~~(10)~~~~(11)~~ "Industrial improvement project" means and includes the acquisition, construction, or implementation of new manufacturing, processing, or assembling facilities, equipment, methods or processes, or improvements to or repair of existing manufacturing, processing, or assembling facilities, equipment, methods, or processes, including repair, restoration, or conversion of tobacco warehouses, as well as improvements to the real estate upon which the facilities are located, and includes any capital improvement to any existing facility, including any restructuring, retooling, rebuilding, reequipping, or any other form of upgrading such existing facility and equipment and any other improvements to such real estate, existing facility, or manufacturing, processing, or assembling equipment, method, or process;
- ~~(11)~~~~(12)~~ "Key industry" means an industry or business within an industrial sector which has been identified in and targeted by the state's economic development strategic plan as having major importance to the sustained economic growth of the Commonwealth and in which member firms sell goods or services into markets for which national or international competition exists, including but not limited to secondary forest products manufacturing, agribusiness, and high technology and biotechnology manufacturing and services;
- ~~(12)~~~~(13)~~ "Military" and "defense" mean all military and defense installations, entities, activities, and personnel located, operating, or living in Kentucky;
- ~~(13)~~~~(14)~~ "Municipality" means a county, city, village, township, development organization, an institution of higher education, a community or junior college, a subdivision or instrumentality of any of the foregoing, or any entity created by two (2) or more municipalities pursuant to the Interlocal Cooperation Act, KRS 65.210 to 65.300;
- ~~(14)~~~~(15)~~ "Network broker" means a person who is trained to assist private sector firms to form business networks and make other similar efforts to provide for joint manufacturing, marketing, technology development, information dissemination, and other activities;
- ~~(15)~~~~(16)~~ "Non-appropriation-supported bond" means any long-term financial borrowing instrument for which regular debt service does not originate from an appropriation of the General Assembly;
- ~~(16)~~~~(17)~~ "Non-appropriation-supported note" means any short-term financial borrowing instrument for which loan payments do not originate from an appropriation of the General Assembly;
- ~~(17)~~~~(18)~~ "Person" means an individual, partnership, joint venture, military facility operated by a department or agency of the United States, profit or nonprofit corporation including a public or private college or university, limited liability company, or other entity or association of persons organized for agricultural, commercial, health care, or industrial purposes; or a public utility or local industrial development corporation;
- ~~(18)~~~~(19)~~ "Private sector" means any source other than the authority, a state or federal entity, or an agency thereof;
- ~~(19)~~~~(20)~~ "Project" means an endeavor approved by the cabinet or authority and related to industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, or agricultural enterprise. "Project" shall include but is not limited to agribusiness, agricultural or forestry production, harvesting, storage, or processing facilities or equipment; equipment or facilities designed to produce energy from renewable resources; research parks; office facilities; engineering facilities; research and development laboratories; repair, restoration, or conversion of tobacco warehouses for an economic development or commercial use; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right-of-way, and appurtenances; airports and airport renovation; water and air pollution control equipment or waste disposal facilities; tourist facilities; theme or recreational parks; health care and health related facilities; farms, ranches, forests, and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; wharves and dock facilities; water, electricity, hydroelectric, coal, petroleum, or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities. Except for airport-related facilities, project shall not include that portion of an endeavor devoted to the sale of goods at retail or that portion of an endeavor devoted to housing which does not consist of the manufacture of housing;
- ~~(20)~~~~(21)~~ "Reclamation development fund" means the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land;
- ~~(21)~~~~(22)~~ "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under subsection ~~(19)~~~~(20)~~ of this section;
- ~~(22)~~~~(23)~~ "Reclamation development plan" means a plan submitted to the Environmental and Public Protection Cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project;
- ~~(23)~~~~(24)~~ "Secretary" means the chief executive officer and secretary of the Cabinet for Economic Development;
- ~~(24)~~~~(25)~~ "State" means the Commonwealth of Kentucky; and
- ~~(25)~~~~(26)~~ "Tax revenues" means any revenues received by the Commonwealth directly or indirectly as a result of the industrial improvement project, including state corporate income taxes, the limited liability entity tax imposed by KRS

141.0401, state income taxes paid by employees who work in the project, state property taxes, state corporation license taxes, or state sales and use taxes.

Section 5. KRS 154.01-020 is amended to read as follows:

- (1) The mission of the Commonwealth's economic development system shall be to achieve the best quality of life for all Kentuckians through long-term strategic planning and implementation that fosters sustainable growth in jobs and incomes and enables communities, businesses, governments, and individuals to compete in the global marketplace.
- (2) The goals for the Commonwealth's economic development system shall be as follows:
 - (a) By the year 1993, Kentucky will have ~~a[n economic development]~~ partnership of government, business, education, communities, and individuals that provides a coordinated planning and implementation process which establishes government priorities for action and accountability, supports rural and urban communities to invest in their own futures, assists businesses to acquire the resources to compete, and prepares individuals for work in high quality jobs; and
 - (b) By the year 2000, Kentucky will have people and institutions with the capacity to adapt to future change; a skilled, competitive workforce; thriving and healthy communities throughout the state; and increased wealth and high quality jobs with greater opportunities to compete for them.

Section 6. KRS 154.10-030 is amended to read as follows:

The ~~cabinet~~~~[board]~~ shall have all the powers and authority, not explicitly prohibited by statute, necessary or convenient to carry out and effectuate the functions, duties, and responsibilities of the board and the cabinet, including, but not limited to, the following:

- ~~(1)~~~~[(3)]~~ ~~Serving as the governing body of the Cabinet for Economic Development;~~
- ~~(2)~~~~[(4)]~~ Suing and being sued;
- ~~(2)~~~~[(3)]~~ Adopting, using, and altering at will a corporate seal;
- ~~(3)~~~~[(4)]~~ Approving economic development programs and projects;
- ~~[(5)]~~ ~~Discharging the secretary of the Cabinet for Economic Development;~~
- ~~(4)~~~~[(6)]~~ Approving the state's strategic economic development plan and subsequent implementation plans;
- ~~(5)~~~~[(7)]~~ Providing for and directing the state's economic development strategic planning process;
- ~~(6)~~~~[(8)]~~ Evaluating the performance and effectiveness of the Commonwealth's economic development systems, including:
 - (a) The establishment of benchmarks; and
 - (b) Program review;
- ~~(7)~~~~[(9)]~~ Reporting to the Governor, the General Assembly, and the people of the Commonwealth regarding its functions, duties, and responsibilities, including, but not limited to:
 - (a) The Commonwealth's strategic economic development plan;
 - (b) Program initiatives and implementation plans;
 - (c) Systems evaluations;
 - (d) Benchmarks;
 - (e) Program evaluation; and
 - (f) Activities of the cabinet;
- ~~(8)~~~~[(10)]~~ Soliciting, borrowing, accepting, receiving, investing, and expending funds from any public or private source;
- ~~(9)~~~~[(11)]~~ Making grants, loans, and investments; guaranteeing and insuring loans, leases, bonds, notes, or other indebtedness, whether public or private; issuing letters of credit; and making loans to financial institutions to facilitate financing of all or part of an export-related transaction including, but not limited to, pre-export working capital financing and post-export receivable financing;
- ~~(10)~~~~[(12)]~~ Constructing, acquiring by gift, purchase, installment purchase, or lease, and reconstructing, improving, repairing, or equipping any project or any part of a project; and entering into a lease for the use or sale of a project;
- ~~(11)~~~~[(13)]~~ Making loans and participating in the making of loans; undertaking commitments to make loans and mortgages; buying and selling loans and mortgages at public or private sale; rewriting loans and mortgages; discharging loans and mortgages; foreclosing on mortgages and commencing any action to protect or enforce a right conferred upon the cabinet or placed within the control, authority, and responsibility of the cabinet under the provisions of this chapter; bidding for and purchasing property which was the subject of the mortgage at a foreclosure or other sale, and acquiring or taking possession of the property and, in that event, completing, administering, paying the principal and interest on obligations incurred in connection with the property; and disposing of and otherwise dealing with the property in a manner as may be necessary or desirable to protect the interests of the cabinet;
- ~~(12)~~~~[(14)]~~ Entering into a lease for the use or sale of a project; acquiring or contracting from any person, public entity, corporation, limited liability company, partnership, limited partnership, or entity, leaseholds, real or personal property, or

any interest in real or personal property; owning, holding, clearing, improving, and rehabilitating and selling, assigning, exchanging, transferring, conveying, leasing, mortgaging, or otherwise disposing of or encumbering leaseholds, real or personal property, or any interest in real or personal property as is convenient for the accomplishment of the purposes of this chapter;

- ~~(13)~~~~(15)}~~ Procuring insurance against any loss in connection with the cabinet's property, assets, or activities;
- ~~(14)~~~~(16)}~~ Charging, imposing and collecting fees and charges in connection with any transaction, and providing for reasonable penalties for delinquent payment of fees or charges;
- ~~(15)~~~~(17)}~~ Indemnifying and procuring insurance indemnifying ~~members and officers of the board, and~~ the cabinet and members and officers of the finance committee of the Kentucky Economic Development Finance Authority as provided in KRS 154.20-010, from personal loss or accountability from liability asserted by any person on the bonds or notes of the cabinet or authority, or any personal liability or accountability by reason of the issuance of bonds, notes, insurance, or guarantees; or by reason of acquisition, construction, ownership, or operation of any project funded in whole or part by the cabinet or authority; or by reason of any other action taken or the failure to act by the cabinet or authority;
- ~~(16)~~~~(18)}~~ Mortgaging or creating security interests in a project or any part of a project, or in a lease or loan, or in the rents, revenues, or sums to be paid in favor of the holders of the bonds or notes issued by the cabinet;
- ~~(17)~~~~(19)}~~ Conveying or releasing a project or any part of a project to a lessee, purchaser, or borrower under any agreement after provision has been made for the retirement in full of the bonds or notes issued for that project under the terms and conditions provided in the agreement, or as may be agreed with the holders of the bonds or notes, or as may otherwise be agreed with the holders of the bonds or notes;
- ~~(18)~~~~(20)}~~ Issuing non-appropriation-supported bonds and notes including, but not limited to, commercial paper, refund bonds, and notes; paying the costs of issuance of bonds and notes; paying interest on bonds and notes;
- ~~(19)~~~~(21)}~~ Making and entering into contracts and agreements necessary or incidental to the performance of its duties and execution of its powers;
- ~~(20)~~~~(22)}~~ Employing consultants and other persons and employees as may be required in the judgment of the cabinet~~board~~, essential to the cabinet's operations, functions, and responsibilities;
- ~~(21)~~~~(23)}~~ Providing technical assistance regarding any economic or job development project, program, or activity;
- ~~(22)~~~~(24)}~~ Delegating any powers, duties, responsibilities, and authority to any division, agency, or authority under its control and administration;
- ~~(25)~~ Reorganizing, pursuant to KRS 12.028, any organizational unit or administrative body under its control and jurisdiction;
- ~~(23)~~~~(26)}~~ Promulgating administrative regulations, in accordance with KRS Chapter 13A, governing its powers, duties, and responsibilities as prescribed in this chapter and governing the powers, duties, and responsibilities delegated to any administrative body transferred to the cabinet by law or otherwise placed within its control and responsibility; and
- ~~(24)~~~~(27)}~~ Doing all other things necessary or convenient to achieve its objectives and purposes which are not explicitly prohibited by statute.

Section 7. KRS 154.10-035 is amended to read as follows:

- (1) Notwithstanding any other provisions of the Kentucky Revised Statutes, the cabinet~~board~~ is authorized to exercise the following power:
 - (a) The cabinet~~board~~ may provide for the issuance of economic development revenue bonds ~~by the cabinet,~~ for the purpose of providing funds and moneys to enable the cabinet to exercise and fulfill the powers and authority set forth in KRS 154.10-030, to enter into agreements with governmental agencies and private companies, corporations, partnerships, and other such entities, acquire and lease projects to governmental agencies and private companies, corporations, cabinets, and other such entities, purchase obligations of governmental agencies issued for economic development projects, and make loans or grants for economic development projects, and to enable the cabinet generally to carry out and effectuate its proper purposes under this chapter. In anticipation of the issuance of the revenue bonds, the cabinet~~board~~ may provide for the issuance at one (1) time, or from time to time, of revenue bond anticipation notes pursuant to the general laws of the state. The principal of and the interest on the revenue bonds or notes shall be payable solely from revenues made available to the cabinet for bond purposes. Any such notes may be made payable from the proceeds of bonds or renewal notes, or in the event bond or renewal note proceeds are not available, or should the cabinet~~board~~ deem it financially practicable to pay the notes directly from revenues made available to the cabinet for bond purposes, the notes may be paid from any revenues made available to the cabinet for bond purposes. Prior to the issuance of the bonds or notes, the cabinet shall submit any proposed issue to the Capital Projects and Bond Oversight Committee for its review and determination in accordance with provisions of KRS 45.810.
 - (b) The revenue bonds or notes of the cabinet shall be dated and may be redeemable prior to maturity at the option of the cabinet~~board~~ at prices and under terms and conditions determined by the cabinet~~board~~. Any bonds or notes shall bear interest at the rate or rates, shall be payable annually or at shorter intervals, and may bear conversion privileges determined by the cabinet~~board~~. Notes shall mature at the time or times not exceeding five (5) years

from their date or dates, and revenue bonds shall mature at the time or times not exceeding forty (40) years from their date or dates as may be determined by the cabinet[board]. The cabinet[board] shall determine the form and manner of execution of the bonds or notes, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the state. In case any employee or officer of the cabinet[board] whose signature or facsimile of whose signature shall appear on any revenue bonds or notes shall cease to be such officer before the delivery thereof, the signature of the facsimile shall be valid and sufficient for all purposes, the same as if the officer had remained in office until the delivery. At the time of issuance of variable rate revenue bonds, the cabinet[board] may designate individuals or institutions which, in the sole judgment of the cabinet[board], have financial market expertise to serve as agent for the cabinet[board] for establishing and changing from time to time, while the variable rate revenue bonds remain outstanding, the rate of interest to be borne by and the price to be paid for the revenue bonds. The rate-setting procedures and authority of each agent shall be set forth in writing, and may include a formula or an index or indices based upon market factors, and shall be established by the cabinet[board] at the time of issuance of the revenue bonds. At the time of the issuance of the revenue bonds, the cabinet[board] shall establish the maximum interest rate to be borne by the revenue bonds. The cabinet[board] shall retain the right to remove or replace any agent at any time and for any reason. The cabinet[board] may provide that said bonds or notes may be executed only with the facsimile signatures of its employees or officers, but said bonds or notes shall be executed with the manual signature of a bank or trust company designated by the cabinet[board] as registrar and paying agent.

- (c) All revenue bonds or notes issued under the provisions of this chapter shall have and are hereby declared to possess all of the qualities and incidents of negotiable instruments under the laws of the state. The cabinet[board] may sell the revenue bonds or notes in the manner, either at public or private negotiated sale, and for the price, as it may determine will best effect the purpose of this chapter. If revenue bonds are sold at public, competitive sale, the revenue bonds shall be sold after newspaper advertising conforming to the requirements of KRS Chapter 424 and competitive bids for the sale of the revenue bonds shall be opened and read publicly by the board at a designated place, day and hour, all of which shall be announced in the advertising made relative thereto.
- (d) In its proceedings authorizing the issuance of revenue bonds or notes, the cabinet[board] shall fix and determine contractual provisions with the bondholders relating to the receipt, allocation, pledging, and disbursement of revenues made available to the cabinet for bond purposes, and may enact and determine terms, conditions, and restrictions pursuant to which additional revenue bonds of the cabinet may be authorized and issued from time to time. The proceedings, determinations, and enactments of the cabinet[board] shall specify that the payment of principal of and interest on all cabinet revenue bonds and notes shall constitute a first charge and lien against all revenues made available to the cabinet for bond purposes before any such revenues are used, applied, and disbursed for any other valid purposes of the cabinet, including the payment of operation and maintenance costs incident to the operation of the cabinet.
- (e) The proceeds of all revenue bonds or notes shall be used solely for the purpose of enabling the cabinet to enter into agreements or interim financing agreements with governmental agencies and private companies, corporations, partnerships, and other entities, to acquire and lease projects to governmental agencies, private companies, corporations, partnerships and other entities, to purchase obligations of governmental agencies issued for economic development projects, to make loans or grants to governmental agencies, private companies, corporations, partnerships, and other such entities for economic development projects, or for any purpose authorized in this chapter. Revenue bond or note proceeds may also be used and applied for the payment of ordinary and necessary expenses in connection with issuance of the revenue bonds or notes, including, but not by way of limitation, a sum equal to any discount in the sale thereof, if discount bids are authorized and permitted by the cabinet[board], administrative expenses, including the preparation of revenue bonds or notes, publication of notices, printing and other costs, attorneys' fees, and other ordinary and necessary costs of financing, including the payment of fees to fiscal agents for advice and assistance in the preparation and marketing of revenue bonds or notes.
- (f) Prior to the preparation of definitive revenue bonds or notes, the cabinet[board] may, under like restrictions, issue interim receipts or temporary bonds, exchangeable for definitive revenue bonds or notes when the revenue bonds or notes shall have been executed, and are available for delivery. The cabinet[board] shall also provide for the replacement of any revenue bonds or notes that shall have become mutilated or shall have been destroyed or lost. Revenue bonds or notes may be issued under the provisions of this chapter directly by the cabinet[board] without obtaining the consent or acquiescence of any cabinet, division, commission, board, department, or agency of the state other than the Finance and Administration Cabinet, and as provided in KRS 42.420, and without any other proceedings or the happening of any other conditions or things except as specifically required by this chapter and the provisions of the resolution or resolutions of the cabinet[board] authorizing the issuance of the revenue bonds or notes.

- (2) The cabinet[board] shall assume all bond issuance and refunding authority, power, duties, and obligations as existed on the effective date of this Act[July 14, 1992], for the Kentucky Economic Development Partnership[Finance Authority, and the Kentucky Rural Economic Development Authority] the ability off ~~any of~~ the foregoing organization[organizations] to issue industrial revenue bonds under KRS Chapter 103; and the ability off ~~any of~~ the

foregoing board[authorities] to issue economic development revenue bonds as provided in this chapter. The cabinet[board] shall also have the authority and power to issue revenue bonds for any other economic development activity as set forth in this chapter.

- (3) The cabinet[board] shall for purposes of the Kentucky Revised Statutes be deemed to be the successor issuer for all of the currently issued and outstanding bond issues by the organizations set forth in subsection (2) of this section. The cabinet[board] shall have the authority and the power to reaffirm all existing bond obligations of the organizations in subsection (2) of this section and shall perform all duties, obligations, and requirements as may be necessary and required under the bond documents relating to each and every such issue. The cabinet[board] shall also, in regard to each and every such issue, exercise its authority and power as set forth in this chapter.
- (4) In the discretion of the cabinet[board], any revenue bonds or notes issued under the provisions of this chapter may be secured by a trust indenture by and between the cabinet and corporate trustee which may be any trust company or bank having the powers of a trust company within or without the Commonwealth. A trust indenture, or the resolution of the cabinet[board] providing for the issuance of revenue bonds or notes, may pledge or assign for the security of the revenue bonds or notes, all or any part of the totality of revenues made available to the cabinet for bond purposes received and to be received. The trust indenture or resolution of the cabinet[board] may contain provisions for protecting and enforcing the rights and remedies of the bondholders which may be reasonable and proper, and not in violation of law, including, but not limited to, covenants and provisions setting forth the duties of the cabinet in relation to the purposes to which revenue bonds and note proceeds may be applied; the disposition or pledging of assets and revenues made available to the cabinet for bond purposes; and the custody, safeguarding, and application of all such revenues. It shall be lawful for any bank or trust company incorporated under the laws of the Commonwealth which may act as depository of the proceeds of revenue bonds, notes, or revenues made available to the cabinet for bond purposes, to furnish such indemnifying bonds, or to pledge such securities as may be required by a trust indenture or resolution of the cabinet[board]. Any trust indenture or cabinet[board] resolution may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders, where a trust indenture has been entered into. In addition to the foregoing, any trust indenture or cabinet[board] resolution may contain other provisions which the cabinet[board] determines to be reasonable and proper for the further security of the holders of any revenue bonds or notes. All expenses incurred in carrying out the provisions of a trust indenture or bond proceedings may be treated as a part of the cost of operating the cabinet, and may be paid from revenues pledged or assigned to the payment of the principal of and the interest on revenue bonds or notes, or from any other funds properly available to the cabinet for bond purposes. However, the payment of operational costs from revenues made available to the cabinet for bond purposes shall, as provided in subsection (1) of this section, be subordinate to the payment of principal of and interest on cabinet revenue bonds or notes from revenues made available to the cabinet for bond purposes, it being intended that these principal and interest requirements shall be secured by a prior and paramount lien on gross revenues made available to the cabinet for bond purposes.
- (5) Notwithstanding any other provision to the contrary, any trust indenture or cabinet[board] resolution shall provide that, except to the extent the rights afforded to bondholders by this section shall be enforceable and enforced by a trustee under a trust indenture rather than by the bondholders, any holder of revenue bonds or notes issued by the cabinet or any of the coupons appurtenant thereto, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights generally arising under the laws of the Commonwealth, or granted under this chapter, or under a trust indenture, or by the resolution of the cabinet[board] authorizing the issuance of revenue bonds or notes, and may specifically enforce and compel by mandamus the performance of all duties required by this chapter, or by trust indenture, or cabinet[board] resolution, to be performed by the cabinet or by any officer or employee thereof, including, but not limited to, the prompt and full enforcement of the terms and conditions of all assistance agreements to which the cabinet is a party.
- (6) The cabinet is hereby authorized to provide for the issuance of refunding revenue bonds or notes for the purpose of refunding any revenue bonds or notes then outstanding, whether issued by the cabinet under the provisions of this chapter or one (1) of the agencies, authorities or organizations referenced in subsections (2) and (3) of this section, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of these revenue bonds or notes, and, if determined advisable by the cabinet[board], for the additional purpose of providing further funds for the carrying out of the proper public and governmental purposes of the cabinet. The issuance and sale of the refunding revenue bonds or notes, the maturities and other details thereof, the rights of the holders thereof, and the rights, duties, and obligations of the cabinet in respect of the same, shall be governed by the provisions of this chapter which relate to the issuance of revenue bonds or notes, insofar as these provisions may be applicable.
- (7) Refunding revenue bonds or notes may be sold or exchanged directly for outstanding revenue bonds or notes of the cabinet, and if sold, the proceeds thereof shall be applied, in addition to any other authorized purposes, to the purchase, redemption, or payment of these outstanding revenue bonds or notes. Pending the application of the proceeds of any refunding revenue bonds, with any other available funds, to the payment of the principal, accrued interest, and any redemption premium on the revenue bonds or notes being refunded (and if so provided or permitted in the cabinet[board] resolution authorizing the issuance of the refunding revenue bonds or notes, or in the trust indenture securing the same, to the payment of any interest on the refunding revenue bonds or notes and any expenses in connection with the refunding), the proceeds may be invested in direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by the United States of America which shall mature or which shall be subject to redemption by

the holders thereof at the option of such holders not later than the respective dates when the proceeds, together with the interest accruing thereon, will be required for the purposes intended.

- (8) Revenue bonds and notes issued by the cabinet under the provisions of this chapter are hereby declared and deemed to be securities in which all public officers and public bodies of the Commonwealth and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees, and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These obligations of the cabinet are hereby declared and determined to be securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the Commonwealth, for the purpose for which the deposit of bonds, notes, or obligations of the Commonwealth is now, or may hereafter be, authorized by law.
- (9) Revenue bonds or notes issued by the cabinet under the provisions of this chapter shall not be deemed to constitute a debt of the Commonwealth or of any political subdivision thereof, or a pledge of the faith and credit of the Commonwealth or of any political subdivision thereof; but the bonds shall be payable as to principal and interest solely from revenues made available to the cabinet for bond purposes provided therefor under the provisions of this chapter. All such revenue bonds or notes shall contain on the face thereof a statement to the effect that neither the Commonwealth nor the cabinet shall be obligated to pay the same, or the interest thereon, except from revenues made available to the cabinet for bond purposes, as defined in this chapter; and that neither the faith and credit, nor the taxing power of the Commonwealth or any political subdivision thereof is pledged to the payment of the principal of and interest on such revenue bonds or notes.
- (10) The Commonwealth, for the specific use and benefit of the cabinet, may cause to be submitted to the voters of the state in a manner provided by Sections 49 and 50 of the Constitution of Kentucky, from time to time, propositions for the incurring of state indebtedness represented by general obligation bonds of the Commonwealth, the proceeds of which are to be made available to the cabinet and used and employed by the cabinet for all proper purposes.
- (11) Subject to the provisions of KRS 56.870 to 56.873, the State Property and Buildings Commission or the Kentucky Turnpike Authority may issue bonds for which debt service originates with an appropriation of the General Assembly, and may make the proceeds available to the cabinet for all proper purposes.
- (12) Funds appropriated to the cabinet by the General Assembly, including but not limited to repayments of revolving funds established with appropriations of the General Assembly or established with bond issues for which the debt service, issuance costs, reserve fund requirements, insurance premiums or any other expenditures associated with bond issuance are appropriated by the General Assembly, shall not be commingled with other funds made available to the cabinet and shall only be expended for the purposes specified by the General Assembly when the appropriation is made or as approved in subsequent actions of the General Assembly.

Section 8. KRS 154.10-040 is amended to read as follows:

- (1) In the selection and appointment of the secretary, the Governor~~[board]~~ shall set the qualifications for the position of the secretary, employ a national search firm and conduct a nationwide search for candidates, and select from that list three (3) candidates for secretary of the Cabinet for Economic Development. The names of the three (3) candidates shall be submitted to the Governor who shall choose one of them as secretary, except that, if the Governor so chooses, he may reject the first list of names and direct the national search firm~~[board]~~ to submit a list of three (3) additional names, from which he shall appoint the secretary. Once appointed, the secretary shall serve at the pleasure of the Governor~~[board]~~.
- (2) The secretary shall be a person with significant experience and established reputation as an economic development professional.
- (3) ***The secretary and other officers and employees of the cabinet shall not be required to disclose confidential information concerning existing businesses or business prospects with which the cabinet is dealing, including the identity of the businesses.***

Section 9. KRS 154.10-050 is amended to read as follows:

- (1) The secretary shall be the chief executive officer of the Cabinet for Economic Development and shall possess the professional qualifications appropriate for that office~~as determined by the board~~.
- (2) The Governor~~[board]~~ shall set the salary of the secretary, which shall be exempt from state employee salary limitations as set forth in KRS 64.640.
- (3) The secretary shall be responsible for the day-to-day operations of the cabinet and shall report and submit on an annual basis implementation plans to the Governor~~[board as provided in KRS 154.10-060]~~; submit the strategic plan for economic development to the Governor~~[board]~~ in accordance with the provisions of KRS 154.10-120 and 154.10-125; submit program evaluation reports to the Governor~~[board]~~ in accordance with the provisions of KRS 154.10-140; carry out policy and program directives of the Governor~~[board]~~; coordinate programs of the cabinet with all other agencies of state government having economic development responsibilities; hire all other personnel of the cabinet consistent with state law; and carry out all other duties and responsibilities assigned by state law.
- (4) The secretary shall prepare and submit the proposed budget of the cabinet to the~~chairman who shall present it to the board for final approval. Upon approval, the board shall submit the proposed budget to the~~ Governor's Office for Policy and Management.
- (5) The secretary shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties

and responsibilities.

- (6) The secretary shall, in carrying out the duties and responsibilities of the office and in administering the programs in KRS 154.12-216 to 154.12-278, give highest priority consideration in marketing, targeting, and recruiting new businesses, in expanding existing businesses, and in recommending state economic development loans, grants, and incentive programs administered by the authority, to Kentucky counties which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Office of Employment and Training within the Department of Workforce Investment within the Education Cabinet.

Section 10. KRS 154.10-070 is amended to read as follows:

- (1) The ~~cabinet~~~~[board]~~ shall have authority to ~~direct the cabinet to~~ initiate any new programs that it deems appropriate, including, but not limited to:
- (a) A seed-stage financing program to provide seed-stage financing to innovative growth-oriented, emerging, and small Kentucky firms as distinguished from seed-capital financing by the level of risk and return associated with the investment;
 - (b) An applied research and development finance program to provide matching grants to Kentucky's industries and universities to conduct applied research of strategic importance to Kentucky's economy. If this program is created, the cabinet may contract for its administration with the Kentucky Science and Technology Council, Inc.;
 - (c) A government permitting and expediting program to assist businesses in expediting government permits and regulatory requirements;
 - (d) A surety bonding program to provide bonding assistance for small businesses in the form of education of the bonding process, bond waivers, and the creation of a bond fund;
 - (e) A Kentucky export authority to utilize the services of the Kentucky World Trade Center, university export trade programs, and export programs provided by other agencies within a context to provide financial assistance to Kentucky exporters through the financing of accounts receivable, letters of credit, and loan guarantees, and the use of commissioned sales agents in foreign countries;
 - (f) A flexible enterprise networks program to encourage and enable Kentucky firms to apply competitive management practices, modernize, and effectively compete in national and international markets;
 - (g) An economic response network to collect data on the needs of existing businesses in order to determine if a particular business or business sector is in trouble and about to fail or relocate, or is contemplating major expansion within Kentucky. The purpose of the program would be to assist the cabinet in developing responses to suit specific needs of Kentucky businesses and industries;
 - (h) A Kentucky technology service to integrate, broker, and deliver technology and related business services primarily to small- and medium-sized Kentucky firms. The service would fulfill its mission by brokering firms to the best possible existing public, private or university expert, by consulting directly with firms when no expert is available, and by coordinating seminars on technologies, management practices, and issues of competitive importance to Kentucky firms;
 - (i) A multimedia center to develop teleconference capabilities and other specialized marketing presentations for the use of state agencies and regional economic development centers and communities. The center would support Kentucky's marketing efforts, enhance the state's image of being progressive, and provide marketing and informational support to communities throughout the state;
 - (j) A community preparedness program to develop a list of criteria to identify those communities which are prepared to accommodate significant new or expanding businesses, to identify deficiencies of those communities which do not meet the criteria, and to provide assistance to those communities to eliminate their economic development deficiencies.
 - 1. Areas in which criteria would be developed to identify communities' preparedness, would include, but not be limited to: infrastructure, site availability and conditions, environmental conditions, workforce, education, business and community support, housing, and health care.
 - 2. Communities having deficiencies should meet the stated criteria through assistance from readily available regional and local facilities and institutions; and
 - (k) A marketing assistance program to assess the resources of communities and to assist them in marketing and promotional efforts.

Section 11. KRS 154.10-080 is amended to read as follows:

- (1) The ~~cabinet~~~~[board]~~ may establish one or more regional offices and provide staff as necessary to the performance of its duties~~[perform functions as prescribed by the board]~~.
- (2) The ~~cabinet~~~~[board]~~ may establish regional advisory boards consisting of representatives of government, private business, communities, and higher education; and prescribe their functions and responsibilities.

- (3) The ~~cabinet~~~~[board]~~ may contract with existing economic development agencies as necessary to the performance of its duties~~[perform functions as prescribed by the board]~~.

Section 12. KRS 154.10-090 is amended to read as follows:

- (1) The secretary and the directors of other state agencies and entities receiving state funds for programs and activities which may affect state economic development shall cooperate in the coordination of those programs and activities to achieve the successful implementation of the state's strategic economic development plan.
- (2) The ~~cabinet~~~~[board]~~ shall compile a list of state agencies and the extent to which they have direct programmatic involvement in Kentucky's economic development systems. This information shall be presented to the General Assembly before each even-numbered-year regular session for the purpose of considering programmatic and budget adjustments.
- (3) Nothing in this chapter shall be construed as modifying, superseding, or repealing any provisions of KRS Chapter 146, 151, 224, or 350, or the obligations of the Environmental and Public Protection Cabinet under those chapters.

Section 13. KRS 154.10-100 is amended to read as follows:

- (1) The ~~cabinet~~~~[board]~~ shall establish a statewide network of information transfer and assistance linkages with appropriate local economic development agencies and entities providing economic development services and financing.
- (2) The purpose of the network shall be to facilitate strategic planning and coordinate service delivery by providing ready access by communities and businesses to all aspects of cabinet operations and to all providers of economic development assistance, and by providing the cabinet with ready access to the most complete and up-to-date information concerning communities, businesses, and economic development service providers.
- (3) The network shall employ, to the greatest extent feasible, compatible hardware and software and common databases and library and information services networks in order to ensure a free flow of information and assistance among the components of the network.
- (4) In those communities and regions which do not have appropriate existing economic development organizations or agencies, the cabinet shall serve as a catalyst to bring together the elements of private businesses, education, government, and community leaders necessary to form a local or regional economic development operation. Upon the establishment of an appropriate organization, it shall become an element of the statewide economic development network.

Section 14. KRS 154.10-120 is amended to read as follows:

- (1) The framework for the strategic plan shall include the following elements:
 - (a) Mission statement;
 - (b) Goals;
 - (c) Principles;
 - (d) Strategies and objectives; and
 - (e) Benchmarks.
- (2) The goals as specified in KRS 154.01-020 should not be considered static, but dynamic, and therefore shall be reviewed for relevancy at least every four (4) years.
- (3) Plan horizon and frequency of updates shall be as follows:
 - (a) The planning horizon for the Commonwealth's strategic economic development plan shall be for a period of not less than five (5) nor more than ten (10) years.
 - (b) The ~~cabinet~~~~[board]~~ shall update~~[prepare and adopt]~~, pursuant to KRS 154.10-030~~(4)~~~~[(6)]~~, a strategic economic development plan for Kentucky~~[within one (1) year from July 14, 1992, and shall update the plan]~~ every two (2) years thereafter.
- (4) The strategic economic development planning process shall include the broadest participation of all public and private interests including, but not limited to, members of the General Assembly; state agencies; local, regional, and statewide associations with interest in economic development; and members of the various industrial sectors.
- (5) In the preparation and finalization of recommendations contained in the Commonwealth's strategic economic development plan:
 - (a) The ~~cabinet~~~~[board]~~ shall conduct at least one (1) public hearing with due legal notice given in accordance with KRS Chapter 424;
 - (b) The ~~cabinet~~~~[board]~~ may employ consultants and other experts deemed necessary and appropriate for the purposes of this chapter; and
 - (c) The ~~cabinet~~~~[board]~~ shall work cooperatively with the governing authorities of the Kentucky Infrastructure Authority and the Commonwealth's Federal Community Development Block Grant Program to ensure coordination between projects approved by those bodies and the strategic economic development plan.

Section 15. KRS 154.10-125 is amended to read as follows:

- (1) The strategic economic development plan shall include, but not be limited to:

- (a) A review with reconfirmation or modification of stated goals;
 - (b) An analysis of the current world economy and its impact on the economy of Kentucky and the nature of the competitive environment within which Kentucky's workforce and businesses must compete;
 - (c) An analysis of broad trends of economic change;
 - (d) The identification of the position of Kentucky's workforce, businesses, and communities relative to the external economic environment;
 - (e) A statewide and regional assessment of Kentucky's economic strengths and weaknesses;
 - (f) An analysis of the sustainability of Kentucky's economy over time; and
 - (g) Identification of strategies, objectives, and actions to be taken to improve Kentucky's competitive position with focus given to human and natural resources development, infrastructure, capital, technology, entrepreneurship, modernization, quality of life, and institutional development.
- (2) Under each strategy, a discussion shall be provided of the objectives to be established within a set time frame, including:
- (a) Programs to be established and administered;
 - (b) Funding required; and
 - (c) Public policies to be pursued.
- (3) In the development of the initial strategic economic development plan, the cabinet{board} shall be guided by, but not limited to, the following principles:
- (a) Economic development shall be a partnership of government, private business, local communities, and education;
 - (b) Growth of jobs and incomes shall come from new business creation in Kentucky, existing Kentucky businesses, and attraction of new business to Kentucky;
 - (c) Economic development and environmental protection are compatible objectives;
 - (d) Strategies for economic development shall focus on:
 - 1. Systems, not programs;
 - 2. Regions and sectors, not individual businesses;
 - 3. Decentralization;
 - 4. Participation by users;
 - 5. Helping communities to help themselves;
 - 6. Activities that will make Kentucky products globally competitive;
 - 7. Education and assistance, as well as financing;
 - 8. Financing as an investment;
 - 9. Retaining and growing Kentucky businesses;
 - 10. Creating high value job opportunities to all who have prepared themselves; and
 - 11. Encouragement of private sector investment.
 - (e) Economic development strategies approved by the cabinet{board} shall remain flexible to keep Kentucky competitive in a rapidly changing environment.

Section 16. KRS 154.10-140 is amended to read as follows:

- (1) The cabinet{board} shall establish objective benchmarks to measure the performance of Kentucky's economy and progress toward achievement of the mission statement, goals, and guiding principles. Criteria used in establishing the benchmarks shall include, but not be limited to:
- (a) Use of the statistical information commonly provided by governmental agencies, or specific data gathered by authorization of the cabinet{board};
 - (b) Comparison of regions and areas within the Commonwealth;
 - (c) Comparisons of Kentucky to other states, the nation, and international areas;
 - (d) Inclusion of measures of income, earnings, and employment; and
 - (e) Goals for achievement of appropriate levels over time.
- (2) Examples of appropriate benchmarks include, but are not limited to:
- (a) Kentucky's gross state product as compared with the midwestern and southeastern states and the United States gross national product;
 - (b) Personal income data used to compare Kentucky to national income and an average of benchmark states;
 - (c) Wage and salary growth compared by counties, regions, and states; and
 - (d) Earnings-weighted job indices to compare metropolitan areas, rural areas, and other subdivisions of the

Commonwealth.

- (3) The University of Kentucky, Center for Business and Economic Research, and the University of Louisville, Bureau of Economic Research, annually shall prepare jointly and submit to the Governor and the General Assembly, and the board a report detailing and grading Kentucky's progress with regard to each benchmark. The cabinet shall publish the report and make it available to the public at no cost.
- (4) The cabinet shall evaluate the effectiveness of established implementation activities.
- (5) The cabinet shall conduct periodic evaluations of projects funded or otherwise assisted by the cabinet to determine the return on cabinet investments and to ensure compliance with commitments made as conditions of cabinet investment. Results of the evaluations shall be reported to the board, the General Assembly, and the public.
- (6) The cabinet may retain outside independent agencies to evaluate the effectiveness of economic development programs and systems and to certify the results of reports prepared pursuant to subsection (3) of this section.

Section 17. KRS 154.12-100 is amended to read as follows:

- (1) "Economic development bonds" means the bond program authorized by the General Assembly for the purpose of promoting economic development within the state.
- (2) The economic development bond program shall be administered by the secretary of the Cabinet for Economic Development. The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A for project selection criteria. The project selection criteria shall include, but not be limited to, the following:
 - (a) Potential job creation or job retention;
 - (b) Degree of public or private and local involvement;
 - (c) Degree and conditions of project payback; and
 - (d) Provision of child care assistance for employees' dependents aged twelve (12) years and younger. For the purpose of this section, child care assistance means onsite child care, child care information and referral, the purchasing of child care through vouchers or contracts, and any other form of child care assistance deemed applicable by the secretary.
- (3) Prior to submission of an economic development bond project to the Capital Projects and Bond Oversight Committee, the secretary of the Cabinet for Economic Development shall receive a written commitment from the public or private organization which has requested state bonds outlining projected job creation and retention, an investment breakdown, and overall project description. This shall be submitted by the secretary to the Capital Projects and Bond Oversight Committee. Subsequently, the secretary of the Cabinet for Economic Development shall execute a written agreement with the public or private organizations involved expressing in detail the respective obligations on the parties, which shall thereafter be automatically forwarded to the committee for its records.
- (4) Projects of state agencies as defined in KRS 42.005 shall not be eligible for funding from the economic development bond program, unless expressly provided in a branch budget bill. Airport construction and renovation projects shall be eligible for funding under this section. The secretary of the Cabinet for Economic Development shall consult with the secretary of the Finance and Administration Cabinet on the terms and conditions relating to the use of state economic development bonds before any commitment is made on any project to any public or private organization. Before any economic development bonds are issued, the proposed bond issue shall be approved by the cabinet, and the State Property and Buildings Commission, under the provisions of KRS 56.450.
- (5) Following the approval by the cabinet, the project shall be presented by the secretary of the Cabinet for Economic Development or his designee with supporting documentation for review and approval at the next regularly scheduled meeting of the Capital Projects and Bond Oversight Committee pursuant to KRS 45.810 and at the next regularly scheduled meeting of the State Property and Buildings Commission.
- (6) Notwithstanding the provisions of KRS 56.872(3), the amount of economic development bonds issued during any biennium shall not exceed the amount stated in the biennial budget.
- (7) The Cabinet for Economic Development shall submit an annual report to the Capital Projects and Bond Oversight Committee showing the economic development bonds issued during the previous fiscal year and the amounts paid back and the balance still owing with respect to loans made by the Cabinet for Economic Development with proceeds of economic development bonds during the previous five (5) fiscal years.

Section 18. KRS 154.12-203 is amended to read as follows:

- (1) There is created the Kentucky Commission on Military Affairs. The commission shall be a separate administrative body of state government within the meaning of KRS Chapter 12.
- (2) It shall be the purpose of the Kentucky Commission on Military Affairs to:
 - (a) Address matters of military significance to Kentucky;
 - (b) Maintain a cooperative and constructive relationship between state agencies and the military entities in Kentucky, as necessary to ensure coordination and implementation of unified, comprehensive, statewide strategies involved with, or affected by, the military;

- (c) Advise the Governor, the General Assembly, the Kentucky congressional delegation, and other appropriate government officials on all matters in which the military services and the Commonwealth have mutual interests, needs, and concerns;
 - (d) Take action to promote and optimize state and Department of Defense initiatives that will improve the military value of Kentucky's National Guard, active, and reserve military force structure and installations, and improve the quality of life for military personnel residing in the Commonwealth;
 - (e) Coordinate, as necessary, the state's interest in future Department of Defense base closure and restructuring activities;
 - (f) Recommend state, federal, and local economic development projects which would promote, foster, and support economic progress through military presence in the Commonwealth;
 - (g) Promote and assist the private sector in developing spin-off investments, employment, and educational opportunities associated with high-technology programs and activities at Kentucky's military installations;
 - (h) Recommend to the Cabinet for~~Kentucky~~ Economic Development~~Partnership~~ the long-range options and potential for the defense facilities located in Kentucky;
 - (i) Develop strategies to encourage military personnel to retire and relocate in Kentucky and promote those leaving the military as a viable quality workforce for economic development and industrial recruitment; and
 - (j) Allocate available grant money to qualified applicants to further the purposes of paragraphs (a) to (i) of this subsection.
- (3) The Kentucky Commission on Military Affairs shall consist of:
- (a) The Governor, or his designated representative;
 - (b) The secretary of the Cabinet for Economic Development, or his designated representative;
 - (c) The adjutant general of the Commonwealth, or his designated representative;
 - (d) The executive director of the Kentucky Long-Term Policy Research Center, or his designated representative;
 - (e) The executive director of the Office of Homeland Security, or his designated representative;
 - (f) The secretaries of the following cabinets, or their designees:
 1. Finance and Administration;
 2. Justice;
 3. Environmental and Public Protection;
 4. Transportation;
 5. Education;
 6. Health and Family Services; and
 7. Personnel;
 - (g) The Attorney General, or his designee;
 - (h) The commissioner of the Department of Veterans' Affairs or a designee;
 - (i) The executive director of the Kentucky Commission on Military Affairs or a designee;
 - (j) Kentucky's Civilian Aides to the Secretary of the United States Army;
 - (k) Two (2) members of the Kentucky General Assembly, with experience in or an interest in military and defense-related issues, one (1) member to be appointed by the President of the Senate, and one (1) member to be appointed by the Speaker of the House;
 - (l) The commander or the designee of the commander of each of the following as nonvoting, ex officio members:
 1. Fort Campbell;
 2. Fort Knox;
 3. United States Army Recruiting Command;
 4. Bluegrass Army Depot;
 5. Louisville District of the United States Army Corps of Engineers;
 6. The One Hundredth Training Division;
 7. Naval Surface Warfare Center - Port Hueneme Division, Louisville Detachment; and
 8. Any other installation or organization, including but not limited to the United States Coast Guard, Air Force, Navy, and Marine Corps, with a military mission in the Commonwealth; and
 - (m) Five (5) at-large members appointed by the Governor who shall be residents of counties significantly impacted by military installations.
- (4) The terms of the five (5) at-large members shall be staggered so that two (2) appointments shall expire at two (2) years, one

(1) appointment shall expire at three (3) years, and two (2) appointments shall expire at four (4) years, from the dates of initial appointment.

- (5) (a) The commission shall establish an executive committee consisting of the secretary of the Cabinet for Economic Development, the adjutant general of the Commonwealth, the commissioner of the Department of Veterans' Affairs, the executive director of the Kentucky Commission on Military Affairs, and the five (5) at-large members. The chair and vice chair of the Kentucky Commission on Military Affairs shall be appointed by the Governor from among the members of the executive committee.
- (b) The chair and vice chair of the commission shall also serve as chair and vice chair of the executive committee.
- (c) The executive committee shall serve as the search committee for an executive director of the commission and shall have any other authority the commission delegates to it.
- (6) The commission shall meet two (2) times each year, and may meet at other times on call of the chair, to establish the commission's goals and to review issues identified and recommendations made by the executive committee. A majority of the members shall constitute a quorum for the transaction of the commission's business. Members' designees shall have voting privileges at commission meetings.
- (7) Members of the commission shall serve without compensation, but shall be reimbursed for their necessary travel expenses actually incurred in the discharge of their duties on the commission, subject to Finance and Administration Cabinet administrative regulations.
- (8) The commission may establish committees or work groups composed of commission members and citizens as necessary to advise the commission in carrying out its responsibilities, duties, and powers. Citizen members of committees or work groups shall not have a vote.
- (9) The commission may promulgate necessary administrative regulations as prescribed by KRS Chapter 13A.
- (10) The commission may adopt bylaws and operating policies necessary for its efficient and effective operation.
- (11) There shall be an executive director, who shall be the administrative head and chief executive officer of the commission, recommended by the executive committee, approved by the commission, and appointed by the Governor. The executive director shall have authority to hire staff, contract for services, expend funds, and operate the normal business activities of the commission.
- (12) The Kentucky Commission on Military Affairs and its executive committee shall be an independent agency attached to the Office of the Governor.

Section 19. KRS 154.12-210 is amended to read as follows:

- (1) The cabinet shall assemble and keep in the offices of the cabinet information relating to natural resources, industrial sites, labor supply, water, fuel, power, wage rates, taxation and assessments, transportation and communication facilities, and any other information that may be useful in executing the provisions of KRS 154.12-210 to 154.12-212. This information shall be made available to any enterprise which, in the discretion of the secretary, is legitimate and which contemplates location or operation within the Commonwealth. The information shall, in the discretion of the secretary, be made available to any governmental or private agency interested in securing the location or operation of any legitimate enterprise within the Commonwealth.
- (2) The cabinet shall obtain from enterprises interested in locating and operating within the Commonwealth information relating to the nature of the enterprise, its financial responsibility, manpower requirements, probable consumption of raw materials, and any other information that may be useful in securing the location of such enterprise in the Commonwealth.
- (3) The cabinet shall be the primary industrial and commercial development agency of the Commonwealth of Kentucky in matters relating to the private sector of the state's economy. The cabinet shall carry out programs relating to industrial and commercial development, research and planning, community and industrial services, marketing development, small and minority business enterprise, international trade and reverse investment, and other programs designated by the cabinet~~board~~.

Section 20. KRS 154.12-213 is amended to read as follows:

The cabinet, as it deems necessary and advisable, may:

- (1) Consult with agencies of the state, federal, and local government in order to coordinate development programs and plans and to articulate agriculture, industry, and commerce in the light of the needs of particular localities;
- (2) Make studies of land utilization so as to determine areas suitable for industrial and commercial development;
- (3) Make studies and projections and publish information relating to the economic development of the Commonwealth and make appropriate recommendations to the~~the~~ General Assembly;
- (4) Establish and maintain development offices in out-of-state centers of industrial and commercial management;
- (5) Place advertising in appropriate media promoting Kentucky's resources and locational advantages for industrial and commercial enterprises.

Section 21. KRS 154.20-010 is amended to read as follows:

- (1) There is created and established within the cabinet~~, subject to the authority of the board,~~ the Kentucky Economic

Development Finance Authority as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic with all powers, duties, and responsibilities delegated to it by the cabinet[board] or as otherwise provided by law, including all programs, powers, duties, rights, and obligations of the Kentucky Development Finance Authority and the Kentucky Rural Economic Development Authority.

- (2) Any interest, right, or cause of action held in whole or in part by any person, corporation, limited liability company, partnership, limited partnership, government agency, or other entity under any agreement, contract, lease, mortgage, guarantee, bond, note, refund bond, or other financial transaction or obligation, made, issued, or otherwise entered into by any of the authorities, programs, or funds specified in subsection (1) of this section or that may be delegated to the authority by the cabinet[board], shall not be impaired or otherwise diminished.
- (3) Any interest, right, or cause of action held in whole or in part by any of the authorities, programs, or funds specified in subsection (1) of this section shall not be impaired or otherwise diminished, but shall be assumed by the authority, for and on behalf of the cabinet.
- (4) The authority shall consist of a committee of seven (7) persons, including six (6) persons appointed by the cabinet[board] who shall be private citizens of the Commonwealth, and the secretary of the Finance and Administration Cabinet who shall serve ex officio. Any person appointed to the committee shall have experience and expertise in business or finance.
- (5) Two (2) members initially appointed to the committee shall have a term of one (1) year each, two (2) members initially appointed to the committee shall have a term of two (2) years each, and two (2) members initially appointed to the committee shall have a term of three (3) years each, except that any person appointed to fill a vacancy shall serve only for the remainder of the unexpired term. All subsequent appointments shall be for a term of three (3) years.
- (6) Any person appointed to the committee shall be eligible for reappointment, including any member of the committee appointed prior to July 15, 1994.
- (7) The members of the committee shall elect biennially from the committee's private citizen membership the following officers: chairman, vice chairman, secretary-treasurer, and any assistant secretaries and assistant treasurers the committee deems necessary.
- (8) A majority of the members of the committee, determined by excluding any existing vacancies from the total number of members, shall constitute a quorum. A majority vote of the members present at a duly called meeting of the committee shall be required for the purposes of conducting its business and exercising its powers and for all other purposes.
- (9) The committee shall prepare bylaws and procedures applicable to the operations of the authority and submit them to the cabinet[board] to be promulgated as administrative regulations in accordance with KRS Chapter 13A.
- (10) Members of the committee shall be entitled to compensation for their services in an amount of one hundred dollars (\$100) for each regular meeting of the committee and shall be entitled to reimbursement for all necessary expenses in connection with the performance of their duties.

Section 22. KRS 154.20-020 is amended to read as follows:

- (1) The secretary shall be authorized to commit the cabinet to any project or proposal, subject to approval of the committee as necessary ~~except that any state incentive agreement requiring the participation of other agencies of state government shall require the concurrence of the board~~.
- (2) No project shall be funded in whole or part by the authority unless first approved by its committee pursuant to administrative regulations promulgated by the cabinet[board] in accordance with KRS Chapter 13A.
- (3) Lending decisions made by the authority shall be based, if possible, feasible, and not otherwise precluded by federal or state law, on utilizing state funds to leverage private sector investment.
- (4) The authority shall cooperate with the Cabinet for Health and Family Services in facilitation of KRS 194.245(1)(a).

Section 23. KRS 154.20-035 is amended to read as follows:

- (1) The authority may, upon approval of the cabinet[board], borrow money and issue bonds or notes in accordance with KRS 154.10-035 and other provisions of this chapter appertaining, subject to KRS 42.420, for the following purposes:
 - (a) To provide sufficient funds for achieving the authority's purposes and objectives, including but not limited to, amounts necessary to pay the costs of acquiring projects or any part thereof; to make loans for the maintenance, operation, expansion, or development of riverport facilities that are under the authority of a developmental riverport authority established under KRS 65.520; to make loans for the cost of a project or any part thereof; to make loans pursuant to KRS 154.10-030 ~~(9)(11)~~ for an export-related transaction; to make grants; to provide money to guarantee or insure loans, leases, bonds, notes, or other indebtedness; to make working capital loans; for all other expenditures of the authority incident to and necessary or convenient to carry out the authority's purposes, objectives, and powers; or for any combination of the foregoing;
 - (b) To refund bonds or notes of the authority issued under this chapter, by the issuance of new bonds, whether or not the bonds or notes to be refunded have matured or are subject to prior redemption or are to be paid, redeemed, or surrendered at the time of issuance of the refunding bonds or notes; and to issue bonds or notes partly to refund such bonds or notes and partly for any other purpose provided for by this section; or
 - (c) To pay the costs of issuance of bonds or notes under this chapter; to pay interest on bonds or notes becoming

payable prior to the receipt of the first revenues available for payment thereof as determined by the cabinet~~[board]~~; and to establish, in full or in part, a reserve for the payment of the principal and interest on the bonds or notes in such amount as shall be determined by the cabinet~~[board]~~.

- (2) The bonds and notes, including, but not limited to, commercial paper, shall be authorized by resolution adopted by the authority, shall bear the date or dates, and shall mature at the time or times, not exceeding fifty (50) years from the date of issuance, as the resolution provides. The bonds and notes shall bear interest at the rate or rates set, reset, or calculated from time to time as provided in the resolution. The bonds and notes shall be in the denominations; be in the form, either coupon or registered; carry the registration privileges; be transferable; be executed in the manner; be payable in the medium of payment, at the place or places; and be subject to the terms of prior redemption at the option of the authority or the holders thereof as the resolution or resolutions provide. The bonds and notes of the authority may be sold at public or private, negotiated sale, at the price or prices the authority determines. Bonds and notes may be sold at a discount.
- (3) Bonds or notes may be:
 - (a) Made the subject of a put or agreement to repurchase by the authority or others;
 - (b) Secured by a letter of credit or by any other collateral which the resolution may authorize;
 - (c) Resold by the authority, once acquired by the authority, pursuant to any put or repurchase agreement without the acquisition being considered the extinguishment of the bond or note.
- (4) The authority may authorize its chairman or other officer to, by order:
 - (a) Sell and deliver, and receive payment for notes or bonds;
 - (b) Refund notes or bonds by the delivery of new notes or bonds, whether or not the notes or bonds to be refunded have matured, are subject to prior redemption, or are to be paid, redeemed, or surrendered at the time of the issuance of refunding bonds or notes;
 - (c) Deliver notes or bonds, partly to refund notes or bonds and partly for any other authorized purposes;
 - (d) Buy notes or bonds so issued at not more than the face value of the notes or bonds; or
 - (e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights at the option of the authority or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.
- (5) Except as provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of revenues, properties, or money of the authority, subject only to agreements with the holders of particular notes or bonds pledging particular receipts, revenues, properties, or money as security therefor.
- (6) The notes or bonds of the authority shall be and are hereby made negotiable instruments within the meaning of and for all purposes of the Uniform Commercial Code, subject only to the provisions of the notes or bonds for registration.
- (7) A resolution authorizing notes or bonds may contain any or all of the following covenants which shall be a part of the contract with the holders thereof:
 - (a) A pledge of all or a part of the fees, charges, and revenues made or received by the authority, or all or a part of the money received in payment of lease rentals, or loans and interest thereon, and other money received or to be received to secure the payment of the notes or bonds or an issue thereof, subject to agreements with bondholders or noteholders as may then exist;
 - (b) A pledge of all or a part of the assets of the authority, including leases, or notes or mortgages and obligations securing the same to secure the payment of the notes or bonds or of an issue of notes or bonds, subject to agreements with noteholders or bondholders as may then exist;
 - (c) A pledge of a loan, grant, or contribution from the federal, state, or municipality, or source in aid of a project as provided for in this chapter;
 - (d) A provision as to the use and disposition of the revenues and income from leases, or from loans, notes, and mortgages owned by the authority;
 - (e) A provision as to the establishment and setting aside of reserves or sinking funds and the regulation and disposition thereof subject to this chapter;
 - (f) Limitations on the purpose to which the proceeds of sale of the notes or bonds may be applied and limitations on pledging those proceeds to secure the payment of other bonds or notes;
 - (g) Authority for and limitations on the issuance of additional notes or bonds for the purposes provided for in the resolution and the terms upon which additional notes or bonds may be issued and secured;
 - (h) A provision for the procedure, if any, by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the number of noteholders or bondholders who are required to consent thereto, and the manner in which the consent may be given;
 - (i) Vesting in a trustee, or a secured party, such property, income, revenues, receipts, rights, remedies, powers, and duties in trust or otherwise as the authority may determine necessary to appropriate to adequately secure and

protect noteholders and bondholders or to limit or abrogate the rights of the noteholders and bondholders. A trust agreement may be executed by the authority with any trustee who may be located inside or outside this state to accomplish any of the foregoing;

- (j) Providing for the payment of maintenance and repair costs of a project;
 - (k) Establishing the insurance to be carried on a project and the use and disposition of insurance money and condemnation awards;
 - (l) Establishing the terms, conditions, and agreements upon which the holder of the bonds, or a portion thereof, shall be entitled to the appointment of a receiver by the Circuit Court. A receiver may enter and take possession of the project and maintain it or lease or sell it for cash or on an installment sales contract and prescribe rentals and payments therefor and collect, receive, and apply all income and revenues thereafter arising in the same manner and to the same extent as the authority; and
 - (m) Providing for any other matters, of like or different character, which in any way affect the security or protection of the notes or bonds.
- (8) A pledge made by the authority shall be valid and binding from the time the pledge is made. The money or property pledged and received by the authority shall immediately be subject to the lien of the pledge without a physical delivery or further act. The lien of the pledge shall be valid and binding as against parties having claims of any kind in tort, contract, or otherwise against the authority and shall be valid and binding against the transfer of the money or property pledged, irrespective of whether the parties have notice. It shall not be necessary to record the resolution, the trust agreement, or any other instrument by which a pledge is created.
- (9) Neither the members of the authority nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to personal liability or accountability by reason of the issuance thereof.
- (10) The state shall not be liable for any financial obligations of the authority nor shall any such obligations or bonds be considered a debt of the state. The obligations shall contain on the face thereof a statement indicating this fact.
- (11) The notes and bonds of the authority shall be securities in which the public officers and bodies of this state and municipalities and municipal subdivisions, insurance companies, associations, and other persons carrying on an insurance business, banks, trust companies, savings banks and savings associations, savings and loan associations, investment companies, and administrators, guardians, executors, trustees, and other fiduciaries, and all other persons who are authorized to invest in bonds or other obligations of the state, may properly and legally invest funds.
- (12) The property of the authority and its income and operation shall be exempt from all taxation by this state or any of its political subdivisions. All bonds and notes of the authority, the interest thereon, and their transfer shall be exempt from all taxation by this state or any of its political subdivisions, except for estate, gift, and inheritance taxes, notwithstanding that interest on bonds or notes of the authority may be or become subject to federal income taxation as a result of legislative action by the federal government. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the authority under this chapter, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the authority, issued pursuant to this chapter, the interest thereon, the transfer thereof, and all its fees, charges, gifts, grants, revenues, receipts, and other money received or to be received and pledged to pay or secure the payment of the notes or bonds shall at all times be free and exempt from all state or local taxation provided by the laws of this state, except for estate, gift, and inheritance taxes.

Section 24. KRS 154.47-015 is amended to read as follows:

- (1) The Kentucky Wood Products Competitiveness Corporation is created and established, as a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a public body corporate and politic, performing functions and purposes essential to improving and promoting the health and general welfare of the people of the Commonwealth through promoting, enhancing, and developing the Commonwealth's secondary wood products industries by:
- (a) Disseminating information;
 - (b) Providing services;
 - (c) Developing workforce training measures and standards to support value-added functions with regard to design, processing and manufacture, and marketing of wood products; and
 - (d) Providing financial support for the deployment of new or improved technology and world-class manufacturing systems to businesses engaged in the production and manufacture of value-added wood products.
- (2) The corporation shall be governed by a board of thirteen (13) members, consisting of seven (7) members representing the private sector including four (4) representatives of Kentucky's secondary wood products industry; one (1) member representing the Kentucky Forest Products Council as created and established by KRS 154.47-110; one (1) member representing the Education Cabinet; and four (4) members representing the following universities with one (1) member each representing the University of Kentucky, the University of Louisville, Eastern Kentucky University, and Morehead State University.
- (3) The initial appointments to the board shall be made on or before October 1, 1994, in the following manner:

- (a) Seven (7) private sector members shall be made by the Governor from names of persons submitted on or before August 30, 1994, in the following manner:
 1. Two (2) from a list of six (6) nominees from the secondary wood products industry submitted in writing by the Kentucky Wood Manufacturers Network;
 2. Two (2) from a list of six (6) nominees from the secondary wood products industry submitted in writing by the Kentucky Forest Industries Association;
 3. One (1) from a list of three (3) nominees submitted in writing by the Mountain Association for Community Economic Development;
 4. One (1) from a list of three (3) nominees submitted in writing from grass roots community economic development organizations that have a demonstrated interest in the development of secondary wood products industries; and
 5. One (1) from a list of three (3) nominees from private business submitted in writing by the Cabinet for Kentucky Economic Development Partnership.
 - (b) The Kentucky Forest Products Council, the secretary of the Education Cabinet, and the presidents of the University of Kentucky, the University of Louisville, Eastern Kentucky University, and Morehead State University shall each designate a representative of their respective organizations to be appointed by the Governor to the board.
 - (c) If any organization or institution as specified in paragraph (a) of this subsection does not nominate persons for appointment as prescribed therein, the Governor may solicit names from any other source, or he may appoint from the list of names submitted by the remaining organizations.
 - (d) The initial term of office for the seven (7) private sector members shall be staggered so that four (4) members shall serve for a term of three (3) years and three (3) members shall serve for a term of four (4) years. Subsequent appointments shall be made in the same manner as prescribed for original appointments, and shall be for four (4) year terms each.
- (4) Except as prescribed in subsection (3)(d) of this section and for the appointee representing the Education Cabinet, all appointments shall have a term of four (4) years. The term for the person appointed from the Education Cabinet shall be the same as that of the Governor. Any appointment made by the Governor to fill an unexpired term shall be only for the remaining time of the vacated appointment. Nothing contained in this section shall be construed as prohibiting the reappointment of a member of the board to succeeding terms if, the person to be reappointed has been nominated or designated in the manner as prescribed for original appointments set forth in this section.

Section 25. KRS 350.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. The activities shall include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. Excavation for the purpose of obtaining coal includes extraction of coal from refuse piles. The activities shall not include the extraction of coal by a landowner of fifty (50) tons or less within twelve (12) successive calendar months for his own noncommercial use from land owned or leased by him; the extraction of twenty-five (25) to two hundred fifty (250) tons of coal as an incidental part of privately financed construction where the coal is donated to a charitable or educational organization for noncommercial use or noncommercial distribution; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under administrative regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which the activities occur or where the activities disturb the natural land surface. The areas shall also include any adjacent land, the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to the activities. This definition shall include the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;
- (2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction

use; but shall not include the extraction of coal by a landowner for his own noncommercial use of fifty (50) tons or less within twelve (12) successive calendar months from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under administrative regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

- (3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of the operations as required by this chapter;
- (4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means the material after removal from its natural state in the process of surface coal mining;
- (5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;
- (6) "Operations" means surface coal mining operations, all of the premises, facilities, roads, and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;
- (7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the coal;
- (8) "Operator" means any person, partnership, or corporation engaged in surface coal mining operations who removes or intends to remove more than twenty-five (25) tons of coal from the earth by coal mining within twelve (12) consecutive calendar months in any one (1) location;
- (9) "Person" means any individual, partnership, corporation, association, society, joint stock company, firm, company, or other business organization and shall also include any agency, unit, or instrumentality of federal, state, or local government including any publicly-owned utility or publicly-owned corporation of federal, state, or local government;
- (10) "Cabinet" means the Environmental and Public Protection Cabinet;
- (11) "Secretary" means the secretary of the Environmental and Public Protection Cabinet;
- (12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;
- (13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;
- (14) "Bench" means the ledge, shelf, or terrace formed in the contour method of strip mining;
- (15) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;
- (16) "Certification" by a qualified registered professional engineer, as required by this chapter and administrative regulations promulgated hereunder, means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and administrative regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Certification shall not be construed to constitute a warranty or guarantee.
- (17) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land.
- (18) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under KRS 154.01-010~~(19)~~~~(20)~~.
- (19) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.
- (20) "Permit applicant" or "applicant" means a person applying for a permit.
- (21) "Permittee" means a person holding a permit to conduct surface coal mining and reclamation operations.
- (22) "Unanticipated event or condition" as used in KRS 350.085(7) means an event or condition encountered in a remining

operation that was not contemplated by the applicable surface coal mining and reclamation permit.

- (23) "Lands eligible for remining" means those lands that would otherwise be eligible for expenditures under KRS 350.560(1) or (2).
- (24) "Coal combustion by-products" means fly ash, bottom ash, scrubber sludge, and waste from fluidized bed combustion, produced by the combustion of coal. Coal combustion by-products do not include boiler slag, or residues of refuse derived fuels, such as municipal solid waste, tires, and solvents.

Section 26. The following KRS sections are repealed:

- 154.10-010 Kentucky Economic Development Partnership -- Membership -- Vacancies -- Meetings.
- 154.10-020 Officers -- Executive committee.
- 154.10-060 Submission of implementation plans to board.

SB 55, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

The secretary of the Finance and Administration Cabinet shall review the information technology infrastructure of each executive branch agency and consolidate operational control under the Commonwealth Office of Technology when it is found to be in the best interest of the Commonwealth.

Section 2. KRS 11.505 is amended to read as follows:

- (1) There is hereby created within the Finance and Administration Cabinet an agency of state government known as the Commonwealth Office of Technology.
- (2) The Commonwealth Office of Technology shall be headed by an executive director appointed by the secretary of the Finance and Administration Cabinet. Duties and functions of the executive director shall include those established in KRS 11.511.
- (3) The Commonwealth Office of Technology shall consist of the following ~~three (3)~~**four (4)** offices, each headed by an executive director and organized into divisions headed by a division director:
 - (a) ~~Office of the 911 Coordinator, which shall be headed by an executive director who shall be appointed by the Governor, subject to confirmation by the Senate, from a list of no more than three (3) candidates recommended by the Commercial Mobile Radio Service Emergency Telecommunications Board. The executive director shall serve at the pleasure of the Governor. Vacancies shall be filled in the same manner as the original appointment. The Office of the 911 Coordinator shall have the duties and responsibilities established in KRS 11.512;~~
 - (b) Office of Enterprise **Policy and Project Management**~~[Information Technology Policy and Planning]~~, which shall consist of the following divisions:
 1. Division of Enterprise **Project Management**~~[Architecture]~~; **and**
 2. ~~Division of Relationship and Service Management;~~
 3. ~~Division of Geographic Information;~~ ~~and~~
 4. ~~Division of Information Technology Contract and Asset Management;~~
 - (b)(e) Office of Infrastructure Services, consisting of the:
 1. Division of **Technical Services**~~[Infrastructure Support]~~;
 2. Division of **Communications**~~[Security Services]~~;
 3. Division of **Information Technology Operations**~~[Computing Services]~~; ~~and~~
 4. Division of **Client**~~[Communication]~~ Services; ~~and~~
 5. **Division of Field Services; and**
 6. **Division of Printing Services;**
 - (c)(d) Office of **Application Development**~~[Consulting and Project Management]~~, consisting of the:
 1. Division of **Portfolio Management**~~[Centers of Expertise]~~;
 2. Division of **Data Architecture**~~[Human Services Systems]~~;
 3. Division of **Consulting and Project Management**~~[Financial Systems]~~; **and**
 4. Division of **Support Services**~~[Transportation Systems]~~; ~~and~~
 5. ~~Division of General Government Systems]~~.
- (4) Executive directors and division directors appointed under this section shall be appointed by the secretary with the approval of the Governor.
- (5) **The Division of Printing Services shall be responsible for the printing and duplicating needs of state agencies as**

designated by the Finance and Administration Cabinet.

Section 3. KRS 11.507 is amended to read as follows:

- (1) The roles and duties of the Commonwealth Office of Technology shall include but not be limited to:
- (a) Providing technical support and services to all executive agencies of state government in the application of information technology;
 - (b) Assuring compatibility and connectivity of Kentucky's information systems;
 - (c) Developing strategies and policies to support and promote the effective applications of information technology within state government as a means of saving money, increasing employee productivity, and improving state services to the public, including electronic public access to information of the Commonwealth;
 - (d) Developing, implementing, and managing strategic information technology directions, standards, and enterprise architecture, including implementing necessary management processes to assure full compliance with those directions, standards, and architecture. This specifically includes but is not limited to directions, standards, and architecture related to the privacy and confidentiality of data collected and stored by state agencies;
 - (e) Promoting effective and efficient design and operation of all major information resources management processes for executive branch agencies, including improvements to work processes;
 - (f) Developing, implementing, and maintaining the technology infrastructure of the Commonwealth;
 - (g) Facilitating and fostering applied research in emerging technologies that offer the Commonwealth innovative business solutions;
 - (h) Reviewing and overseeing large or complex information technology projects and systems for compliance with statewide strategies, policies, and standards, including alignment with the Commonwealth's business goals, investment, and other risk management policies. The executive director is authorized to grant or withhold approval to initiate these projects;
 - (i) Integrating information technology resources to provide effective and supportable information technology applications in the Commonwealth;
 - (j) ~~Maintaining~~Establishing a central statewide geographic information clearinghouse ~~for to maintain~~ map inventories, information on current and planned geographic information systems applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;
 - (k) Coordinating multiagency information technology projects and maintaining the ~~including overseeing the development and maintenance of~~ statewide base ~~map~~maps and related geographic information systems;
 - (l) Providing access to both consulting and technical assistance, and education and training, on the application and use of information technologies to state and local agencies;
 - (m) In cooperation with other agencies, evaluating, participating in pilot studies, and making recommendations on information technology hardware and software;
 - (n) Providing staff support and technical assistance to the Kentucky Geospatial Board ~~Geographic Information Advisory Council~~ and the Kentucky Information Technology Advisory Council; ~~and~~
 - (o) Overseeing the development of a statewide geographic information plan with input from the Kentucky Geospatial Board and annually reporting developments to the Governor and the General Assembly; and
 - (p) Preparing proposed legislation and funding proposals for the General Assembly that will further solidify coordination and expedite implementation of information technology systems.
- (2) The Commonwealth Office of Technology may:
- (a) Provide general consulting services, technical training, and support for generic software applications, upon request from a local government, if the executive director finds that the requested services can be rendered within the established terms of the federally approved cost allocation plan;
 - (b) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary for the implementation of KRS 11.501 to 11.511, 11.513 to 11.520 ~~11.517~~, 45.253, 171.420, 186A.040, 186A.285, and 194A.146;
 - (c) Solicit, receive, and consider proposals from any state agency, federal agency, local government, university, nonprofit organization, private person, or corporation;
 - (d) Solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance to be held, used, and applied in accordance with KRS 11.501 to 11.511, 11.513 to 11.520 ~~11.517~~, 45.253, 171.420, 186A.040, 186A.285, and 194A.146;
 - (e) Make and enter into memoranda of agreement and contracts necessary or incidental to the performance of duties and execution of its powers, including, but not limited to, agreements or contracts with the United States, other state agencies, and any governmental subdivision of the Commonwealth;
 - (f) Accept grants from the United States government and its agencies and instrumentalities, and from any source, other

than any person, firm, or corporation, or any director, officer, or agent thereof that manufactures or sells information resources technology equipment, goods, or services. To these ends, the Commonwealth Office of Technology shall have the power to comply with those conditions and execute those agreements that are necessary, convenient, or desirable; and

- (g) Purchase interest in contractual services, rentals of all types, supplies, materials, equipment, and other services to be used in the research and development of beneficial applications of information resources technologies. Competitive bids may not be required for:
 1. New and emerging technologies as approved by the executive director or her or his designee; or
 2. Related professional, technical, or scientific services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725.

- (3) Nothing in this section shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and Records Commission and the Department for Libraries and Archives.

Section 4. KRS 11.515 is amended to read as follows:

- (1) There is hereby established the Kentucky Geospatial Board, attached to the Commonwealth Office of Technology,~~[a Geographic Information Advisory Council]~~ to advise the executive director of the Commonwealth Office of Technology on issues relating to geographic information and geographic information systems.
- (2) The ~~board~~~~[council]~~ shall recommend~~[establish and adopt]~~ policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.
- (3) The ~~board~~~~[council]~~ shall closely coordinate with users of geographic information systems to recommend~~[establish]~~ policies and procedures that ensure~~[insure]~~ the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.
- (4) The Kentucky Geospatial Board~~[Geographic Information Advisory Council]~~ shall consist of nineteen (19)~~[twenty-four (24)]~~ members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

- (a) The ~~board~~~~[council]~~ shall consist of:

1. The secretary of the Transportation Cabinet or his or her designee;
2. The secretary of the Cabinet for Health and Family Services or his or her designee;
3. The director of the Kentucky Geological Survey or his or her designee;
4. The secretary of the Finance and Administration Cabinet or his or her designee;
5. The executive director of the Commonwealth Office of Technology or her or his designee, who shall serve as chair;
6. The secretary of the Cabinet for Economic Development~~[Cabinet]~~ or his or her designee;
7. The commissioner of the Department for Local Government or his or her designee;
8. The secretary of the Justice Cabinet or his or her designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his or her designee;
11. ~~[The commissioner of the Department of Education or his designee;~~
12. ~~—]~~The secretary of the Environmental and Public Protection Cabinet or his or her designee;
- ~~12.~~~~[13.]~~ The Commissioner of the Department of Agriculture or his or her designee;
- ~~13.~~~~[14.]~~ The secretary of the Commerce Cabinet or his or her designee;
- ~~14.~~~~[15.]~~ One (1) member~~[Two (2) members]~~ appointed by the Governor from a list of three (3)~~[six (6)]~~ persons submitted by the president of the Kentucky League of Cities;
- ~~15.~~~~[16.]~~ One (1) member~~[Two (2) members]~~ appointed by the Governor from a list of three (3)~~[six (6)]~~ persons submitted by the president of the Kentucky Association of Counties;
- ~~16.~~~~[17.]~~ One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
- ~~17.~~~~[18.]~~ ~~One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;~~
- ~~19.]~~ One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Professional~~[Land]~~ Surveyors;

~~18.~~^{20.} One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;

~~19.~~^{21.} One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and

~~22.~~ One (1) member appointed by the Governor from a list of three (3) persons submitted by the executive director~~president~~ of the Council of Area Development Districts; and~~;~~

(b) The board~~committee~~ shall have: One (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) ~~The chair shall be appointed by the Governor.~~ The board~~committee~~ may have committees and subcommittees as determined by the board~~committee~~ or an executive committee, if an executive committee exists.

(6) A member of the board~~committee~~ shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a board~~committee~~ member.

(7) Those board~~committee~~ members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the board~~committee~~ while they hold that office.

(8) Appointed members of the board~~committee~~ shall serve for a term of four (4) years. Vacancies in the membership of the board~~committee~~ shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The board~~committee~~ shall have no funds of its own, and board~~committee~~ members shall not receive compensation of any kind from the board~~committee~~.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at board~~committee~~ meetings.

Section 5. KRS 11.517 is amended to read as follows:

(1) The Kentucky Geospatial Board's~~Geographic Information Advisory Council's~~ duties shall include the following:

(a) Recommending~~Overseeing~~ the development~~and adoption~~ of policies and procedures related to geographic information and geographic information systems;

(b) Providing input and recommendations for~~Overseeing~~ the development of a strategy for the maintenance~~implementation~~ and funding of a statewide base map and geographic information system;

(c) ~~Overseeing the development and~~ Recommending standards on geographic information and geographic information systems for inclusion in the statewide architecture;

(d) Contributing to~~Overseeing~~ the development and delivery of a statewide geographic information plan~~and annually reporting to the Governor, the General Assembly, the Judicial Branch, and the executive director of the Commonwealth Office of Technology~~;

~~(e) Overseeing the development of the geographic information systems training and education plan;~~

~~(f) Overseeing the assessment of state agency plans for geographic information systems standards compliance;~~

~~(g)~~ Overseeing the development of operating policies and procedures for the management of the board~~committee~~ and any standing or ad hoc committees and associated advisory groups; and

~~(h)~~ Promoting collaboration and the sharing of data and data development, as well as other aspects of geographic information systems~~;~~ and

~~(i) Overseeing the implementation of a pilot project to study the advantages and resources of geographic information system technology.~~

- (2) The Division of Geographic Information shall provide necessary staff support services to the ~~board~~~~[council]~~. All cabinets, departments, divisions, agencies, and officers of the Commonwealth shall furnish the ~~board~~~~[council]~~ necessary assistance, resources, information, records, or advice as it may require to fulfill its duties.

Section 6. KRS 11.550 is repealed, reenacted as a new section of KRS Chapter 194A, and amended to read as follows:

- (1) The Telehealth Board is created and placed for administrative purposes under the Cabinet for Health and Family Services~~[Commonwealth Office of Technology]~~. This ten (10) member board shall consist of the:
- (a) Chancellor, or a designee, of the medical school at the University of Kentucky;
 - (b) Chancellor, or a designee, of the medical school at the University of Louisville;
 - (c) Commissioner, or a designee, of the Department for Public Health;
 - (d) Executive director, or a designee, of the Commonwealth Office of Technology;
 - (e) Chief information officer, or a designee, of the Cabinet for Health and Family Services; and
 - (f) Five (5) members at large, appointed by the Governor, who are health professionals or third parties as those terms are defined in KRS 205.510. To ensure representation of both groups, no more than three (3) health professionals or two (2) third parties shall be members of the board at the same time. These members shall serve a term of four (4) years, may serve no more than two (2) consecutive terms, and shall be reimbursed for their costs associated with attending board meetings.
- (2) The members shall elect a chair and hold bimonthly meetings or as often as necessary for the conduct of the board's business.
- (3) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:
- (a) Establish telehealth training centers at the University of Kentucky, University of Louisville, the pediatric-affiliated hospitals at the University of Kentucky and the University of Louisville, and one (1) each in western Kentucky and eastern Kentucky, with the sites to be determined by the board;
 - (b) Develop a telehealth network, to coordinate with the training centers, of no more than twenty-five (25) rural sites, to be established based on the availability of funding and in accordance with criteria set by the board. In addition to these rural sites, the board may identify, for participation in the telehealth network, ten (10) local health departments, five (5) of which shall be administered by the University of Kentucky and five (5) of which shall be administered by the University of Louisville, and any other site that is operating as a telemedicine or telehealth site and that demonstrates its capability to follow the board's protocols and standards;
 - (c) Establish protocols and standards to be followed by the training centers and rural sites; and
 - (d) Maintain the central link for the network with the Kentucky information highway.
- (4) The board shall, following consultation with the Cabinet for Health and Family Services and the Commonwealth Office of Technology, recommend the processes and procedures for the switching and running of the telehealth network.
- (5) The University of Kentucky and the University of Louisville shall report semiannually to the Interim Joint Committee on Health and Welfare on the following areas as specified by the board through an administrative regulation promulgated in accordance with KRS Chapter 13A.
- (a) Data on utilization, performance, and quality of care;
 - (b) Quality assurance measures, including monitoring systems;
 - (c) The economic impact on and benefits to participating local communities; and
 - (d) Other matters related to telehealth at the discretion of the board.
- (6) The board shall receive and dispense funds appropriated for its use by the General Assembly or obtained through any other gift or grant.

Section 7. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- 1. The Governor.
- 2. Lieutenant Governor.
- 3. Department of State.

- (a) Secretary of State.
- (b) Board of Elections.
- (c) Registry of Election Finance.
- 4. Department of Law.
 - (a) Attorney General.
- 5. Department of the Treasury.
 - (a) Treasurer.
- 6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- 7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

- 1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
- 2. Education Cabinet:
 - (a) Office of the Secretary.
 - (b) Office of Legal Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Legislative and Intergovernmental Affairs.
 - (e) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - 3. Division of Technology Services.
 - (f) Board of Directors for the Center for School Safety.
 - (g) Council on Postsecondary Education.
 - 1. Foundation for Adult Education.
 - (h) Department of Education.
 - 1. Kentucky Board of Education.
 - (i) Department for Libraries and Archives.
 - (j) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Career and Technical Education.
 - 4. Office of Employment and Training.
 - (k) Foundation for Workforce Development.
 - (l) Kentucky Office for the Blind State Rehabilitation Council.
 - (m) Kentucky Technical Education Personnel Board.

- (n) Kentucky Workforce Investment Board.
 - (o) Statewide Council for Vocational Rehabilitation.
 - (p) Statewide Independent Living Council.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
 - (s) Kentucky Commission on the Deaf and Hard of Hearing.
 - (t) Kentucky Educational Television.
 - (u) Kentucky Environmental Education Council.
3. Environmental and Public Protection Cabinet:
- (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of Communications and Public Outreach.
 - 3. Office of Regulatory Affairs.
 - 4. Office of Legal Services.
 - 5. Office of Administrative and Information Services.
 - 6. Office of Administrative Hearings.
 - 7. Office of Inspector General.
 - 8. Mine Safety Review Commission.
 - 9. Workers' Compensation Board.
 - 10. Kentucky State Nature Preserves Commission.
 - 11. Kentucky Environmental Quality Commission.
 - 12. Kentucky Occupational Safety and Health Review Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division of Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Services.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Office of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.
 - 5. Division of Abandoned Mine Lands.
 - 6. Division of Oil and Gas Conservation.
 - 7. Office of Mine Safety and Licensing.
 - 8. Division of Forestry.
 - 9. Division of Conservation.
 - (d) Department of Public Protection.
 - 1. Office of the Commissioner.
 - 2. Division of Administrative Services.
 - 3. Crime Victims Compensation Board.

4. Board of Claims.
5. Board of Tax Appeals.
6. Kentucky Boxing and Wrestling Authority.
7. Kentucky Horse Racing Authority.
8. Kentucky Public Service Commission.
9. Office of Alcoholic Beverage Control.
10. Office of Charitable Gaming.
11. Office of Financial Institutions.
12. Office of Housing, Buildings and Construction.
13. Office of Insurance.
- (e) Department of Labor.
 1. Office of the Commissioner.
 2. Office of Occupational Safety and Health.
 3. Office of Labor Management Relations and Mediation.
 4. Office of Workplace Standards.
 5. Office of Workers' Claims.
 6. Workers' Compensation Funding Commission.
 7. Kentucky Labor Management Advisory Council.
 8. Occupational Safety and Health Standards Board.
 9. Prevailing Wage Review Board.
 10. Kentucky Employees Insurance Association.
 11. Apprenticeship and Training Council.
 12. State Labor Relations Board.
 13. Workers' Compensation Advisory Council.
 14. Workers' Compensation Nominating Commission.
 15. Employers' Mutual Insurance Authority.
 16. Division of Administrative Services.
4. Transportation Cabinet:
 - (a) Department of Highways.
 1. Office of Program Planning and Management.
 2. Office of Project Development.
 3. Office of Construction and Operations.
 4. Office of Intermodal Programs.
 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Aviation.
 - (e) Department of Intergovernmental Programs.
 1. Office of Transportation Enhancement Programs.
 2. Office of Rural and Secondary Roads.
 - (f) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of Public Affairs.
 3. Office of Transportation Delivery.
 4. Office for Business and Occupational Development.
 5. Office of Budget and Fiscal Management.
 6. Office of Legal Services.
 7. Office of Inspector General.

8. Office of the Transportation Operations Center.
9. Office of Personnel Management.
5. Cabinet for Economic Development:
 - (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
 - (g) Office of Research and Information Technology.
 - (h) Department of Commercialization and Innovation.
 - (i) Office of Legal Services.
 - (j) Commission on Small Business Advocacy.
6. Cabinet for Health and Family Services:
 - (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission for Children with Special Health Care Needs.
 - (e) Office of Health Policy.
 - (f) Office of the Secretary.
 - (g) Office of Legal Services.
 - (h) Office of Inspector General.
 - (i) Office of Legislative and Public Affairs.
 - (j) Department for Community Based Services.
 - (k) Department for Disability Determination Services.
 - (l) Office of the Ombudsman.
 - (m) Department for Human Support Services.
 - (n) Kentucky Commission on Community Volunteerism and Service.
 - (o) Office of Fiscal Services.
 - (p) Office of Human Resource Management.
 - (q) Office of Technology.
 - (r) Office of Contract Oversight.
 - (s) Governor's Office of Wellness and Physical Activity.
7. Finance and Administration Cabinet:
 - (a) Office of the Secretary.
 - ~~(b)~~ Office of General Counsel.
 - ~~(c)~~~~{(b)}~~ Office of the Controller.
 - ~~(d)~~~~{(c)}~~ Office of Administrative Services.
 - ~~(e)~~~~{(d)}~~ Office of Public Information.
 - ~~(f)~~~~{(e)}~~ Department for Facilities and Support Services.
 - ~~(g)~~~~{(f)}~~ Department of Revenue.
 - ~~(h)~~~~{(g)}~~ Commonwealth Office of Technology.
 - ~~(i)~~~~{(h)}~~ State Property and Buildings Commission.
 - ~~{(i)}~~ ~~Kentucky Savings Bond Authority.~~
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - ~~{(k)}~~ ~~County Officials Compensation Board.~~
 - ~~(k)~~~~{(j)}~~ Kentucky Employees Retirement Systems.
 - ~~(l)~~~~{(m)}~~ Commonwealth Credit Union.

- ~~(m)~~~~((n))~~ State Investment Commission.
- ~~(n)~~~~((o))~~ Kentucky Housing Corporation.
- ~~(o)~~~~((p))~~ Kentucky Local Correctional Facilities Construction Authority.
- ~~(p)~~~~((q))~~ Kentucky Turnpike Authority.
- ~~(q)~~~~((r))~~ Historic Properties Advisory Commission.
- ~~(r)~~~~((s))~~ Kentucky Tobacco Settlement Trust Corporation.
- ~~(s)~~~~((t))~~ State Board for Proprietary Education.
- ~~(t)~~~~((u))~~ Kentucky Higher Education Assistance Authority.
- ~~(u)~~~~((v))~~ Kentucky River Authority.
- ~~(v)~~~~((w))~~ Kentucky Teachers' Retirement System Board of Trustees.

8. Commerce Cabinet:

- (a) Department of Tourism.
 - (1) Division of Tourism Services.
 - (2) Division of Marketing and Advertising.
 - (3) Division of Parks Marketing.
- (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Personnel and Payroll.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Project Administration.
 - (6) Division of Customer Services.
 - (7) Division of Recreation.
 - (8) Division of Golf Courses.
 - (9) Division of Food Services.
 - (10) Division of Rangers.
 - (11) Division of Eastern Parks.
 - (12) Division of Southern Parks.
 - (13) Division of Western Parks.
- (c) Department of Fish and Wildlife Resources.
 - (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.
 - (3) Division of Engineering.
 - (4) Division of Fisheries.
 - (5) Division of Information and Education.
 - (6) Division of Wildlife.
 - (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
 - (1) Division of Expositions and Admission.
 - (2) Division of Kentucky Fair and Exposition Center Operations.
 - (3) Division of Commonwealth Convention Center.
 - (4) Division of Public Relations and Media.
 - (5) Division of Administrative Services.
 - (6) Division of Personnel Management and Staff Development.

- (7) Division of Sales.
 - (8) Division of Security and Traffic Control.
 - (f) Office of the Secretary.
 - (g) Office of Finance and Administration.
 - (h) Office of Legal Affairs.
 - (i) Office of Intergovernmental Affairs.
 - (j) Office of Human Resources.
 - (k) Office of Public Affairs and Constituent Services.
 - (l) Office of Information Technology.
 - (m) Office of the Kentucky Sports Authority.
 - (1) Kentucky Sports Authority Board.
 - (n) Office of Creative Services.
 - (o) Office of Capital Plaza Operations.
 - (p) Office of Energy Policy.
 - (1) Energy Policy Advisory Council.
 - (q) Office of Arts and Cultural Heritage.
 - (r) Kentucky African-American Heritage Commission.
 - (s) Kentucky Foundation for the Arts.
 - (t) Kentucky Humanities Council.
 - (u) Kentucky Heritage Council.
 - (v) Kentucky Arts Council.
 - (w) Kentucky Historical Society.
 - (1) Division of Museums.
 - (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
 - (x) Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
 - (y) Kentucky Artisans Center at Berea.
 - (z) Martin Luther King Commission.
 - (aa) Northern Kentucky Convention Center.
 - (ab) Eastern Kentucky Exposition Center.
9. Personnel Cabinet:
- (a) Office of the Secretary.
 - (b) Department for Personnel Administration.
 - (c) Office for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Office of Government Training.
 - (h) Department for Employee Insurance.
- III. Other departments headed by appointed officers:
- 1. Department of Military Affairs.
 - 2. Department for Local Government.
 - 3. Kentucky Commission on Human Rights.
 - 4. Kentucky Commission on Women.
 - 5. Department of Veterans' Affairs.
 - 6. Kentucky Commission on Military Affairs.

7. Office of Minority Empowerment.
8. Governor's Council on Wellness and Physical Activity.

Section 8. KRS 42.016 is amended to read as follows:

The following corporate bodies and instrumentalities of the Commonwealth shall be attached to the Office of the Secretary for administrative purposes and staff services:

- (1) State Property and Buildings Commission;
- (2) ~~Kentucky Savings Bond Authority;~~
- (3) ~~County Officials Compensation Board;~~
- (4) Kentucky Turnpike Authority;
- (3) ~~(5)~~ State Investment Commission;
- (4) ~~(6)~~ Kentucky Housing Corporation;
- (5) ~~(7)~~ Kentucky Tobacco Settlement Trust Corporation; and
- (6) ~~(8)~~ Kentucky River Authority.

Section 9. KRS 42.0171 is amended to read as follows:

- (1) The Office of Administrative Services established in KRS 42.0145 shall be generally responsible for all internal administrative and human resource functions of the cabinet, including but not limited to providing administrative assistance; managing and preparing the cabinet's budget; performing general accounting; managing fiscal, personnel, and payroll functions of the cabinet; providing statewide postal and printing services; providing administrative support to boards and commissions; and performing any additional administrative functions and duties the secretary may assign.
- (2) There shall be established in the Office of Administrative Services the Division of Budget and Planning, the Division of Human Resources, the Division of Administrative Support Services, the Division of Occupations and Professions, the Division of Postal Services, and the Division of Fleet Management ~~Printing Services~~, each of which shall be headed by a division director appointed by the secretary of the Finance and Administration Cabinet, subject to the approval of the Governor, and who shall be responsible to the executive director of the Office of Administrative Services. There may be, if needed, sections assigned to specific areas of work, responsible directly to the executive director of the Office of Administrative Services.

Section 10. KRS 42.0172 is amended to read as follows:

- ~~(1) The Division of Printing Services shall be responsible for the printing and duplicating needs of state agencies, as designated by the Finance and Administration Cabinet.~~
- (2) ~~The Division of Postal Services shall operate the centralized postal services for executive branch agencies as set forth in KRS 12.020. The division shall operate at a central location with additional locations necessary to maintain and improve service levels.~~

Section 11. KRS 42.024 is amended to read as follows:

- (1) The Office of Material and Procurement Services within the Office of the Controller shall be responsible for the performance of the cabinet's purchasing functions under KRS Chapters 45 and 45A, except those purchasing functions related to the acquisition of interests in real property, and contractual and construction services which are related to and required in connection with the construction, renovation, and repair of state-owned buildings. The Office of Material and Procurement Services shall be responsible for the control of all state-purchased personal property.
- (2) When requested by the controller, the Office of Material and Procurement Services shall conduct studies, research, and analyses relating to purchasing matters within the jurisdiction of the Finance and Administration Cabinet, and shall make reports and recommendations to the controller.
- (3) As needed, the executive director of the Office of Material and Procurement Services shall convene appropriate staff members for a discussion of problems in the procurement process and make recommendations to the controller for improvements in the process.

Section 12. KRS 42.650 is amended to read as follows:

- (1) The Division of Geographic Information is hereby established in the Office of Enterprise Policy and Project Management ~~Information Technology Policy and Planning~~ within the Commonwealth Office of Technology in the Finance and Administration Cabinet.
- (2) The Division of Geographic Information shall be headed by a division director, whose appointment is subject to KRS 12.050. The division director may employ personnel, pursuant to the provisions of KRS Chapter 18A, as required to perform the functions of the office.
- (3) The division may solicit, receive, and consider proposals for funding from any state agency, federal agency, local government, university, nonprofit organization, or private person or corporation. The division may also solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance.
- (4) The division shall:

- (a) ~~Maintain~~~~[Establish]~~ a central statewide geographic information clearinghouse ~~for~~~~[to maintain]~~ map inventories, information on current and planned geographic information systems applications, information on grants available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;
 - (b) Coordinate multiagency geographic information system projects ~~and maintain the~~~~[, including overseeing the development and maintenance of]~~ statewide base ~~map~~~~[maps]~~ and *related* geographic information systems;
 - (c) Provide access to both consulting and technical assistance, and education and training, on the application and use of geographic information technologies to state and local agencies;
 - (d) Maintain, update, and interpret geographic information and geographic information systems standards~~[, under the direction of the council]~~;
 - (e) Provide geographic information system services, as requested, to agencies wishing to augment *or initiate* their geographic information system~~[capabilities]~~;
 - (f) In cooperation with other agencies, evaluate, participate in pilot studies, and make recommendations on geographic information systems hardware and software;
 - ~~(g)[Assist the council with review of agency information resource plans and participate in special studies as requested by the council;~~
 - ~~(h)~~ Provide staff support and technical assistance to the *Kentucky Geospatial Board*~~[Geographic Information Advisory Council]~~; and
 - ~~(h)~~~~(i)~~ Prepare proposed legislation and funding proposals for the General Assembly which will further solidify coordination and expedite implementation of geographic information systems.
- (5) The division may promulgate necessary administrative regulations for the furtherance of this section.

Section 13. KRS 43.090 is amended to read as follows:

- (1) Immediately upon completion of each audit and investigation, except those provided for in KRS 43.070, the Auditor shall prepare a report of his findings and recommendations. He shall furnish one (1) copy of the report to the head of the agency to which the report pertains, one (1) copy to the Governor, one (1) copy to the secretary of the Finance and Administration Cabinet, one (1) copy to the Legislative Research Commission and one (1) copy to the state librarian. The agency to which an Auditor's draft report pertains shall respond in writing to any adverse or critical audit findings and to any recommendations contained in the draft report within fifteen (15) days of receipt of the draft report. The Auditor shall distribute the agency's response to those entitled by this subsection to a copy of the audit report. Within sixty (60) days of the completion of the final audit report, the agency to which an Auditor's report pertains shall notify the Legislative Research Commission and the Auditor of the audit recommendations it has implemented and of the audit recommendations it has not implemented. The agency shall state the reasons for its failure to implement any recommendation made in the final audit report. The Auditor shall prepare and transmit to each member of the General Assembly, by December 15 immediately preceding the convening of each regular session of the General Assembly, a printed report of his activities, summarizing the findings and recommendations in his report on each audit or investigation made since the last preceding biennial report to the General Assembly listing, by state agency, the audit recommendations that have not been implemented and the reason(s) given by state agencies for nonimplementation, and presenting such other findings and recommendations as he sees fit to make. He shall file a copy of this report with the Governor and five (5) copies with the state librarian. All audit reports shall be public documents to which taxpayers shall have access.
- (2) The Auditor shall, within a reasonable time after the examination of each county as provided in KRS 43.070, make a written report to the Governor, the General Assembly, the Attorney General,~~[the County Officials' Compensation Board,]~~ the state librarian and to the fiscal court and county attorney of the county examined, calling attention in specific terms to any mismanagement, misconduct, misapplication or illegal appropriation or extravagant use of money received or disbursed by any officer of the county examined. In addition, said report shall be sent to a newspaper having general circulation in the county examined and the letter of transmittal accompanying the report shall be published in said newspaper in accordance with the provisions of KRS Chapter 424.

Section 14. KRS 56.450 is amended to read as follows:

- (1) There is recognized, as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of the Treasury, Internal Revenue Service, a State Property and Buildings Commission composed of the Governor, who shall be chairman thereof, the Lieutenant Governor who shall be vice chairman of the commission, the Attorney General, the secretary of the Cabinet for Economic Development,~~[and]~~ the secretary of the Finance and Administration Cabinet, *and the executive director of the Office of the Controller*, or their alternates as authorized in subsection (5) of this section.
- (2) No member of the commission shall receive any salary, fee, or other remuneration for his services as a member of the commission, but each member shall be entitled to be reimbursed for his ordinary traveling expenses, including meals and lodging, incurred in the performance of his duties.
- (3) The commission shall constitute a public body corporate with perpetual succession and power in its name to contract and

be contracted with, sue and be sued, adopt bylaws, have and use a corporate seal, and exercise all of the powers granted to private corporations generally in KRS Chapter 271B, except as that chapter may be inconsistent with KRS 56.440 to 56.550.

- (4) Subject to the provisions of KRS 56.550, but notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, all revenue bonds issued by state agencies, except as provided in this chapter (but not including bonds issued directly by and in the name of the Commonwealth of Kentucky under authorization of the executive cabinet), shall be issued under the provisions of this chapter. As an additional and alternative method for the issuance of revenue bonds under the provisions of this chapter, upon application of any state agency and approval by the commission, the commission acting for and on behalf of said state agency may issue revenue bonds in its own name, in accordance with the terms and provisions of KRS Chapter 58, secured by and payable solely from all or any part of the revenues of the state agency as may be specified and provided in the approved application. Any covenants and undertakings of the state agency in the approved application with regard to the production of revenues and the use, application, or disposition thereof may be enforced by the holders of any of the revenue bonds or by any trustee for such bondholders. The issuance of any revenue bonds for the state or any of its agencies by or on behalf of the Kentucky Economic Development Finance Authority and the issuance of any revenue bonds for economic development projects authorized by Acts 1980, Ch. 109, shall require the prior approval of the State Property and Buildings Commission. In issuing bonds under its own name, or in approving issuance of bonds by other state agencies, the commission shall be deemed to be acting for the state government of the Commonwealth of Kentucky as one (1) unit within the meaning of the regulations of the United States Department of the Treasury, Internal Revenue Service, and it shall be limited to the issuance of bonds to accomplish the public purposes of that unit.
- (5) (a) Each member of the commission may designate, by an instrument in writing over his signature and filed with the secretary as a public record of the commission, an alternate with full authority to attend in the absence of the appointing member for any reason, any properly convened meeting of the commission and to participate in the consideration of, and voting upon, business and transactions of the commission. Any designation of an alternate may, in the discretion of the appointing member, be limited upon the face of the appointing instrument, to be effective only for a designated meeting or only for specified business; or the same may be shown on the face of the appointing instrument to be on a continuing basis (but in no case for a period of more than four (4) years), whenever the appointing member is unable to attend, but always subject to revocation by the appointing member in an instrument of like formality, similarly filed with the secretary as a public record of the commission. Any party transacting business with the commission, or materially affected thereby, shall be entitled to accept and rely upon a joint certificate of the secretary of the commission and any member of the commission concerning the designation of any alternate, the time of designation, the scope thereof, and if of a continuing nature, whether the same has been revoked, and when; and the joint certificate shall be made and delivered to any such party within a reasonable time after written request is made therefor with acceptable identification of the business or transaction referred, and of the requesting party's interest therein. Each alternate shall be a person on the staff of the appointing member, or in the employ of his agency or department of the government of the Commonwealth, as the case may be.
- (b) Any four (4) members of the commission, or their alternates authorized under paragraph (a) of this subsection, shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission.
- (c) The State Property and Buildings Commission is reconstituted as of October 1, 1976, with the powers herein provided.

Section 15. KRS 56.861 is amended to read as follows:

- (1) There is recognized as an independent agency of the state within the meaning of KRS Chapter 12, and as a constituted authority of the Commonwealth of Kentucky, a state and a sovereign entity within the meaning of regulations of the United States Department of Treasury, Internal Revenue Service, a Kentucky Asset/Liability Commission composed of the secretary of the Finance and Administration Cabinet, who shall be chair; the Attorney General; the State Treasurer; the executive director of the Office of the Controller, and the state budget director, or their alternates as authorized in KRS 56.865. The vice chair shall be elected from among the membership.
- (2) Any three (3) members of the commission, or their alternates, shall constitute a quorum and shall by a majority vote be authorized to transact any and all business of the commission.
- (3) No member shall receive any salary, fee, or other remuneration for services as a member of the commission, but each shall be entitled to reimbursement for ordinary traveling expenses, including meals and lodging, incurred in the performance of the member's duties.
- (4) The commission shall constitute a public body corporate with perpetual succession and power in name to contract and be contracted with, sue and be sued, adopt bylaws not inconsistent with KRS 56.860 to 56.869, have and use a corporate seal, and exercise all of the powers granted private corporations generally in KRS Chapter 271B, except as the same may be inconsistent with KRS 56.860 to 56.869.
- (5) The selection of bond counsel, senior managing underwriter, or financial advisor to the commission shall be subject to the provisions of KRS 45A.840 to 45A.879.
- (6) Notes issued pursuant to KRS 56.860 to 56.869 may be sold on a competitive or negotiated sale basis.

Section 16. KRS 64.780 is repealed, reenacted as a new section of KRS Chapter 147A, and amended to read as follows:

- (1) The Department for Local Government~~{board}~~ may at any time submit to any county official a written questionnaire concerning the affairs of his office. Every official shall answer fully and completely all questions so propounded and shall return the questionnaire to the Department for Local Government~~{chairman}~~ within fourteen (14) days.
- (2) The Department for Local Government~~{board}~~ shall submit a written report to the interim legislative committee having jurisdiction of matters relating to county government and county officials by October 1 of every odd-numbered year and to every even-numbered-year regular session of the General Assembly containing recommendations concerning the compensation of county officials, including but not limited to the following items:
 - (a) Consolidation of the offices of sheriff and jailer in all counties or in certain classes of counties;
 - (b) Methods to improve the auditing and accounting systems of county officials;
 - (c) Means to classify counties or county officials;
 - (d) Based on a classification system, salary grades for county officials for each class;
 - (e) Guidelines for the expenditure of income of the offices of county officials;
 - (f) Increase, decrease, creation, or abolishment of any state-financed compensation fund or expense account for county officials;
 - (g) Establishment of a minimum salary for county officials and the amount thereof;
 - (h) Increase or decrease in the maximum salary allowed county officials and the amount thereof;
 - (i) Revision and clarification of fee schedules of county officials; and
 - (j) Retirement system and benefits for county officials.

Section 17. KRS 131.020 is amended to read as follows:

- (1) The Department of Revenue, headed by a commissioner appointed by the secretary with the approval of the Governor, shall be organized into the following functional units:
 - (a) Office of the Commissioner of the Department of Revenue, which shall include but not be limited to the:
 1. Division of Special Investigations, headed by a director appointed by the secretary of the Finance and Administration Cabinet. The division shall investigate alleged violations of the tax laws and recommend criminal prosecution of the tax laws as warranted;
 2. Division of Tax Increment Financing, headed by a director appointed by the secretary of the Finance and Administration Cabinet. The division shall analyze and assist in implementing proposed state tax increment financing projects, including working with other government agencies to gather and evaluate the necessary tax related data for these proposed projects. The division shall work with the project agency in administering the grant contract and shall serve as the record keeping unit for all state tax increment financing projects; and
 3. Taxpayer ombudsman established by Sections 18 and 19 of this Act~~{Division of Legislative Services, headed by a division director who shall report to the commissioner of the Department of Revenue. The division shall perform such duties as providing support to the commissioner's office; managing the department's legislative efforts, including developing and drafting proposed tax legislation, coordinating review of proposed legislation, and coordinating development of administrative regulations; providing technical support and research assistance to all areas of the department; performing studies, surveys, and research projects to assist in policy-making decisions; and performing various miscellaneous duties, including working on special projects and conducting training};~~
 - (b) Office of Processing and Enforcement, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. The office shall consist of the:
 1. Division of Operations, which shall be responsible for opening all tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts, maintaining tax data, and assisting other state agencies with similar operational aspects as negotiated between the department and the other agency;
 2. Division of Collections, which shall be responsible for initiating all collection enforcement activity related to due and owing tax assessments and for assisting other state agencies with similar collection aspects as negotiated between the department and the other state agency; and
 3. Division of Registration and Data Integrity, which shall be responsible for registering businesses for tax purposes, ensuring that the data entered into the department's tax systems is accurate and complete, and assisting the taxing areas in proper procedures to ensure the accuracy of the data over time;
 - ~~{(c) Office of the Taxpayer Ombudsman. The Office of the Taxpayer Ombudsman shall be headed by an executive director, functioning as the taxpayer ombudsman as established by KRS 131.051(1) and 131.071, who shall report to the commissioner. The functions and duties of the office shall consist of those established by KRS 131.071.}~~

~~(c)~~~~(d)~~ Office of Property Valuation. The Office of Property Valuation shall be headed by an executive director who shall report directly to the commissioner. The functions and duties of the office shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuing the property of public service companies, valuing unmined coal and other mineral resources, administering personal property taxes, and collecting delinquent taxes. The Office of Property Valuation shall consist of the Divisions of:

1. Local Valuation, which shall oversee the real property tax assessment and collection process throughout the state in each county's property valuation administrator's and sheriff's office;
2. State Valuation, which shall administer all state-assessed taxes, including public service property tax, motor vehicle property tax, and the tangible and intangible tax program; and
3. Minerals Taxation and GIS Services, which shall administer the severance tax and unmined minerals property tax programs and coordinate the department's geographical information system (GIS);

~~(d)~~~~(e)~~ Office of Sales and Excise Taxes, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters relating to sales and use taxes and miscellaneous excise taxes, including but not limited to technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:

1. Division of Sales and Use Tax, which shall administer the sales and use tax; and
2. Division of Miscellaneous Taxes, which shall administer various other taxes, including but not limited to alcoholic beverage taxes; cigarette enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise tax; inheritance and estate tax; insurance premiums and insurance surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels taxes;

~~(e)~~~~(f)~~ Office of Income Taxation, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters related to income and corporation license taxes, including technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:

1. Division of Individual Income Tax, which shall administer the following taxes or returns: individual income, fiduciary, and employer withholding; and
2. Division of Corporation Tax, which shall administer the corporation income tax, corporation license tax, pass-through entity withholding, and pass-through entity reporting requirements; and

~~(f)~~~~(g)~~ Office of Field Operations, headed by an executive director who shall report directly to the commissioner. The office shall manage the regional taxpayer service centers and the field audit program.

- (2) The functions and duties of the department shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the department shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the department, and to attempt to fairly and equitably resolve tax controversies at the administrative level.
- (3) The department shall maintain an accounting structure for the one hundred twenty (120) property valuation administrators' offices across the Commonwealth in order to facilitate use of the state payroll system and the budgeting process.
- (4) Except as provided in KRS 131.190(4), the department shall fully cooperate with and make tax information available as prescribed under KRS 131.190(2) to the Governor's Office for Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.
- (5) Executive directors and division directors established under this section shall be appointed by the secretary with the approval of the Governor.

(6) The executive director for each office listed in subsection (1) of this section shall be the official custodian of records for the purpose of open records requests presented to the Department of Revenue.

Section 18. KRS 131.051 is amended to read as follows:

As used in KRS 131.041 to 131.081, unless the context requires otherwise:

- (1) "Taxpayer ombudsman" means the person appointed by the commissioner of the Department of Revenue to carry out the administrative functions and responsibilities established by~~relating to the Office of the Taxpayer Ombudsman created pursuant to~~ KRS 131.071.
- (2) "Taxpayer representative" means any attorney, tax practitioner, or other person designated by a taxpayer to represent him before the department in any matter relating to taxes administered by the department.

Section 19. KRS 131.071 is amended to read as follows:

- ~~(1) There is hereby created and established within the Department of Revenue an Office of the Taxpayer Ombudsman to be staffed with a taxpayers' rights advocate and such other support personnel as may be deemed necessary to carry out the spirit and the specific purposes of KRS 131.041 to 131.081.~~
- ~~(2) The taxpayer ombudsman shall be a person with either no less than five (5) years of tax administration experience at a~~

supervisory or management level or no less than ten (10) years of tax administration experience with at least five (5) years of experience working as an advocate for taxpayers' rights~~directly in the Office of the Taxpayer Ombudsman~~. The taxpayer ombudsman shall possess a broad general knowledge of the tax laws, regulations, systems, and procedures administered or utilized by the department.

~~(2)(3)}~~

The taxpayer ombudsman shall:

- (a) Coordinate the resolution of taxpayer complaints and problems if so requested by a taxpayer or his representative.
- (b) Provide recommendations to the department for new or revised informational publications and recommend taxpayer and department employee education programs needed to reduce or eliminate errors or improve voluntary taxpayer compliance.
- (c) Provide recommendations to the department for simplification or other improvements needed in tax laws, regulations, forms, systems, and procedures to promote better understanding and voluntary compliance by taxpayers.
- (d) At least annually, on or before October 1, prepare and submit a report to the commissioner of the Department of Revenue summarizing the activities of the taxpayer ombudsman~~Office of the Taxpayer Ombudsman~~ during the immediately preceding fiscal year describing any recommendations made pursuant to paragraphs (b) and (c) of this subsection, including the progress in implementing such recommendations, and providing such other information as the taxpayer ombudsman deems appropriate relating to the rights of Kentucky taxpayers.

Section 20. KRS 131.435 is amended to read as follows:

For purposes of accounting for the revenues received pursuant to KRS 131.410 to 131.445, the department~~cabinet~~ shall establish within the general fund a separate and distinct tax amnesty receipt account. All receipts collected as a result of the amnesty program shall be paid into this account, and all transactions involving this account shall be accounted for and reported as such.

Section 21. KRS 131.654 is amended to read as follows:

- (1) At least sixty (60) days before publishing the name of a delinquent taxpayer, the department~~cabinet~~ shall mail a written notice to the taxpayer, detailing the amount and nature of each liability and the intended publication of the information listed in KRS 131.656 related to the liability. The notice shall be mailed by first class mail addressed to the last known address of the taxpayer. The notice shall include information regarding the exceptions listed in KRS 131.652 and shall state that the taxpayer's information will not be published if the taxpayer pays the delinquent obligation, enters into an agreement to pay, or provides information establishing that KRS 131.652 prohibits publication of the taxpayer's name.
- (2) After at least sixty (60) days have elapsed since the notice was mailed and the delinquent tax or fee has not been paid and the taxpayer has not proved to the department~~cabinet~~ that KRS 131.652 prohibits publication, the department~~cabinet~~ may publish in a list of delinquent taxpayers the information about the taxpayer that is listed in KRS 131.656.

Section 22. KRS 148.522 is amended to read as follows:

- (1) The Commerce Cabinet shall consist of the Office of the Secretary, the Office of Legal Affairs, the Office of Finance and Administration, the Office of Intergovernmental Affairs, the Office of Human Resources, the Office of Public Affairs and Constituent Services, the Office of Information Technology, the Office of Energy Policy, the Office of the Kentucky Sports Authority, the Office of Arts and Cultural Heritage, the Office of Creative Services, the Office of Capital Plaza Operations, the Department of Tourism, the Kentucky Department of Parks, the Tourism Development Finance Authority, and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet subject to the provisions of KRS Chapter 12.
- (2) The Commerce Cabinet shall encourage the development of the film industry in Kentucky and shall perform all film promotional functions.
- (3) The Office of Legal Affairs shall be headed by a general counsel appointed by the secretary pursuant to KRS 12.210, shall provide legal services for the cabinet, and shall be directly responsible to the secretary.
- (4) The Department of Tourism shall be headed by a commissioner appointed by the Governor pursuant to the provisions of KRS 12.040. The commissioner shall have the authority and responsibility for the promotion, development, and support services for the tourism industry within the Commonwealth.
- (5) The Divisions of Tourism Services, Marketing and Advertising, and Parks Marketing are created within the Department of Tourism. Each division shall be headed by a division director who shall be appointed by the commissioner of the department pursuant to the provisions of KRS 12.050.
- (6) The Kentucky Gas Pipeline Authority, created in Section 30 of this Act, is established in the Office of Energy Policy.**

Section 23. KRS 151.710 is amended to read as follows:

- (1) The Governor shall appoint members to the Kentucky River Authority, created to carry out the essential public purpose of protecting the health and welfare of the people of the Commonwealth as declared in KRS 151.700.
- (2) The Governor shall appoint the secretaries of the Finance and Administration Cabinet and the Environmental and Public Protection Cabinet and ten (10) other persons as the members of the authority. The secretaries may designate alternates. Of

the ten (10) persons, one (1) shall be a registered engineer, one (1) an expert in water quality, one (1) a mayor, and one (1) a county judge/executive. The mayor and the county judge/executive shall be officers from counties which obtain the major portion of their water supply from the Kentucky River. Five (5) members shall reside in a county adjacent to the main stem of the Kentucky River, one (1) of the five (5) members residing in counties adjacent to locks and dams one (1) through four (4); and one (1) member shall reside in a county adjacent to either the North Fork, Middle Fork, or South Fork of the Kentucky River. Of the twelve (12) members, only one (1) may be an employee of the Environmental and Public Protection Cabinet.

- (3) Of the ten (10) members first appointed, two (2) shall continue in office for terms of one (1) year, two (2) for terms of two (2) years, three (3) for terms of three (3) years, and three (3) for terms of four (4) years, as the Governor designates. At the expiration of the original terms and for all succeeding terms, the Governor shall appoint a successor to the authority for a term of four (4) years in each case. Members may be reappointed. *A member may continue to serve and vote until his or her successor is appointed and qualified.* A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.
- (4) Each member shall receive as compensation one hundred dollars (\$100) per day for attending a meeting of the authority.
- (5) Any member who misses three (3) consecutive meetings of the authority shall be deemed to have vacated the office. The authority shall declare the office vacant and the office shall be filled as provided by subsections (2) and (3) of this section.
- (6) The authority annually shall elect one (1) of its members as chairman. A quorum for the transaction of business shall be *seven (7)*~~six (6)~~ members, and a majority of the members present at a meeting may take action on any matter legally before the authority.
- (7) Members shall be paid their necessary travel expenses incurred in attending meetings and in the performance of their official duties, in addition to the per diem compensation of one hundred dollars (\$100).
- (8) The authority shall meet at least quarterly, and may meet upon the call of the chairman.
- (9) The chairman shall be paid necessary travel expenses and a one hundred dollar (\$100) per diem compensation for conducting official business of the authority.
- (10) The authority shall be attached for administrative purposes to the Finance and Administration Cabinet, and the cabinet shall provide the necessary personnel to provide administrative services for the authority.
- (11) The necessary travel expenses and per diem compensation of the members of the authority in attending meetings and in the performance of their official duties shall be paid by the authority.
- (12) The authority shall promulgate administrative regulations necessary to carry out its duties, and shall report annually to the Governor and the Legislative Research Commission.

Section 24. KRS 174.020 is amended to read as follows:

- (1) The Transportation Cabinet shall consist of the following major organizational units:
 - (a) The Office of the Secretary, which shall include, but not be limited to:
 1. The secretary to be appointed by the Governor under KRS 12.255; and
 2. The deputy secretary appointed under KRS 12.040;
 - (b) The Department of Highways, headed by a commissioner, appointed by the Governor under KRS 12.040 on the recommendation of the secretary;
 - (c) The Department of Vehicle Regulation, headed by a commissioner, appointed by the secretary with the approval of the Governor, under KRS 12.040;
 - (d) The Department of Intergovernmental Programs, headed by a commissioner appointed by the Governor under KRS 12.040;
 - (e) The Department of Aviation, headed by a commissioner appointed by the Governor under KRS 12.040. The Kentucky Airport Zoning Commission established by KRS 183.861 shall be attached to the Department of Aviation for administrative purposes;
 - (f) The Department of Administrative Services, headed by a commissioner appointed by the Governor under KRS 12.040;
 - (g) The following offices, which shall be attached to the Office of the Secretary:
 1. The Office of Public Affairs, headed by an executive director appointed under KRS 12.040;
 2. The Office of Budget and Fiscal Management, headed by an executive director appointed under KRS 12.040;
 3. The Office of Transportation Delivery, headed by an executive director appointed under KRS 12.040;
 4. The Office of Legislative and Intergovernmental Affairs, headed by an executive director appointed under KRS 12.040;
 5. The Office for Business and Occupational Development, headed by an executive director appointed under KRS 12.040;

6. The Office of Legal Services, headed by an executive director appointed under KRS 12.040;
 7. The Office of Inspector General, headed by an executive director appointed under KRS 12.040;
 8. The Office of Transportation Operations Center, headed by an executive director appointed under KRS 12.040; and
 9. The Office of Personnel Management, headed by an executive director appointed under KRS 12.040;
- (h) The following offices, which shall be attached to the Department of Highways:
1. The Office of Program Planning and Management, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and known as the deputy state highway engineer for program planning and management;
 2. The Office of Project Development, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for project development;
 3. The Office of Construction and Operations, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for construction and operations;
 4. The Office of Intermodal Programs, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for intermodal programs; and
 5. Highway District Offices One through Twelve, each district office to be headed by a chief highway district engineer, appointed by the secretary upon the recommendation of the commissioner and the state highway engineer, with the approval of the Governor; and
- (i) The following offices, which shall be attached to the Department of Intergovernmental Programs:
1. Office of Transportation Enhancement Programs, headed by an executive director appointed under KRS 12.040; and
 2. Office of Rural and Secondary Roads, headed by an executive director appointed under KRS 12.040.
- (2) The positions of director in the ~~Division of Fleet Management,~~ Division of Professional Services~~,~~ and Division of Environmental Analysis are policy-making positions under KRS 18A.175.
- Section 25. KRS 205.559 is amended to read as follows:
- (1) The Cabinet for Health and Family Services and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall provide Medicaid reimbursement for a telehealth consultation that is provided by a Medicaid-participating practitioner who is licensed in Kentucky and that is provided in the telehealth network established in Section 6 of this Act~~[KRS 11.550(3)(b)]~~.
 - (2) (a) The cabinet shall establish reimbursement rates for telehealth consultations. A request for reimbursement shall not be denied solely because an in-person consultation between a Medicaid-participating practitioner and a patient did not occur.
 - (b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.
 - (3) A health-care facility that receives reimbursement under this section for consultations provided by a Medicaid-participating provider who practices in that facility and a health professional who obtains a consultation under this section shall establish quality-of-care protocols and patient confidentiality guidelines to ensure that telehealth consultations meet all requirements and patient care standards as required by law.
 - (4) The cabinet shall not require a telehealth consultation if an in-person consultation with a Medicaid-participating provider is reasonably available where the patient resides, works, or attends school or if the patient prefers an in-person consultation.
 - (5) The cabinet shall request any waivers of federal laws or regulations that may be necessary to implement this section.
 - (6) (a) The cabinet and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall study the impact of this section on the health care delivery system in Kentucky and shall, upon implementation, issue a quarterly report to the Legislative Research Commission. This report shall include an analysis of:
 1. The economic impact of this section on the Medicaid budget, including any costs or savings as a result of decreased transportation expenditures and office or emergency room visits;
 2. The quality of care as a result of telehealth consultations rendered under this section; and
 3. Any other issues deemed relevant by the cabinet.
 - (b) In addition to the analysis required under paragraph (a) of this subsection, the cabinet report shall compare telehealth reimbursement and delivery among all regional managed care partnerships or other entities under

contract with the cabinet for the administration or provision of the Medicaid program.

- (7) The cabinet shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms, records required, and authorization procedures to be followed in conjunction with this section.

Section 26. KRS 216.265 is amended to read as follows:

- (1) The Kentucky e-Health Network Board is created and is attached to the Cabinet for Health and Family Services for administrative and technical support purposes.
- (2) The board shall consist of the following voting members:
- (a) President, or a designee, of the University of Kentucky, who shall serve as co-chair of the board;
 - (b) President, or a designee, of the University of Louisville, who shall serve as co-chair of the board;
 - (c) Commissioner, or a designee, of the Department for Public Health;
 - (d) Commissioner, or a designee, of the Department for Medicaid Services;
 - (e) Executive director, or a designee, of the Commonwealth Office of Technology; and
 - (f) Nine (9) at-large members appointed by the Governor as follows:
 1. One (1) member engaged in the business of large-scale e-strategy and computer information technology;
 2. One (1) member engaged in the business of health insurance who is employed by a company that has its headquarters in Kentucky;
 3. Two (2) members from a list of four (4) individuals recommended by the Kentucky Hospital Association, one (1) representing rural hospitals, and one (1) representing urban hospitals;
 4. Two (2) physicians actively engaged in the practice of medicine in the Commonwealth from a list of four (4) physicians recommended by the Kentucky Medical Association, or self-nominated;
 5. One (1) member from a company with at least one thousand (1,000) employees selected from a list of four (4) individuals submitted by the Associated Industries of Kentucky;
 6. One (1) member with experience as a physician practice manager; and
 7. One (1) member at large.
- (3) The board shall consist of the following ex officio members who may vote, but shall not be counted toward a quorum:
- (a) Commissioner, or a designee, of the Department of Commercialization and Innovation;
 - (b) President, or a designee, of the Council on Postsecondary Education;
 - (c) Secretary, or a designee, of the Cabinet for Health and Family Services;
 - (d) Executive director, or a designee, of the Office of Insurance;
 - (e) Two (2) members of the Senate who are members of the Interim Joint Committee on Health and Welfare or the Interim Joint Committee on Banking and Insurance, appointed by the President of the Senate; and
 - (f) Two (2) members of the House of Representatives who are members of the Interim Joint Committee on Health and Welfare or the Interim Joint Committee on Banking and Insurance, appointed by the Speaker of the House.
- (4) Members of the board shall serve a term of four (4) years and may serve two (2) consecutive terms.
- (5) At the end of a term, a member of the board shall continue to serve until a successor is appointed. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed. A member of the board who serves two (2) consecutive full four (4) year terms shall not be reappointed for four (4) years after completion of those terms. Members designated in subsection (2)(a) to (e) of this section and members designated in subsection (3) of this section shall serve on the board only while holding their respective titles.
- (6) A majority of the full membership of the board shall constitute a quorum.
- (7) The board may employ staff or contract with consultants necessary for the performance of the duties of the board, subject to the appropriation of funds.
- (8) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.
- (9) Members of the board and all committees, except the advisory group created in KRS 216.267(2), shall be entitled to reimbursement for actual and necessary expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursements. The board shall meet at least monthly.
- (10) The board may appoint committees or subcommittees with the charge of investigating and making recommendations to the board on specific aspects of the Ke-HN, including but not limited to evidence-based clinical decision support, security of protected information, electronic data interchange, and clinical practice software packages, including the feasibility of developing a software purchasing alliance to decrease the cost of software and tax incentives to encourage members of the network to purchase software deemed by the board to meet the standards of KRS 216.267. The board may appoint the following committees:

- (a) Clinical Decision Support Committee;
 - (b) Privacy and Security of Protected Health Information Committee;
 - (c) Electronic Data Interchange Committee; and
 - (d) Clinical Software Review Committee.
- (11) The members of committees or subcommittees appointed by the board do not need to be members of the board. The chairs of committees or subcommittees shall be appointed by the board. The frequency of committee or subcommittee meetings shall be established by the board.
- (12) The Clinical Decision Support Committee membership shall include at least the following members:
- (a) One (1) physician with expertise in health informatics;
 - (b) Two (2) physicians actively engaged in the practice of medicine in this Commonwealth from a list of four (4) physicians recommended by the Kentucky Medical Association, or self-nominated;
 - (c) One (1) representative of a rural hospital and one (1) representative of an urban hospital;
 - (d) One (1) pharmacist;
 - (e) One (1) representative engaged in the business of health-care information technology;
 - (f) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice; and
 - (g) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated.
- (13) The Privacy and Security of Protected Health Information Committee shall include at least the following members:
- (a) One (1) physician actively engaged in the practice of medicine in this Commonwealth;
 - (b) Two (2) members with expertise in HIPAA regulations;
 - (c) Two (2) members engaged in the business of large-scale e-strategy and computer information technology;
 - (d) One (1) member who serves as a computer information officer within the health-care industry;
 - (e) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice;
 - (f) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated; and
 - (g) One (1) representative of a hospital.
- (14) The Electronic Data Interchange Committee shall include at least the following members:
- (a) Two (2) members engaged in the business of large-scale e-strategy and computer information technology;
 - (b) Two (2) members engaged in the business of health insurance who are recommended by the Kentucky Association of Health Plans, Incorporated;
 - (c) Chief information officer, or a designee, of the Office of Technology within the Cabinet for Health and Family Services;
 - (d) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice; and
 - (e) One (1) representative of a hospital.
- (15) The Clinical Software Review Committee shall include at least the following members:
- (a) One (1) member from a company that develops computer software for physician practices;
 - (b) One (1) member engaged in the business of large-scale e-strategy and computer information technology;
 - (c) Three (3) physicians, with one (1) having experience in electronic information technology;
 - (d) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice;
 - (e) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated or employed by a company which has its headquarters in Kentucky; and
 - (f) One (1) representative of a hospital.
- (16) The Governor of the Commonwealth of Kentucky may reorganize the Kentucky e-Health Network Board to include the Kentucky Telehealth Board and to reorganize the Telehealth Board under the Cabinet for Health and Family Services. If the Governor deems it appropriate, the reorganization shall create a new Telehealth Committee of the Ke-HN board with the membership and responsibilities as described under Section 6 of this Act ~~KRS 11.550~~ and shall be subject to confirmation by the General Assembly under the requirements of KRS 12.028.
- Section 27. KRS 224A.030 is amended to read as follows:

- (1) There is hereby created the Kentucky Infrastructure Authority, which authority shall be a body corporate and politic, constituting a public corporation and a governmental agency and instrumentality of the state. ~~[All powers, duties, and obligations of the Kentucky Pollution Abatement and Water Resources Finance Authority shall be transferred March 31, 1988, to the Kentucky Infrastructure Authority.]~~ The affairs of the authority shall be managed and carried out by a board consisting of nine (9) members. The secretaries of the Economic Development, Finance and Administration, and Environmental and Public Protection Cabinets; the executive director of the Public Service Commission; and the commissioner of the Department for Local Government shall serve as ex officio members of the authority. The secretaries, the executive director, and the commissioner may designate alternates. On or before August 1, 2000, the Governor shall additionally appoint five (5) at-large members. One (1) member shall be selected from a list of three (3) nominees submitted by the Kentucky Association of Counties, one (1) member selected from a list of three (3) nominees submitted by the Kentucky League of Cities, one (1) member selected from a list of three (3) nominees submitted by the Kentucky Rural Water Association, one (1) member representing for-profit private water companies, and one (1) member selected from a list of three (3) nominees submitted by the Kentucky section of the American Water Works Association. The at-large members shall serve as follows: two (2) shall serve a term ending June 30, 2004; two (2) shall serve a term ending June 30, 2003; and one (1) shall serve a term ending June 30, 2002. As the terms of the at large members expire, the Governor shall appoint successors for terms of four (4) years and until their successors are appointed. The members shall constitute the Kentucky Infrastructure Authority, with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers of the authority. In the carrying out of its purposes and the exercise by it of the powers conferred by this chapter, the authority is deemed and declared to be performing essential governmental functions and public purposes of the state.
- (2) The members of the authority shall receive no compensation for their services in said capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as such members.
- (3) Five (5) members of the authority shall constitute a quorum for the transaction of business, and in the absence of a quorum, one (1) or more members may adjourn from time to time until a quorum is convened. The members of the authority shall choose from their ranks a chair and a vice chair. The authority shall elect a secretary and a treasurer who shall not be members of the authority, each of whom shall serve at the pleasure of the authority and shall receive compensation as may be determined by the authority.
- (4) The authority shall, for administrative purposes, be attached to the Office of the Governor, and shall establish and maintain offices in premises which shall be provided for that purpose by the Finance and Administration Cabinet; and the secretary of the authority shall at all times maintain therein complete records of all of the authority's actions and proceedings which shall constitute public records open to inspection at all reasonable times.

Section 28. KRS 304.17A-138 is amended to read as follows:

- (1)
 - (a) A health benefit plan shall not exclude a service from coverage solely because the service is provided through telehealth and not provided through a face-to-face consultation if the consultation is provided through the telehealth network established under Section 6 of this Act ~~[KRS 41.550]~~. A health benefit plan may provide coverage for a consultation at a site not within the telehealth network at the discretion of the insurer.
 - (b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.
- (2) Benefits for a service provided through telehealth required by this section may be made subject to a deductible, copayment, or coinsurance requirement. A deductible, copayment, or coinsurance applicable to a particular service provided through telehealth shall not exceed the deductible, copayment, or coinsurance required by the health benefit plan for the same service provided through a face-to-face consultation.
- (3) Payment made under this section may be consistent with any provider network arrangements that have been established for the health benefit plan.
- (4) The office shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms and records required to be maintained in conjunction with this section.

Section 29. KRS 342.315 is amended to read as follows:

- (1) The executive director shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.
- (2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the executive director. Except as otherwise provided in KRS 342.316, the clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.

- (3) The executive director or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the executive director, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the executive director within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the executive director for those services.
- (4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the executive director that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.
- (5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.
- (6) Not less often than annually the designee of the secretary of the Cabinet for Health and Family Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.
- (7) The General Assembly finds that good public policy mandates the realization of the potential advantages, both economic and effectual, of the use of telemedicine and telehealth. The executive director may, to the extent that he finds it feasible and appropriate, require the use of telemedicine and telehealth practices, as authorized under Section 6 of this Act [KRS 11-550], in the independent medical evaluation process required by this chapter.

Section 30. KRS 353.752 is amended to read as follows:

- (1) There is created and established in the Office of Energy Policy within the Commerce [~~Finance and Administration~~] Cabinet a Kentucky Gas Pipeline Authority composed of the following nine (9) members:
 - (a) The secretary of the Finance and Administration Cabinet or his or her designee;
 - (b) The executive director [~~secretary~~] of the Office of Energy Policy [~~Commerce Cabinet~~] or his or her designee;
 - (c) The secretary of the Environmental and Public Protection Cabinet or his or her designee;
 - (d) A member designated by the Kentucky Oil and Gas Association;
 - (e) A member designated by the Kentucky Society of Professional Engineers who shall have experience in oil and gas pipeline construction;
 - (f) A member designated by the Kentucky Gas Association representing a natural gas distribution company with a minimum annual throughput of ten billion (10,000,000,000) cubic feet;
 - (g) A citizen member appointed by the Governor; and
 - (h) Two (2) nonvoting legislator members, one (1) appointed by the President of the Senate and one (1) by the Speaker of the House of Representatives.
- (2) Members described in paragraphs (d), (e), (f), and (g) of subsection (1) of this section shall begin their terms on August 1, 2005. The initial terms of the members described in paragraphs (d) and (e) shall be two (2) years. The initial terms of the members described in paragraphs (f) and (g) shall be three (3) years and four (4) years, respectively. All subsequent terms for those members shall be four (4) years.
- (3) Vacancies occurring during the term of any member shall be filled in the same manner as the original appointment.
- (4) The nine (9) members of the authority and their successors shall be a body corporate and politic, with perpetual succession, constituting a public corporation and a governmental agency and instrumentality of the Commonwealth. The authority shall have the power, in its corporate name, to contract and be contracted with, acquire and convey property, sue and be sued, have and use a corporate seal, and exercise all of the usual powers of corporations not inconsistent with the authority's specifically enumerated powers.
- (5) The members of the authority shall receive no compensation for their services, but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their duties under KRS 353.750 to 353.776.
- (6) The executive director [~~secretary~~] of the Office of Energy Policy [~~Finance and Administration Cabinet~~] shall serve as chair, and the members of the authority shall elect a vice chair from their membership and appoint a secretary.
- (7) The executive director [~~secretary~~] of the Office of Energy Policy [~~Finance and Administration Cabinet~~] shall designate an employee of his or her cabinet to serve as treasurer of the authority. The treasurer shall give bond to the authority for a faithful accounting for all funds coming into his or her custody, in the amount the authority may prescribe, drawn upon a surety company qualified to do business in the Commonwealth. The premium shall be paid by the Commonwealth.
- (8) The authority shall establish and maintain an office and keep accurate and complete records of the authority's actions and proceedings, which shall be available for public inspection in accordance with KRS 61.870 to 61.884. The Office of

Energy Policy~~[Finance and Administration Cabinet]~~ shall provide the funds, staff, facilities, and materials required by the authority in the conduct of its duties and functions.

Section 31. The following KRS sections are repealed:

- 8.030 Governor's Advisory Committee on Intergovernmental Relations -- Membership -- Functions -- Chairman.
- 45A.065 Procurement advisory council -- Other advisory councils -- Procurement institute.
- 56.600 Central State Hospital Recovery Authority -- Board.
- 56.601 Powers of board.
- 56.602 Attachment of authority to Finance and Administration Cabinet.
- 56.603 Expiration of KRS 56.600 to 56.602 and abolition of authority.
- 154.33-600 Definitions for KRS 154.33-600 to 154.33-609.
- 154.33-601 Red Fox Tri-County Cooperative Corporation.
- 154.33-603 Board of directors -- Members -- Terms -- Compensation.
- 154.33-605 Operation of board -- Participation of corporation's employees in Kentucky Employees Retirement System.
- 154.33-607 Powers and duties of corporation.
- 154.33-609 Use of corporate revenues -- Annual audit by State Auditor.
- 293.020 Definitions in KRS Chapter 293.
- 293.030 Kentucky Savings Bond Authority established.
- 293.040 Authority -- Membership -- Appointment -- Qualifications.
- 293.060 Officers of authority -- Election -- Quorum.
- 293.070 Commissioner and treasurer to execute surety bond.
- 293.080 Commissioners -- Compensation.
- 293.090 Officers, agents, and employees -- Contracts with financial institutions.
- 293.100 Powers and duties of authority.
- 293.110 Issuance of bonds -- Denominations.
- 293.120 Bonds issued and redeemed by bank acting as agent -- Fees.
- 293.130 Payment and redemption fund -- Operating fund.
- 293.140 Operating fund -- Excess.
- 293.150 Proceeds not taxable.
- 293.160 Trust agreement with bank.
- 293.170 Authority to borrow.

Section 32. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 33. Notwithstanding KRS 12.028 or any other statute, the General Assembly confirms the Governor's Executive Orders 2006-679, dated June 19, 2006; 2006-683, dated June 19, 2006; and 2006-684, dated June 19, 2006, all relating to the Finance and Administration Cabinet, to the extent these orders are not otherwise confirmed or superseded by this Act.

SB 56, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

- I. Cabinet for General Government - Departments headed by elected officers:
 - 1. The Governor.

2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
2. Education Cabinet:
 - (a) Office of the Secretary.
 - (b) Office of Legal Services.
 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Legislative and Intergovernmental Affairs.
 - (e) Office of Budget and Administration.
 1. Division of Human Resources.
 2. Division of Administrative Services.
 3. Division of Technology Services.
 - (f) Board of Directors for the Center for School Safety.
 - (g) Council on Postsecondary Education.
 1. Foundation for Adult Education.
 - (h) Department of Education.
 1. Kentucky Board of Education.
 - (i) Department for Libraries and Archives.
 - (j) Department of Workforce Investment.
 1. Office for the Blind.
 2. Office of Vocational Rehabilitation.
 3. Office of Career and Technical Education.
 4. Office of Employment and Training.
 - (k) Foundation for Workforce Development.

- (l) Kentucky Office for the Blind State Rehabilitation Council.
 - (m) Kentucky Technical Education Personnel Board.
 - (n) Kentucky Workforce Investment Board.
 - (o) Statewide Council for Vocational Rehabilitation.
 - (p) Statewide Independent Living Council.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
 - (s) Kentucky Commission on the Deaf and Hard of Hearing.
 - (t) Kentucky Educational Television.
 - (u) Kentucky Environmental Education Council.
3. Environmental and Public Protection Cabinet:
- (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of Communications and Public Outreach.
 - 3. Office of Regulatory Affairs.
 - 4. Office of Legal Services.
 - 5. Office of Administrative and Information Services.
 - 6. Office of Administrative Hearings.
 - 7. Office of Inspector General.
 - 8. Mine Safety Review Commission.
 - 9. Workers' Compensation Board.
 - 10. Kentucky State Nature Preserves Commission.
 - 11. Kentucky Environmental Quality Commission.
 - 12. Kentucky Occupational Safety and Health Review Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division of Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Services.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Office of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.
 - 5. Division of Abandoned Mine Lands.
 - 6. Division of Oil and Gas Conservation.
 - 7. Office of Mine Safety and Licensing.
 - 8. Division of Forestry.
 - 9. Division of Conservation.
 - (d) Department of Public Protection.
 - 1. Office of the Commissioner.

2. Division of Administrative Services.
 3. Crime Victims Compensation Board.
 4. Board of Claims.
 5. Board of Tax Appeals.
 6. Kentucky Boxing and Wrestling Authority.
 7. Kentucky Horse Racing Authority.
 8. Kentucky Public Service Commission.
 9. Office of Alcoholic Beverage Control.
 10. Office of Charitable Gaming.
 11. Office of Financial Institutions.
 12. Office of Housing, Buildings and Construction.
 13. Office of Insurance.
- (e) Department of Labor.
1. Office of the Commissioner.
 2. Office of Occupational Safety and Health.
 3. Office of Labor Management Relations and Mediation.
 4. Office of Workplace Standards.
 5. Office of Workers' Claims.
 6. Workers' Compensation Funding Commission.
 7. Kentucky Labor Management Advisory Council.
 8. Occupational Safety and Health Standards Board.
 9. Prevailing Wage Review Board.
 10. Kentucky Employees Insurance Association.
 11. Apprenticeship and Training Council.
 12. State Labor Relations Board.
 13. Workers' Compensation Advisory Council.
 14. Workers' Compensation Nominating Commission.
 15. Employers' Mutual Insurance Authority.
 16. Division of Administrative Services.
4. Transportation Cabinet:
- (a) Department of Highways.
1. Office of Program Planning and Management.
 2. Office of Project Development.
 3. Office of Construction and Operations.
 4. Office of Intermodal Programs.
 5. Highway District Offices One through Twelve.
- (b) Department of Vehicle Regulation.
- (c) Department of Administrative Services.
- (d) Department of Aviation.
- (e) Department of Intergovernmental Programs.
1. Office of Transportation Enhancement Programs.
 2. Office of Rural and Secondary Roads.
- (f) Office of the Secretary.
1. Office of Legislative and Intergovernmental Affairs.
 2. Office of Public Affairs.
 3. Office of Transportation Delivery.
 4. Office for Business and Occupational Development.
 5. Office of Budget and Fiscal Management.

6. Office of Legal Services.
 7. Office of Inspector General.
 8. Office of the Transportation Operations Center.
 9. Office of Personnel Management.
5. Cabinet for Economic Development:
- (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
 - (g) Office of Research and Information Technology.
 - (h) Department of Commercialization and Innovation.
 - (i) Office of Legal Services.
 - (j) Commission on Small Business Advocacy.
6. Cabinet for Health and Family Services:
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission for Children with Special Health Care Needs.
 - (e) Office of Health Policy.
 - (f) Office of the Secretary.
 - (g) Office of Legal Services.
 - (h) Office of Inspector General.
 - (i) Office of Legislative and Public Affairs.
 - (j) Department for Community Based Services.
 - (k) Department for Disability Determination Services.
 - (l) Office of the Ombudsman.
 - (m) Department for Human Support Services.
 - (n) Kentucky Commission on Community Volunteerism and Service.
 - (o) Office of Fiscal Services.
 - (p) Office of Human Resource Management.
 - (q) Office of Technology.
 - (r) Office of Contract Oversight.
 - (s) Governor's Office of Wellness and Physical Activity.
7. Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Department for Facilities and Support Services.
 - (f) Department of Revenue.
 - (g) Commonwealth Office of Technology.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Savings Bond Authority.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) County Officials Compensation Board.
 - (l) Kentucky Employees Retirement Systems.

- (m) Commonwealth Credit Union.
 - (n) State Investment Commission.
 - (o) Kentucky Housing Corporation.
 - (p) Kentucky Local Correctional Facilities Construction Authority.
 - (q) Kentucky Turnpike Authority.
 - (r) Historic Properties Advisory Commission.
 - (s) Kentucky Tobacco Settlement Trust Corporation.
 - (t) State Board for Proprietary Education.
 - (u) Kentucky Higher Education Assistance Authority.
 - (v) Kentucky River Authority.
 - (w) Kentucky Teachers' Retirement System Board of Trustees.
8. Commerce Cabinet:
- (a) Department of Tourism.
 - (1) Division of Tourism Services.
 - (2) Division of Marketing and Advertising.
 - (3) Division of Parks Marketing.
 - (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Personnel and Payroll.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Facilities Maintenance~~[Project Administration]~~.
 - (6) Division of Customer Services.
 - (7) Division of Recreation.
 - (8) Division of Golf Courses.
 - (9) Division of Food Services.
 - (10) Division of Rangers.
 - (11) Division of Eastern Parks.
 - (12) Division of Southern Parks.
 - (13) Division of Western Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.
 - (3) Division of Engineering.
 - (4) Division of Fisheries.
 - (5) Division of Information and Education.
 - (6) Division of Wildlife.
 - (7) Division of Public Affairs.
 - (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
 - (e) Kentucky State Fair Board.
 - (1) Division of Expositions and Admission.
 - (2) Division of Kentucky Fair and Exposition Center Operations.
 - (3) Division of Commonwealth Convention Center.
 - (4) Division of Public Relations and Media.
 - (5) Division of Administrative Services.

- (6) Division of Personnel Management and Staff Development.
 - (7) Division of Sales.
 - (8) Division of Security and Traffic Control.
 - (f) Office of the Secretary.
 - (g) Office of Finance and Administration.
 - (h) Office of Legal Affairs.
 - (i) Office of Intergovernmental Affairs.
 - (j) Office of Human Resources.
 - (k) Office of Public Affairs and Constituent Services.
 - (l) Office of Information Technology.
 - (m) Office of the Kentucky Sports Authority.
 - (1) Kentucky Sports Authority Board.
 - (n) Office of Creative Services.
 - (o) Office of Capital Plaza Operations.
 - (p) Office of Energy Policy.
 - (1) Energy Policy Advisory Council.
 - (q) Office of Arts and Cultural Heritage.
 - (r) Kentucky African-American Heritage Commission.
 - (s) Kentucky Foundation for the Arts.
 - (t) Kentucky Humanities Council.
 - (u) Kentucky Heritage Council.
 - (v) Kentucky Arts Council.
 - (w) Kentucky Historical Society.
 - (1) Division of Museums.
 - (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
 - (x) Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
 - (y) Kentucky Artisans Center at Berea.
 - (z) Martin Luther King Commission.
 - (aa) Northern Kentucky Convention Center.
 - (ab) Eastern Kentucky Exposition Center.
9. Personnel Cabinet:
- (a) Office of the Secretary.
 - (b) Department for Personnel Administration.
 - (c) Office for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Office of Government Training.
 - (h) Department for Employee Insurance.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Department for Local Government.
- 3. Kentucky Commission on Human Rights.
- 4. Kentucky Commission on Women.
- 5. Department of Veterans' Affairs.

6. Kentucky Commission on Military Affairs.
7. Office of Minority Empowerment.
8. Governor's Council on Wellness and Physical Activity.

Section 2. The General Assembly confirms Executive Order 2006-1505, dated December 5, 2006, to the extent it is not otherwise confirmed or superseded by this Act.

SB 58, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
2. Education Cabinet:
 - (a) Office of the Secretary.
 - (b) Office of Legal Services.
 1. Client Assistance Program.
 - (c) Office of Communication.

- (d) Office of Legislative and Intergovernmental Affairs.
 - (e) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - 3. Division of Technology Services.
 - (f) Board of Directors for the Center for School Safety.
 - (g) Council on Postsecondary Education.
 - 1. Foundation for Adult Education.
 - (h) Department of Education.
 - 1. Kentucky Board of Education.
 - (i) Department for Libraries and Archives.
 - (j) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Career and Technical Education.
 - 4. Office of Employment and Training.
 - (k) Foundation for Workforce Development.
 - (l) Kentucky Office for the Blind State Rehabilitation Council.
 - (m) Kentucky Technical Education Personnel Board.
 - (n) Kentucky Workforce Investment Board.
 - (o) Statewide Council for Vocational Rehabilitation.
 - (p) Statewide Independent Living Council.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
 - (s) Kentucky Commission on the Deaf and Hard of Hearing.
 - (t) Kentucky Educational Television.
 - (u) Kentucky Environmental Education Council.
3. Environmental and Public Protection Cabinet:
- (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of Communications and Public Outreach.
 - 3. Office of Regulatory Affairs.
 - 4. Office of Legal Services.
 - 5. Office of Administrative and Information Services.
 - 6. Office of Administrative Hearings.
 - 7. Office of Inspector General.
 - 8. Mine Safety Review Commission.
 - 9. Workers' Compensation Board.
 - 10. Kentucky State Nature Preserves Commission.
 - 11. Kentucky Environmental Quality Commission.
 - 12. Kentucky Occupational Safety and Health Review Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division of Air Quality.

3. Division of Water.
4. Division of Environmental Services.
5. Division of Waste Management.
6. Division of Enforcement.
7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
 1. Office of the Commissioner.
 2. Office of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas Conservation.
 7. Office of Mine Safety and Licensing.
 8. Division of Forestry.
 9. Division of Conservation.
- (d) Department of Public Protection.
 1. Office of the Commissioner.
 2. Division of Administrative Services.
 3. Crime Victims Compensation Board.
 4. Board of Claims.
 5. Board of Tax Appeals.
 6. Kentucky Boxing and Wrestling Authority.
 7. Kentucky Horse Racing Authority.
 8. Kentucky Public Service Commission.
 9. Office of Alcoholic Beverage Control.
 10. Office of Charitable Gaming.
 11. Office of Financial Institutions.
 12. Office of Housing, Buildings and Construction.
 13. Office of Insurance.
- (e) Department of Labor.
 1. Office of the Commissioner.
 2. Office of Occupational Safety and Health.
 3. Office of Labor Management Relations and Mediation.
 4. Office of Workplace Standards.
 5. Office of Workers' Claims.
 6. Workers' Compensation Funding Commission.
 7. Kentucky Labor Management Advisory Council.
 8. Occupational Safety and Health Standards Board.
 9. Prevailing Wage Review Board.
 10. Kentucky Employees Insurance Association.
 11. Apprenticeship and Training Council.
 12. State Labor Relations Board.
 13. Workers' Compensation Advisory Council.
 14. Workers' Compensation Nominating Commission.
 15. Employers' Mutual Insurance Authority.
 16. Division of Administrative Services.
4. Transportation Cabinet:
 - (a) Department of Highways.

1. Office of Program Planning and Management.
2. Office of Project Development.
3. Office of Construction and Operations.
4. Office of Intermodal Programs.
5. Highway District Offices One through Twelve.
- (b) Department of Vehicle Regulation.
- (c) Department of Administrative Services.
- (d) Department of Aviation.
- (e) Department of Intergovernmental Programs.
 1. Office of Transportation Enhancement Programs.
 2. Office of Rural and Secondary Roads.
- (f) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of Public Affairs.
 3. Office of Transportation Delivery.
 4. Office for Business and Occupational Development.
 5. Office of Budget and Fiscal Management.
 6. Office of Legal Services.
 7. Office of Inspector General.
 8. Office of the Transportation Operations Center.
 9. Office of Personnel Management.
5. Cabinet for Economic Development:
 - (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
 - (g) Office of Research and Information Technology.
 - (h) Department of Commercialization and Innovation.
 - (i) Office of Legal Services.
 - (j) Commission on Small Business Advocacy.
6. Cabinet for Health and Family Services:
 - (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission for Children with Special Health Care Needs.
 - (e) Office of Health Policy.
 - (f) Office of the Secretary.
 - (g) Office of Legal Services.
 - (h) Office of Inspector General.
 - (i) Office of Legislative and Public Affairs.
 - (j) Department for Community Based Services.
 - (k) Department for Disability Determination Services.
 - (l) Office of the Ombudsman.
 - (m) Department for Human Support Services.
 - (n) Kentucky Commission on Community Volunteerism and Service.
 - (o) Office of Fiscal Services.

- (p) Office of Human Resource Management.
 - (q) Office of Technology.
 - (r) Office of Contract Oversight.
 - (s) Governor's Office of Wellness and Physical Activity.
7. Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Department for Facilities and Support Services.
 - (f) Department of Revenue.
 - (g) Commonwealth Office of Technology.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Savings Bond Authority.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) County Officials Compensation Board.
 - (l) Kentucky Employees Retirement Systems.
 - (m) Commonwealth Credit Union.
 - (n) State Investment Commission.
 - (o) Kentucky Housing Corporation.
 - (p) Kentucky Local Correctional Facilities Construction Authority.
 - (q) Kentucky Turnpike Authority.
 - (r) Historic Properties Advisory Commission.
 - (s) Kentucky Tobacco Settlement Trust Corporation.
 - (t) State Board for Proprietary Education.
 - (u) Kentucky Higher Education Assistance Authority.
 - (v) Kentucky River Authority.
 - (w) Kentucky Teachers' Retirement System Board of Trustees.
8. Commerce Cabinet:
- (a) Department of Tourism.
 - (1) Division of Tourism Services.
 - (2) Division of Marketing and Advertising.
 - (3) Division of Parks Marketing.
 - (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Personnel and Payroll.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Project Administration.
 - (6) Division of Customer Services.
 - (7) Division of Recreation.
 - (8) Division of Golf Courses.
 - (9) Division of Food Services.
 - (10) Division of Rangers.
 - (11) Division of Eastern Parks.
 - (12) Division of Southern Parks.
 - (13) Division of Western Parks.
 - (c) Department of Fish and Wildlife Resources.

- (1) Division of Law Enforcement.
- (2) Division of Administrative Services.
- (3) Division of Engineering.
- (4) Division of Fisheries.
- (5) Division of Information and Education.
- (6) Division of Wildlife.
- (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
 - (1) Division of Expositions and Admission.
 - (2) Division of Kentucky Fair and Exposition Center Operations.
 - (3) Division of Commonwealth Convention Center.
 - (4) Division of Public Relations and Media.
 - (5) Division of Administrative Services.
 - (6) Division of Personnel Management and Staff Development.
 - (7) Division of Sales.
 - (8) Division of Security and Traffic Control.
- (f) Office of the Secretary.
- (g) Office of Finance and Administration.
- (h) Office of Legal Affairs.
- (i) Office of Intergovernmental Affairs.
- (j) Office of Human Resources.
- (k) Office of Public Affairs and Constituent Services.
- (l) Office of Information Technology.
- (m) Office of the Kentucky Sports Authority.
 - (1) Kentucky Sports Authority Board.
- (n) Office of Creative Services.
- (o) Office of Capital Plaza Operations.
- (p) Office of Energy Policy.
 - (1) Energy Policy Advisory Council.
- (q) Office of Arts and Cultural Heritage.
- (r) Kentucky African-American Heritage Commission.
- (s) Kentucky Foundation for the Arts.
- (t) Kentucky Humanities Council.
- (u) Kentucky Heritage Council.
- (v) Kentucky Arts Council.
- (w) Kentucky Historical Society.
 - (1) Division of Museums.
 - (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
- (x) Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
- (y) Kentucky Artisans Center at Berea.
- (z) Martin Luther King Commission.

- (aa) Northern Kentucky Convention Center.
- (ab) Eastern Kentucky Exposition Center.
- 9. Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department for Personnel Administration.
 - (c) Office for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Office for Employee and Organizational Development~~[of Government Training]~~.
 - (h) Department for Employee Insurance.
 - (i) Office of Communication.
 - (j) Office of Human Resource Planning and Diversity Initiatives.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Department for Local Government.
- 3. Kentucky Commission on Human Rights.
- 4. Kentucky Commission on Women.
- 5. Department of Veterans' Affairs.
- 6. Kentucky Commission on Military Affairs.
- 7. Office of Minority Empowerment.
- 8. Governor's Council on Wellness and Physical Activity.

Section 2. KRS 18A.025 is amended to read as follows:

- (1) The Governor shall appoint the secretary of personnel as provided in KRS 18A.015, who shall be considered an employee of the state. He shall be a graduate of an accredited college or university and have at least five (5) ~~years~~years experience in personnel administration or in related fields, have known sympathies with the merit principle in government and shall be dedicated to the preservation of this principle. Additional education may be substituted for the required experience and additional experience may be substituted for the required education.
- (2) The secretary of the Personnel Cabinet or his designee, shall be responsible for the coordination of the state's affirmative action plan, established by KRS 18A.138.
- (3) There is established within the Personnel Cabinet the following offices, departments, and divisions, each of which shall be headed by either a commissioner, executive director, or division director appointed by the secretary, subject to the prior approval of the Governor pursuant to KRS 12.040 or 12.050, depending on the level of the appointment. The Kentucky Employees Deferred Compensation Authority shall be headed by an executive director who shall be appointed by the authority's board of directors:
 - (a) Office of the Secretary, which shall be responsible for~~[the administration and coordination of the following programs]:~~
 - 1. Providing executive policy and management support to the offices and divisions within the cabinet;
 - 2. Promulgating administrative regulations pursuant to the statutory authority granted to the secretary of the cabinet;
 - 3. Advising the Personnel Board on matters pertaining to the classified service;
 - 4. Conducting investigations regarding state personnel laws and regulations;
 - 5. Preparing budget estimates for the personnel system; and
 - 6. Providing personnel services to the employees in the unclassified service~~[The state Equal Employment Opportunity Program;~~
 - 2. ~~The state Minority Management Program; and~~
 - 3. ~~The state's affirmative action plan established in KRS 18A.138].~~

The Kentucky Public Employees Deferred Compensation Authority shall be attached to the Office of the Secretary for administrative purposes only. The authority shall be governed by a board of trustees composed of seven (7) members including the secretary of finance and administration, ex officio; the secretary of personnel, ex officio; the state controller, ex officio; and four (4) at large members appointed by the Governor, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall represent a nonstate employer.

The authority shall be headed by an executive director who shall be appointed by the board of directors of the authority without the limitations imposed by KRS 12.040 and KRS Chapter 18A;

(b) Department for Personnel Administration, composed of the:

1. Division of Employee Management, which shall be responsible for payroll, records, classification, and compensation~~[-and performance management]~~ functions. The division shall also be responsible for implementing lay-off plans mandated by KRS 18A.113 to 18A.1132 and shall monitor and assist state agencies in complying with the provisions of the Federal Fair Labor Standards Act (FLSA). The division shall:
 - a. Maintain the central personnel files mandated by KRS 18A.020 and process personnel documents and position actions;
 - b. Operate and maintain a uniform payroll system and certify payrolls as required by KRS 18A.125; and
 - c. Maintain plans of classification and compensation for state service and review and evaluate the plans;~~[-and~~
 - d. ~~Coordinate and implement the employee performance evaluation systems throughout state government;~~
2. Division of Staffing Services, which shall be responsible for employment counseling, applicant processing, employment register, and staffing analysis functions. The division shall:
 - a. Operate a centralized applicant and employee counseling program;
 - b. Operate, coordinate, and construct the examination program for State employment;
 - c. Prepare registers of candidate employment; and
 - d. Coordinate outreach programs, such as recruitment and the Administrative Intern Program; and
3. **Division of Human Resource Projects, which shall be responsible for the design, development, and implementation of strategic human resource projects;**

(c) Office for Employee Relations, composed of the following divisions:

1. Division of Employee Benefits, which shall consist of the following:
 - a. Workers' Compensation Program pursuant to KRS 18A.375;
 - b. Life Insurance Program pursuant to KRS 18A.205 to KRS 18A.220;
 - c. Sick leave Sharing Program, pursuant to KRS 18A.197;
 - d. Annual Leave Sharing Program, pursuant to KRS 18A.203; and
 - e. Health and Safety Programs (OSHA);~~[-and~~
 - f. ~~Employee Assistance Program;~~
2. Division of Employee Services~~Communications~~ and Recognition, which shall:
 - a. ~~Communicate with state employees about personnel issues and other relevant issues through publications;~~
 - b. ~~Administer the employee incentive programs established by KRS 18A.202;~~~~[-and]~~
 - b. [e.] Provide dispute resolution assistance to state employees and agencies; and
 - c. Administer the Kentucky Employee Assistance Program;

(d) Department for Employee Insurance, which shall contain the following divisions~~be responsible for the~~:

1. **Division of Insurance Administration, which shall be responsible for member service, enrollment information, and insurance administration training. The division shall be responsible for the health insurance program pursuant to KRS 18A.225;**
2. **Division of Financial and Data Services, which shall be responsible for providing data analysis and financial management; and**
3. **Division of Member Benefits, which shall be responsible for the Health Insurance Wellness Program and flexible benefits pursuant to KRS 18A.225 and 18A.227, and other special programs as assigned**~~Health Insurance Program, pursuant to KRS 18A.225; and~~
2. ~~Flexible Benefit Plan, pursuant to KRS 18A.227;~~

(e) Office of Administrative Services, which shall be responsible for the Personnel Cabinet's Administrative Services;

(f) Office of Legal Services, which shall provide legal services to the Personnel Cabinet and to executive branch agencies and their representatives, upon request;~~[-and]~~

(g) Office for Employee and Organizational Development~~of Government Training~~, which shall improve individual and organizational performance throughout state government through employee and managerial training,

consultation, and survey research services;

- (h) Office of Communications, which shall disseminate information and provide public relations expertise to the cabinet; and
- (i) Office of Human Resource Planning and Diversity Initiatives, which shall be responsible for coordination of human resource planning and diversity initiatives for all state agencies, affirmative action compliance, the state Equal Employment Opportunity Program, and the Minority Management Program. The office shall consist of the following divisions:
 - 1. Division of Equal Employment Opportunity, which shall administer the state's affirmative action plan established in KRS 18A.138, equal employment activities, and related activities; and
 - 2. Division of Diversity Relations, which shall report to the Executive Director regarding its efforts to increase diversity retention, training, and relations within the state workforce.

- (4) The cabinet shall include principal assistants appointed by the secretary, pursuant to KRS 12.050 or 18A.115(1)(g) and (h), as necessary for the development and implementation of policy. The secretary may employ, pursuant to the provisions of this chapter, personnel necessary to execute the functions and duties of the department.

Section 3. KRS 164.357 is amended to read as follows:

- (1) There is established as a separate administrative body of state government the Office of Employee and Organizational Development~~{Governmental Services Center}~~ at Kentucky State University which shall be attached to the Personnel Cabinet for administrative purposes. The office~~{center}~~ shall be governed by the Office for Employee and Organizational Development Authority~~{Governmental Services Center Authority}~~.
- (2) The authority shall consist of the president of Kentucky State University, who shall be chairman, the secretary of the Finance and Administration Cabinet, the secretary of the Personnel Cabinet, two (2) members appointed by the Governor, each of whom shall serve as ex officio voting members of the authority, and two (2) other voting members to be appointed by the chairman of the authority. Appointed members shall be citizens and residents of the Commonwealth of Kentucky. The initial term of one (1) of the members appointed by the chairman shall be for two (2) years, and the initial term of the other appointed member shall be for a term of four (4) years; thereafter, all appointments shall be for terms of four (4) years, but appointed members shall be removable at will by the chairman of the authority.
- (3) The Office for Employee and Organizational Development~~{Governmental Services Center}~~ at Kentucky State University, under direction of the authority, shall be responsible for the development, coordination, content, approval, and implementation of all training, employee development, and related programs conducted for and on behalf of all program cabinets, departments, administrative bodies, and program managers of the state government. The office~~{center}~~ shall conduct, or cause to be conducted, ongoing management training programs for all program managers and supervisors within the executive branch of state government. The organizational units whose supervisors and managers received training as provided in this subsection~~{at the center}~~ shall share the cost of the training on a pro rata basis. The office~~{center}~~ shall encourage the enrollment of state employees in academic courses and programs at Kentucky State University. If desired academic courses are not available at the university, and cannot feasibly be developed by the university, other universities and community colleges within the Commonwealth shall be utilized. The authority shall determine the appropriateness of all such programs.
- (4) The authority may employ an executive director and other employees necessary to perform the functions of the center in accordance with the provisions of KRS Chapter 18A. The executive director or any staff member of the office~~{center}~~ may concurrently hold faculty appointments of appropriate rank at Kentucky State University~~{concurrently}~~ with their employment by the office~~{center}~~, and subject to the provisions of KRS 164.360 and 164.365~~{faculty appointments of appropriate rank at Kentucky State University}~~.
- (5) Members of the authority who are not either state or university employees shall be reimbursed for their actual expenses in attending meetings for the authority.

Section 4. KRS 164.3571 is amended to read as follows:

- (1) The Office for Employee and Organizational Development~~{Governmental Services Center}~~ may, upon request, of the Department for Local Government, and as financial and staff resources permit, develop, coordinate, implement, assist, and conduct employee and management training programs, seminars, and conferences, for agencies, departments, divisions, boards, and commissions of county and city government, and any other political subdivisions of the state.
- (2) The Office for Employee and Organizational Development~~{Governmental Services Center}~~ may enter into contractual agreements with county and city governments and other political subdivisions as necessary to allow the Office for Employee and Organizational Development~~{Governmental Services Center}~~ to properly perform its duties and responsibilities as established by KRS 164.3571 to 164.3573.
- (3) Any agency of a county, city, or other political subdivision whose employees receive the benefit of the Office for Employee and Organizational Development's~~{Governmental Services Center's}~~ services, shall reimburse the office~~{Governmental Services Center}~~ for those costs and expenses which it incurs as a result of providing these services.

Section 5. KRS 164.3572 is amended to read as follows:

- (1) In furtherance of the Commonwealth's economic development programs, the *Office for Employee and Organizational Development*~~[Governmental Services Center]~~ may, upon request of the Cabinet for Economic Development and as financial and staff resources permit, develop, coordinate, implement, assist, and provide private industry with consultation, research, programs, and employee assessment services.
- (2) The *office*~~[Governmental Services Center]~~ may enter into contractual agreements with private industry, as necessary to allow the *office*~~[Governmental Services Center]~~ to properly perform its duties and responsibilities as established by KRS 164.3571 to 164.3573.
- (3) Any private industry whose employees or prospective employees receive the benefit of any of the *office*~~[Governmental Services Center's]~~ programs shall reimburse the *office*~~[Governmental Services Center]~~ for the costs and expenses which it incurs as a result of developing, coordinating, implementing, and conducting any of the programs or services provided in KRS 164.3571 to 164.3573.

Section 6. KRS 164.3573 is amended to read as follows:

The receipts for services rendered by the *Office for Employee and Organizational Development*~~[Governmental Services Center]~~ pursuant to KRS 164.3571 to 164.3573 shall be deposited in the State Treasury and credited to the trust and agency fund of the *Office for Employee and Organizational Development*~~[Governmental Services Center's]~~ operating account.

Section 7. Nothing in Section 2 of this Act or in KRS 12.270 shall be construed to limit or remove any powers granted pursuant to KRS Chapter 18A to the Personnel Board, nor shall the language in Section 2 of this Act be construed to place the Personnel Board under the control of the Personnel Cabinet.

Section 8. In order to reflect the reorganization effectuated by the Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 9. The General Assembly hereby confirms Executive Order 2006-680, dated June 19, 2006, relating to the reorganization of the Personnel Cabinet, to the extent it is not otherwise confirmed or superseded by this Act.

SB 59, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

- (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
2. Education Cabinet:
- (a) Office of the Secretary.
 - (b) Office of Legal Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Legislative and Intergovernmental Affairs.
 - (e) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - 3. Division of Technology Services.
 - (f) Board of Directors for the Center for School Safety.
 - (g) Council on Postsecondary Education.
 - 1. Foundation for Adult Education.
 - (h) Department of Education.
 - 1. Kentucky Board of Education.
 - (i) Department for Libraries and Archives.
 - (j) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Career and Technical Education.
 - 4. Office of Employment and Training.
 - (k) Foundation for Workforce Development.
 - (l) Kentucky Office for the Blind State Rehabilitation Council.
 - (m) Kentucky Technical Education Personnel Board.
 - (n) Kentucky Workforce Investment Board.
 - (o) Statewide Council for Vocational Rehabilitation.
 - (p) Statewide Independent Living Council.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
 - (s) Kentucky Commission on the Deaf and Hard of Hearing.
 - (t) Kentucky Educational Television.
 - (u) Kentucky Environmental Education Council.
3. Environmental and Public Protection Cabinet:

- (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of Communications and Public Outreach.
 - 3. Office of Regulatory Affairs.
 - 4. Office of Legal Services.
 - 5. Office of Administrative and Information Services.
 - 6. Office of Administrative Hearings.
 - 7. Office of Inspector General.
 - 8. Mine Safety Review Commission.
 - 9. Workers' Compensation Board.
 - 10. Kentucky State Nature Preserves Commission.
 - 11. Kentucky Environmental Quality Commission.
 - 12. Kentucky Occupational Safety and Health Review Commission.
- (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division of Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Services.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Office of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.
 - 5. Division of Abandoned Mine Lands.
 - 6. Division of Oil and Gas Conservation.
 - 7. Office of Mine Safety and Licensing.
 - 8. Division of Forestry.
 - 9. Division of Conservation.
- (d) Department of Public Protection.
 - 1. Office of the Commissioner.
 - 2. Division of Administrative Services.
 - 3. Crime Victims Compensation Board.
 - 4. Board of Claims.
 - 5. Board of Tax Appeals.
 - 6. Kentucky Boxing and Wrestling Authority.
 - 7. Kentucky Horse Racing Authority.
 - 8. Kentucky Public Service Commission.
 - 9. Office of Alcoholic Beverage Control.
 - 10. Office of Charitable Gaming.
 - 11. Office of Financial Institutions.
 - 12. Office of Housing, Buildings and Construction.
 - 13. Office of Insurance.
- (e) Department of Labor.
 - 1. Office of the Commissioner.
 - 2. Office of Occupational Safety and Health.

3. Office of Labor Management Relations and Mediation.
 4. Office of Workplace Standards.
 5. Office of Workers' Claims.
 6. Workers' Compensation Funding Commission.
 7. Kentucky Labor Management Advisory Council.
 8. Occupational Safety and Health Standards Board.
 9. Prevailing Wage Review Board.
 10. Kentucky Employees Insurance Association.
 11. Apprenticeship and Training Council.
 12. State Labor Relations Board.
 13. Workers' Compensation Advisory Council.
 14. Workers' Compensation Nominating Commission.
 15. Employers' Mutual Insurance Authority.
 16. Division of Administrative Services.
4. Transportation Cabinet:
- (a) Department of Highways.
 1. ~~Office of Program Planning and Management.~~
 2. ~~Office of Project Development.~~
 2. ~~3.~~ Office of ***Project Delivery*** ~~Construction and Operations~~.
 3. ~~4.~~ Office of ***System Preservation and Operations*** ~~Intermodal Programs~~.
 4. ~~5.~~ Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of ***Transportation Safety*** ~~Administrative Services~~.
 - (d) Department of Aviation.
 - (e) Department of ***Governmental Relations*** ~~Intergovernmental Programs~~.
 1. Office of ***Special*** ~~Transportation Enhancement~~ Programs.
 2. Office of Rural and Secondary Roads.
 3. ***Office of Transportation Delivery.***
 - (f) Office of the Secretary.
 1. Office of ***Support Services*** ~~Legislative and Intergovernmental Affairs~~.
 2. Office of Public Affairs.
 3. Office of ***Information Technology*** ~~Transportation Delivery~~.
 4. Office for Business and Occupational Development.
 5. Office of Budget and Fiscal Management.
 6. Office of Legal Services.
 7. Office of Inspector General.
 8. ~~Office of the Transportation Operations Center.~~
 9. ~~Office of Personnel Management.~~
5. Cabinet for Economic Development:
- (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
 - (g) Office of Research and Information Technology.
 - (h) Department of Commercialization and Innovation.
 - (i) Office of Legal Services.

- (j) Commission on Small Business Advocacy.
- 6. Cabinet for Health and Family Services:
 - (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission for Children with Special Health Care Needs.
 - (e) Office of Health Policy.
 - (f) Office of the Secretary.
 - (g) Office of Legal Services.
 - (h) Office of Inspector General.
 - (i) Office of Legislative and Public Affairs.
 - (j) Department for Community Based Services.
 - (k) Department for Disability Determination Services.
 - (l) Office of the Ombudsman.
 - (m) Department for Human Support Services.
 - (n) Kentucky Commission on Community Volunteerism and Service.
 - (o) Office of Fiscal Services.
 - (p) Office of Human Resource Management.
 - (q) Office of Technology.
 - (r) Office of Contract Oversight.
 - (s) Governor's Office of Wellness and Physical Activity.
- 7. Finance and Administration Cabinet:
 - (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Department for Facilities and Support Services.
 - (f) Department of Revenue.
 - (g) Commonwealth Office of Technology.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Savings Bond Authority.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) County Officials Compensation Board.
 - (l) Kentucky Employees Retirement Systems.
 - (m) Commonwealth Credit Union.
 - (n) State Investment Commission.
 - (o) Kentucky Housing Corporation.
 - (p) Kentucky Local Correctional Facilities Construction Authority.
 - (q) Kentucky Turnpike Authority.
 - (r) Historic Properties Advisory Commission.
 - (s) Kentucky Tobacco Settlement Trust Corporation.
 - (t) State Board for Proprietary Education.
 - (u) Kentucky Higher Education Assistance Authority.
 - (v) Kentucky River Authority.
 - (w) Kentucky Teachers' Retirement System Board of Trustees.
- 8. Commerce Cabinet:
 - (a) Department of Tourism:
 - (1) Division of Tourism Services.

- (2) Division of Marketing and Advertising.
- (3) Division of Parks Marketing.
- (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Personnel and Payroll.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Project Administration.
 - (6) Division of Customer Services.
 - (7) Division of Recreation.
 - (8) Division of Golf Courses.
 - (9) Division of Food Services.
 - (10) Division of Rangers.
 - (11) Division of Eastern Parks.
 - (12) Division of Southern Parks.
 - (13) Division of Western Parks.
- (c) Department of Fish and Wildlife Resources.
 - (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.
 - (3) Division of Engineering.
 - (4) Division of Fisheries.
 - (5) Division of Information and Education.
 - (6) Division of Wildlife.
 - (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
 - (1) Division of Expositions and Admission.
 - (2) Division of Kentucky Fair and Exposition Center Operations.
 - (3) Division of Commonwealth Convention Center.
 - (4) Division of Public Relations and Media.
 - (5) Division of Administrative Services.
 - (6) Division of Personnel Management and Staff Development.
 - (7) Division of Sales.
 - (8) Division of Security and Traffic Control.
- (f) Office of the Secretary.
- (g) Office of Finance and Administration.
- (h) Office of Legal Affairs.
- (i) Office of Intergovernmental Affairs.
- (j) Office of Human Resources.
- (k) Office of Public Affairs and Constituent Services.
- (l) Office of Information Technology.
- (m) Office of the Kentucky Sports Authority.
 - (1) Kentucky Sports Authority Board.
- (n) Office of Creative Services.
- (o) Office of Capital Plaza Operations.

2007 Regular Session

- (p) Office of Energy Policy.
 - (1) Energy Policy Advisory Council.
 - (q) Office of Arts and Cultural Heritage.
 - (r) Kentucky African-American Heritage Commission.
 - (s) Kentucky Foundation for the Arts.
 - (t) Kentucky Humanities Council.
 - (u) Kentucky Heritage Council.
 - (v) Kentucky Arts Council.
 - (w) Kentucky Historical Society.
 - (1) Division of Museums.
 - (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
 - (x) Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
 - (y) Kentucky Artisans Center at Berea.
 - (z) Martin Luther King Commission.
 - (aa) Northern Kentucky Convention Center.
 - (ab) Eastern Kentucky Exposition Center.
9. Personnel Cabinet:
- (a) Office of the Secretary.
 - (b) Department for Personnel Administration.
 - (c) Office for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Office of Government Training.
 - (h) Department for Employee Insurance.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Department for Local Government.
- 3. Kentucky Commission on Human Rights.
- 4. Kentucky Commission on Women.
- 5. Department of Veterans' Affairs.
- 6. Kentucky Commission on Military Affairs.
- 7. Office of Minority Empowerment.
- 8. Governor's Council on Wellness and Physical Activity.

Section 2. KRS 174.020 is amended to read as follows:

(1) The Transportation Cabinet shall consist of the following major organizational units:

- (a) The Office of the Secretary, which shall include, but not be limited to:
 - 1. The secretary to be appointed by the Governor under KRS 12.255; and
 - 2. The deputy secretary appointed under KRS 12.040;
- (b) The Department of Highways, headed by a commissioner, appointed by the Governor under KRS 12.040~~[-on the recommendation of the secretary];~~
- (c) The Department of Vehicle Regulation, headed by a commissioner, appointed by the~~[-secretary with the approval of the]~~ Governor~~[-]~~ under KRS 12.040;
- (d) The Department of Governmental Relations~~[Intergovernmental Programs]~~, headed by a commissioner appointed by the Governor under KRS 12.040;
- (e) The Department of Aviation, headed by a commissioner appointed by the Governor under KRS 12.040. The

Kentucky Airport Zoning Commission established by KRS 183.861 shall be attached to the Department of Aviation for administrative purposes;

- (f) The Department of Transportation Safety~~[Administrative Services]~~, headed by a commissioner appointed by the Governor under KRS 12.040;

- (g) The following offices, which shall be attached to the Office of the Secretary:

1. The Office of Public Affairs, headed by an executive director appointed under KRS 12.040;
2. The Office of Budget and Fiscal Management, headed by an executive director appointed under KRS 12.040;
3. The Office of Information Technology~~[Transportation Delivery]~~, headed by an executive director appointed under KRS 12.040;
4. The Office of Support Services~~[Legislative and Intergovernmental Affairs]~~, headed by an executive director appointed under KRS 12.040;
5. The Office for Business and Occupational Development, headed by an executive director appointed under KRS 12.040;
6. The Office of Legal Services, headed by an executive director appointed under KRS 12.040;
7. The Office of Inspector General, headed by an executive director appointed under KRS 12.040; and
8. ~~The Office of Transportation Operations Center, headed by an executive director appointed under KRS 12.040; and~~
9. The Office of Personnel Management, headed by an executive director appointed under KRS 12.040;

- (h) The following offices, which shall be attached to the Department of Highways:

1. ~~The Office of Program Planning and Management, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and known as the deputy state highway engineer for program planning and management;~~
2. The Office of Project Development, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for project development;
2. ~~3.~~ The Office of Project Delivery~~[Construction and Operations]~~, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for project delivery~~[construction and operations]~~;
3. ~~4.~~ The Office of System Preservation and Operations~~[Intermodal Programs]~~, headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322, and who shall be known as the deputy state highway engineer for system preservation and operations~~[intermodal programs]~~; and
4. ~~5.~~ Highway District Offices One through Twelve, each district office to be headed by an executive director appointed under KRS 12.040, who shall be a registered professional engineer under KRS Chapter 322~~a chief highway district engineer, appointed by the secretary upon the recommendation of the commissioner and the state highway engineer, with the approval of the Governor~~; and

- (i) The following offices, which shall be attached to the Department of Governmental Relations~~[Intergovernmental Programs]~~:

1. Office of Special~~[Transportation Enhancement]~~ Programs, headed by an executive director appointed under KRS 12.040; ~~and~~
2. Office of Rural and Secondary Roads, headed by an executive director appointed under KRS 12.040; and
3. Office of Transportation Delivery, headed by an executive director appointed under KRS 12.040.

- (2) The position~~[positions]~~ of director in the ~~[Division of Fleet Management, Division of Professional Services, and] Division of Environmental Analysis~~ is a~~[are]~~ policy-making position~~[positions]~~ under KRS 18A.175.

Section 3. KRS 174.016 is amended to read as follows:

- (1) The Office of Rural and Secondary Roads within the Department of Governmental Relations~~[Intergovernmental Programs]~~ shall be responsible for the development and implementation of the Rural Secondary Program and such other functions as are assigned by the secretary, except that the department shall not have jurisdiction over the County Road Aid Program or Municipal Road Aid Program unless an agreement initiated by a county or municipality is in effect.
- (2) The Department of Governmental Relations~~[Intergovernmental Programs]~~ shall include an assistant state highway engineer for rural and municipal aid appointed pursuant to KRS Chapter 12 by the secretary upon the recommendation of the state highway engineer of the Department of Highways.

Section 4. KRS 174.040 is amended to read as follows:

The secretary shall have any and all necessary power and authority, subject to appropriate provisions of the statutes, to create such positions and to employ the necessary personnel in such positions to enable the secretary to perform the functions of the cabinet. The commissioner of the Department of Highways, ~~[shall serve as chief deputy secretary of the cabinet]~~ the commissioner of the Department of Governmental Relations, ~~[Intergovernmental Programs]~~ and the commissioner of the Department of Vehicle Regulation may be designated as deputy secretaries for operational purposes.

Section 5. KRS 174.057 is amended to read as follows:

The Transportation Cabinet shall have the responsibility of regulating railroads within the Commonwealth. The cabinet shall delegate to the Division of Planning within the Department of Highways' Office of Project Development the powers necessary ~~[Intermodal Programs]~~ to carry out the provisions of this section. The secretary may employ such personnel as necessary to perform the duties, functions, and responsibilities associated with the regulation of railroads. The ~~division~~ office shall have all the powers previously vested in the Kentucky Railroad Commission. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to carry out the provisions of this section.

Section 6. KRS 174.135 is amended to read as follows:

The ~~executive~~ director of the Division of Traffic Assistance and Security within the Department of Transportation Safety ~~[Office of the Transportation Operations Center]~~ shall be responsible for statewide transportation emergency and critical incident information and systems control. The ~~executive~~ director:

- (1) Shall be directly responsible and report to the commissioner of the Department of Transportation Safety ~~[secretary]~~; and
- (2) May, with the approval of the commissioner ~~[secretary]~~, employ the staff necessary to perform the duties, functions, and responsibilities of the ~~division~~ office.

Section 7. KRS 176.506 is amended to read as follows:

- (1) The Motorcycle Advisory Commission for Highway Safety shall be composed of seven (7) members, appointed as follows:
 - (a) One (1) representative of the Office of Project Delivery ~~[Construction and Operations]~~ within the Kentucky Transportation Cabinet's Department of Highways, appointed by the Governor;
 - (b) One (1) representative of the Office of Project Development within the Kentucky Transportation Cabinet's Department of Highways, appointed by the Governor;
 - (c) One (1) representative of the Kentucky State Police, appointed by the Governor;
 - (d) Two (2) representatives of the Kentucky Motorcycle Association, to be appointed by the Governor from a list of five (5) nominees selected by the association;
 - (e) One (1) member of the Kentucky Motorcycle Safety Education Advisory Commission, appointed by the Governor; and
 - (f) One (1) representative of the Kentucky Association of Highway Contractors, to be appointed by the Governor from a list of five (5) nominees selected by the association.
- (2) Except for initial appointments as provided for in 2003 Ky. Acts ch. 122, sec. 3, members of the Motorcycle Advisory Commission for Highway Safety shall serve a term of four (4) years. Sitting members shall be eligible to succeed themselves.
- (3) Commission members shall receive no compensation for their services, and shall not be compensated for expenses incurred from travel or in connection with the performance of their duties as commission members.
- (4) The commission shall elect its chair and vice chair from its membership.
- (5) The commission shall meet quarterly or upon the call of the chair or the request of the secretary of the Transportation Cabinet.
- (6) A majority of the members of the commission constitutes a quorum and the commission may make recommendations only at meetings where a quorum is present.
- (7) The commission shall keep a record of its meetings and recommendations.
- (8) For administrative purposes, the commission shall be attached to the Transportation Cabinet's Department of Transportation Safety ~~[Office of the Secretary]~~.

Section 8. KRS 177.020 is amended to read as follows:

- (1) The state primary road system shall consist of such public roads and city streets within the state as the Department of Highways determines shall be established, constructed, or maintained by the Department of Highways.
- (2) The department shall, in its discretion, determine which public roads, or city streets, shall be established, constructed, or maintained by it, and shall determine the type of construction or maintenance for that road or city street.
- (3) In the establishment of the state primary road system, the Department of Highways is authorized to select new routes, deviate from an existing route whenever it deems such deviation proper, eliminate from the state primary system roads or city streets which have been replaced as proper part of the system by the construction of a new facility or the selection of a new route. No permanent ingress or egress ramp of the state primary road system on fully controlled access facilities shall be closed, except for repairs, unless a public hearing is first held in the area to be affected by the closing. The Department

of Highways shall, at least twenty (20) days before the hearing, advertise in a newspaper of general circulation in the area to be affected by the closing, the date, time, and place of the hearing.

- (4) Prior to the advertisement for bids on any highway construction project, the Department of Highways shall meet with the fiscal court in the jurisdiction of the construction project for the purpose of advising the fiscal court of any state road or road segment which the department may seek to eliminate from the state primary road system upon completion of that highway construction project. The requirement of this subsection shall be in addition to the requirements of subsection (5) of this section.
- (5) The department shall notify the fiscal court of the county at least four (4) months before it eliminates a road, road segment, bridge, or street in that county from the state primary road system. Upon receiving notice, the fiscal court may reject title and notify the department that the road shall not become part of the county road system. If the fiscal court declines, the department shall give notice to all private persons entitled to a necessary access over this road of their rights under this chapter; and, by petition of any private party entitled to such access, the road shall be deemed a discontinued state road and shall be closed to public use but remain open in accordance with its condition and use for the access of the private parties involved. In the absence of such petition, title shall be transferred to the owner or owners of the tract or tracts of land to which the road originally belonged.
- (6) As used in this section, the term "rural secondary roads" shall mean such system of roads in this state which are usually considered farm to market roads and that ~~are~~^{were} classified as part of the rural secondary road system by the Department of Highways ~~on January 1, 1986. By January 1, 1987, the Department of Intergovernmental Programs shall meet with the fiscal courts in each of the counties to receive recommendations regarding the transfer of roads, included as part of the county road system on January 1, 1986, to the rural secondary system. Prior to such meeting with the Department of Intergovernmental Programs, the fiscal court shall consult with the legislative bodies of municipalities within the county regarding their recommendations for the transfer of county roads located within the jurisdiction of the municipality. On July 1, 1987, the Transportation Cabinet shall by official order accept at least two thousand (2,000) miles of roads in the county road system into the rural secondary system. In accepting such roads into the rural secondary system, the Transportation Cabinet shall accept in each county at least seventy-five percent (75%) of the total number of miles in each county determined by multiplying the total number of county road miles accepted in the rural secondary system by the percentage of county road aid funds received in each county in fiscal year 1984-85 compared to the total amount of county road aid funds generated in fiscal year 1984-85. The determination of the total funds received by each county from the county road aid program in fiscal year 1984-85 and the total amount of county road aid funds generated in fiscal year 1984-85 shall be made by the Department of Intergovernmental Programs. The roads so transferred shall be maintained with the proceeds of the provisions of KRS 177.320(1) and~~ In no case shall the rural secondary system, as defined in this subsection, be less than eleven thousand eight hundred (11,800) miles.
- (7) The establishment, construction, or maintenance of the state primary road system shall be under the direction and control of the Department of Highways. The commissioner of highways is authorized to adopt regulations necessary to the administration of this authority.

Section 9. KRS 177.330 is amended to read as follows:

- (1) At least once in each calendar year, the Department of Governmental Relations~~Intergovernmental Programs~~, through a duly-authorized representative, shall consult with the fiscal courts of the various counties for the purpose of receiving recommendations from the fiscal courts for the selection of rural and secondary roads lying within the counties for construction, reconstruction, or maintenance under the Rural and Secondary Road Program as set forth in KRS 177.320(1). The Department of Governmental Relations~~Intergovernmental Programs~~ may receive recommendations from any citizen on the selection of rural and secondary roads for construction, reconstruction, or maintenance under the Rural and Secondary Road Program. The Department of Highways shall notify each county fiscal court of the county roads that the department intends to construct, reconstruct, or maintain in accordance with the provisions of KRS Chapters 177 and 179.
- (2) Where the construction of a secondary or rural road through an incorporated town of the fifth or sixth class is necessary, as determined by the Department of Governmental Relations~~Intergovernmental Programs~~, the road may be constructed, reconstructed, or maintained at the discretion of the Department of Governmental Relations~~Intergovernmental Programs~~.

Section 10. KRS 177.340 is amended to read as follows:

If, within thirty (30) days after consulting with a fiscal court, the Department of Governmental Relations~~Intergovernmental Programs~~ and the fiscal court shall fail to agree on the selection of any rural and secondary roads for construction, reconstruction, or maintenance under the Rural and Secondary Road Program, the department may proceed toward the construction, reconstruction, or maintenance of any road, which, in its discretion, is essential to a system of secondary highways. Rural and secondary roads, constructed, reconstructed, or maintained in accordance with agreement between the affected county and the Department of Governmental Relations~~Intergovernmental Programs~~, or selected for construction, reconstruction, or maintenance by the Department of Governmental Relations~~Intergovernmental Programs~~, at its discretion, without agreement with the affected county, may become a part of the highway system of the Commonwealth of Kentucky at the discretion of the Department of Highways.

Section 11. KRS 177.350 is amended to read as follows:

The Department of Governmental Relations~~[Intergovernmental Programs]~~ may promulgate administrative regulations pursuant to KRS Chapter 13A to establish standards for the construction, reconstruction, maintenance, and improvement of rural and secondary roads in the Commonwealth of Kentucky. The department shall conduct studies, make surveys, prepare maps, employ personnel, and obtain equipment as may be necessary for the establishment and maintenance of an integrated system of secondary and rural roads in the Commonwealth of Kentucky.

Section 12. KRS 177.360 is amended to read as follows:

- (1) Except as provided in subsection (5) of this section, the Department of Governmental Relations~~[Intergovernmental Programs]~~ shall allocate the funds set apart under KRS 177.320(1) for construction, reconstruction, and maintenance of state-maintained secondary and rural highways as follows:
 - (a) One-fifth (1/5) shall be apportioned equally among the one hundred twenty (120) counties.
 - (b) One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the rural population of each county bears to the total rural population of the state. "Rural population" as used here means the population in a county outside cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more as shown by the most recent decennial census of the United States Bureau of the Census, and county population shall be determined by the most recent decennial census of the United States Bureau of the Census.
 - (c) One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio that the public road mileage outside of cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more bears to the total mileage of such roads for the entire state.
 - (d) Two-fifths (2/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the square-mile rural area of the county bears to the total square-mile rural area of the state. "Rural area" as used here means that area of the county outside of cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more and shown by the most recent decennial census of the United States Bureau of the Census.
- (2) A sum not exceeding six percent (6%) of the allocation provided by KRS 177.320(1) to each county shall be deducted at the beginning of each fiscal year and adjusted quarterly to cover the maintenance, administrative, engineering, and other costs of the program.
- (3) Of the total amount apportioned by the provisions of this section, a sum not exceeding six percent (6%) may be deducted and placed by the Department of Governmental Relations~~[Intergovernmental Programs]~~ in a special emergency account to be expended at the direction of the commissioner to meet unforeseen emergencies on rural and secondary roads and bridges.
- (4) Apportionments as required by the provisions of this section shall be made on the basis of revenue estimates supplied by the Finance and Administration Cabinet and adjusted quarterly in accordance with the most recent revision of the estimates by the Finance and Administration Cabinet.
- (5) Any county eligible to receive county road aid moneys in accordance with KRS 177.320 and this section shall be required to submit a uniform financial information report to the Department for Local Government in accordance with KRS 65.905 before any payment of county road aid funds shall be made. The Department for Local Government shall notify the Department of Governmental Relations~~[Intergovernmental Programs]~~ no later than March 1 annually of any county that has not submitted a uniform financial information report. The Department of Governmental Relations~~[Intergovernmental Programs]~~ shall upon notification by the department immediately suspend all county road aid moneys to the county until the county complies with the provisions of KRS 65.900 to 65.915 and submits the uniform financial information report to the Department for Local Government. The department shall immediately notify the Department of Governmental Relations~~[Intergovernmental Programs]~~ to reinstate county road aid moneys to any county affected by this subsection as soon as the county submits the uniform financial information report.

Section 13. KRS 179.400 is amended to read as follows:

- (1) The fiscal court of any county receiving state aid shall appropriate sufficient money to keep all county roads in the county in good repair and free from obstructions. The cost of all repairs and removals of obstruction shall be paid by the treasurer of the county upon the order of the fiscal court, and all bills for repairs or for removal of obstructions shall be verified by affidavit, and shall be certified to be correct by the county engineer.
- (2) The fiscal court of any county receiving state aid may, if it deems proper, enter into contract or cooperative agreement with the Department of Governmental Relations~~[Intergovernmental Programs]~~ for the construction, reconstruction and maintenance of county roads and bridges selected by the fiscal court. Any contract or cooperative agreement shall designate those roads which the department shall be required to construct, reconstruct or maintain and shall not be in excess of the projected county allotment for any one (1) fiscal year. The county shall not be responsible for payment to the department of any costs not specified with the contract or cooperative agreement.

Section 14. KRS 18A.115 is amended to read as follows:

- (1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

- (a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;
- (b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;
- (c) Members of boards and commissions;
- (d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the Secretary of the Governor's Cabinet, and the Office of Program Administration;
- (e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television and the executive director and deputy executive director of the Education Professional Standards Board;
- (f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;
- (g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;
- (h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;
- (i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;
- (j) Physicians employed as such;
- (k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;
- (l) The judicial department, referees, receivers, jurors, and notaries public;
- (m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;
- (n) Patients or inmates employed in state institutions;
- (o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;
- (p) Interim employees;
- (q) Officers and members of the state militia;
- (r) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;
- (s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;
- (t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);
- (u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;
- (v) County and Commonwealth's attorneys and their respective appointees;
- (w) ~~Chief district engineers and~~ The state highway engineer;
- (x) Veterinarians employed as such by the Kentucky Horse Racing Authority;
- (y) Employees of the Kentucky Peace Corps;
- (z) Employees of the Council on Postsecondary Education;
- (aa) Executive director of the Commonwealth Office of Technology;
- (ab) Employees of the Kentucky Commission on Community Volunteerism and Service;
- (ac) Persons employed in certified teaching positions at the Kentucky School for the Blind and the Kentucky School for the Deaf; and

- (ad) Federally funded time-limited employees as defined in KRS 18A.005.
- (2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.
 - (3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.
 - (4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.
 - (5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.
 - (6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.
 - (7) On August 15, 2000, all certified and equivalent personnel, all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.
 - (8) On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.

Section 15. KRS 36.010 is amended to read as follows:

The Department of Military Affairs shall be attached to the Office of the Governor, have charge of and be responsible to the Governor for the proper functioning of the Kentucky National Guard, militia, and all other military or naval matters of the state, and shall consist of the following offices and divisions:

- (1) Office of Management and Administration, containing the:
 - (a) Division of Administrative Services;
 - (b) Division of Facilities;
 - (c) Bluegrass Station Division; *and*
 - (d) ~~Division of Air Transport~~; and
 - (e) Logistics Operations Division;
- (2) Division of Emergency Management;
- (3) Office of the Chief of Staff for Federal Army Guard;
- (4) Office of the Chief of Staff for Federal Air Guard;
- (5) Kentucky Guard Youth Challenge Division; and
- (6) Kentucky Civil Air Patrol.

In order to promote greater efficiency, economy, and improved administration, the divisional structure of the Department of Military Affairs may be changed, redesignated, or reorganized in accordance with KRS Chapter 12. Notwithstanding KRS Chapter 12, the department's attachment to the Office of Governor as a separate organizational unit not attached to any cabinet shall not be changed except by action of the General Assembly.

Section 16. KRS 36.400 is repealed, reenacted as a new section of KRS Chapter 174, and amended to read as follows:

As used in Sections 16 to 21 of this Act [KRS 36.400 to 36.425], unless the context otherwise requires:

- (1) "Department" means the Department of Aviation [~~"Division of Air Transport" includes the Capital City Airport~~];

- (2) "State aircraft" means aircraft owned by the Commonwealth, leased by the Commonwealth, or otherwise under the control of the Commonwealth and administratively assigned to the ~~department~~Division of Air Transport. It shall also include air charters by the ~~department~~division. However, this shall not include or apply to any and all aircraft assigned to, owned, leased, operated, or controlled by the Department of State Police, or otherwise under the control or direction of the Department of State Police. The operation, maintenance, scheduling, and care of Department of State Police aircraft shall not be included under or affected by Sections 16 to 21 of this Act~~[KRS 36.400 to 36.425]~~; and
- (3) "Official business" means any activity involving travel in a state aircraft if the activity is reasonably required, expected, or appropriate, considering the nature of the using public official's job responsibilities. The activities shall include, but not be limited to, attendance by officials at nonpartisan ceremonial functions and events where their appearance is normally expected by virtue of their office or where official representation of the Commonwealth is otherwise appropriate, and to nonpolitical flights by the Governor and members of his immediate family when accompanying or representing him.

Section 17. KRS 36.405 is repealed, reenacted as a new section of KRS Chapter 174, and amended to read as follows:

- (1) The ~~commissioner of the department~~Adjutant General of Kentucky, as executive head of the Department of Military Affairs, shall be responsible for overall policy development and supervision of the ~~[Division of Air Transport and]~~ Capital City Airport Division.
- (2) A division director shall head the Capital City Airport Division~~[of Air Transport]~~ within the Department of Aviation~~[Military Affairs]~~.
- ~~[(3) The division director shall be responsible for the management and administration of the Division of Air Transport and the Capital City Airport.]~~

Section 18. KRS 36.410 is repealed, reenacted as a new section of KRS Chapter 174, and amended to read as follows:

- (1) The functions of the Capital City Airport Division~~[of Air Transport]~~ shall be to:
- Manage and operate the Capital City Airport;
 - Oversee the maintenance and care of all state aircraft;
 - Control the scheduling and operational use of state aircraft, including air charters; and
 - Collect from using agencies and officers the costs of operating state aircraft, including air charters.
- (2) Subject to the approval of the ~~department~~Adjutant General and in accordance with applicable state and federal statutes and regulations, the Capital City Airport Division shall promulgate administrative regulations under KRS Chapter 13A to:
- Establish user fees to be paid by users of the services and facilities of the Capital City Airport for charges including, but not limited to, hangar fees, tie-down fees, fuel, and aircraft supplies; and
 - Establish fees for the usage of state aircraft.

Section 19. KRS 36.415 is repealed, reenacted as a new section of KRS Chapter 174, and amended to read as follows:

- (1) Except as provided in subsection (2) of this section, state aircraft, including air charters, shall be used only for official business.
- (2) State aircraft shall not be used for personal business, except when the Governor or Lieutenant Governor, for reasons of security, protocol, ceremonial functions, or overall demands of time, require travel considerations not accorded to other officials. In recognition of these realities, flights that may be solely for personal business, or partly for official business or partly for personal business, may be scheduled for the Governor or the Lieutenant Governor and their immediate families.
- The cost of flights scheduled solely for personal business of the Governor or Lieutenant Governor shall be charged to that officer in accordance with the rate schedule set forth in the administrative regulations authorized by Section 18 of this Act~~[KRS 36.410]~~.
 - If a particular flight is in part official business and part personal business, the Governor or the Lieutenant Governor shall make a reasonable allocation of the flight time between official and personal business and be responsible for paying with nonstate funds to the Capital City Airport Division~~[of Air Transport]~~ the charge for the part of the flight that is allocable to personal business. The rate charged shall be calculated using costs that would be considered in a rate developed by a commercial air charter company. In these cases, the allocation made and the basis for the allocation shall be indicated on the aircraft request form.
- (3) Constitutional officers, other elected state officials, members of the General Assembly, officers and employees of the cabinets, departments, and agencies of state government, officers and employees of other governmental units, and other persons traveling under the auspices of a state agency or in connection with state business deemed desirable by an agency head, including dependents of state officials, and news media representatives and other persons having an interest in the official purpose of the trip may be authorized to use state aircraft. Charges for travel in state aircraft shall be paid by the requesting state agency in accordance with the rate schedule established in administrative regulations authorized by Section 18 of this Act~~[KRS 36.410]~~.

Section 20. KRS 36.420 is repealed, reenacted as a new section of KRS Chapter 174, and amended to read as follows:

- (1) All requests for use of state aircraft shall be approved in advance by the:

- (a) Constitutional officer;
 - (b) Program cabinet secretary or his designee in writing;
 - (c) For the judicial branch, the Chief Justice of the Supreme Court or the director of the Administrative Office of the Courts; or
 - (d) For the legislative branch, the co-chairs of the Legislative Research Commission or the director of the Legislative Research Commission.
- (2) Verbal requests for state aircraft transportation may be honored. However, all requests for state aircraft shall be provided in writing to the Capital City Airport Division within five (5) working days of the date of the flight.
- (3) Approving officials shall be responsible for determining that a trip is for official business, that use of state aircraft is the most appropriate means of transportation, and that the proposed passenger complement conforms to the requirements of subsection (3) of Section 19 of this Act~~[KRS-36.415(3)]~~. In determining the passenger complement, requesting agencies shall weigh the benefit to the agency of the inclusion of additional passengers against the increased costs that might be incurred if a larger aircraft is required to accommodate additional passengers on a trip.
- (4) All requests for use of state aircraft shall be submitted on a form prescribed by the Capital City Airport Division~~[of Air Transport]~~ and shall contain at a minimum the following information:
- (a) Cabinet or agency name;
 - (b) Department name with appropriate billing account number;
 - (c) Purpose of the trip;
 - (d) Destination, including any planned stopovers and the reason for them;
 - (e) Names of all passengers on the flight; and
 - (f) Identification of any percentage of the flight that is for personal business in cases of the Governor or Lieutenant Governor as allowed under Section 19 of this Act~~[KRS-36.415]~~.

Section 21. KRS 36.425 is repealed, reenacted as a new section of KRS Chapter 174, and amended to read as follows:

- (1) The Capital City Airport Division~~[of Air Transport]~~ shall arrange for all trips and maintain flight cards, passenger manifests, payment documents, and interaccount bills pertaining to each flight.
- (2) Pilots for all state agencies shall maintain a flight manifest for all flights which shall include the passengers' names, information pertaining to points of origin and destination, and any side trips or stopovers for each flight.
- (3) The Capital City Airport Division~~[of Air Transport]~~ shall maintain original manifests for all trips using state aircraft.
- (4) Originals of requests for the use of state aircraft shall be kept by the Capital City Airport Division~~[of Air Transport]~~, with the following exceptions:
 - (a) The Governor and Lieutenant Governor shall maintain originals of all requests for the use of state aircraft made by their respective offices; and
 - (b) In cases where the secretary of the Cabinet for Economic Development has certified in an aircraft request that disclosure of the identities of passengers or the purpose of a trip will violate needs for confidentiality required for economic development efforts, the secretary of the Cabinet for Economic Development shall maintain complete original records of the request in his office.

Section 22. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 23. Notwithstanding the provisions of KRS 12.028, the General Assembly confirms Executive Order 2006-681, dated June 19, 2006, Executive Order 2006-682, dated June 19, 2006, Executive Order 2006-685, dated June 19, 2006, Executive Order 2006-839, dated July 17, 2006, and Executive Order 2006-1015, dated August 25, 2006, to the extent that they are not otherwise confirmed or superseded by this Act.

SB 76, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 147A.002 is amended to read as follows:

- (1) The Governor's Office for Local Development~~[Department for Local Government]~~ shall be headed by a commissioner, and shall consist of the:
 - (a) Office of Financial Management and Administration, which shall be headed by an executive director appointed by the commissioner and shall be responsible for duties including but not limited to local government financial assistance; county budget approval; performance of various recordkeeping requirements for the

Commonwealth's cities, counties, and special districts; provision of administrative support for the state local debt officer and the state local finance officer; administration of the county officials training incentive program set forth in Section 38 of this Act; and provision of financial analysis and guidance related to the internal budgetary processes of the Governor's Office for Local Development;

- (b) Office of Federal Grants, which shall be headed by an executive director appointed by the commissioner and shall be responsible for the administration of all federal grant programs;
- (c) Office of State Grants, which shall be headed by an executive director appointed by the commissioner and shall be responsible for the administration of all state grant programs, including the Renaissance on Main program, the area development fund, the body armor program set forth in Section 10 of this Act, the cemetery fund program, single county coal severance grants, and any state grant programs or individually funded projects awarded by statute or budget;
- (d) Office of Legal Services, which shall be headed by an executive director appointed by the commissioner and shall be responsible for legal services within the Governor's Office for Local Development and for its constituencies around the Commonwealth; and
- (e) Office of Field Services, which shall be headed by an executive director appointed by the commissioner and shall be responsible for duties including but not limited to staffing regional offices to assist local governments~~[be divided for administrative purposes into the Division of Community Development and such other divisions as the commissioner, with the approval of the Governor, determines. The Division of Community Development shall be responsible for the administration of Title I of the Housing and Community Development Act of 1974 as amended through 1981, which includes the community block grant program and the 107 technical assistance program].~~

- (2) The commissioner, with the approval of the Governor, shall appoint necessary deputies, assistants, attorneys, and other employees and shall fix their compensation and authorize payment of their expenses according to law.

Section 2. KRS 147A.003 is amended to read as follows:

The Kentucky Infrastructure Authority~~[following administrative bodies]~~ shall be attached to the Governor's Office for Local Development~~[Department for Local Government]~~ for administrative purposes. Office space required by the authority shall be provided by the Governor's Office for Local Development~~;~~

- (1) ~~Local Government Advisory Commission;~~
- (2) ~~Appalachian Development Council; and~~
- (3) ~~The State Federal Council for Balanced Economic Growth].~~

Section 3. KRS 147A.200 is amended to read as follows:

- (1) The Department for Local Government is authorized and directed to apply for and receive federal funds to be placed in a state account called the gas system restoration and development project account, and to provide staff to administer said funds. The funds in this account may be used in any gas system restoration or development project approved by the Gas System Restoration and Development Project Account Review Board.
- (2) A Gas System Restoration and Development Project Account Review Board is established, and shall consist of eight~~(8)[seven-(7)]~~ members appointed by the Governor. The board shall be chaired by the commissioner of the Department for Local Government, and shall include representatives of the Public Service Commission, State Fire Marshal's Office, Department for Local Government, Kentucky Infrastructure Authority, banking and finance industry, commercial or industrial consumers, Kentucky Gas Association, and low income or minority group consumers. Members shall be reimbursed for necessary expenses in attending meetings.
- (3) The review board shall meet as necessary, and shall establish rules for conducting its business. The review board shall consider applications for loans from the account, and approve or disapprove loan applications. No loan shall be considered unless the applicant has complied with all construction and securities requirements of the Public Service Commission. In reviewing loan applications, the review board may request the testimony of the county judge/executive of an affected county, and any other witnesses deemed appropriate.

Section 4. KRS 11.400 is amended to read as follows:

- (1) In addition to the duties prescribed for the office by the Constitution of the Commonwealth of Kentucky, the duties of the Lieutenant Governor shall be as follows:
 - (a) To serve as vice chairman of the State Property and Buildings Commission as prescribed by KRS 56.450;
 - (b) To serve as vice chairman of the Kentucky Turnpike Authority as prescribed in KRS 175.430;
 - (c) To serve as a member of the Kentucky Council on Agriculture in accordance with KRS 247.417;
 - (d) To appoint one (1) member of the Public Officials' Compensation Commission as provided in KRS 64.742;
 - (e) To serve as a member of the Board of the Kentucky Housing Corporation in accordance with KRS 198A.030; and
 - (f) ~~To serve as a member of the Appalachian Development Council as provided in KRS 154.33-020; and~~
 - (g) To serve as a member of Kentucky delegations on the following interstate compact commissions or boards:

1. The Southern Growth Policies Board as prescribed by KRS 147.585;
2. The Breaks Interstate Park Commission as provided in KRS 148.225;
3. The Falls of the Ohio Interstate Park Commission pursuant to KRS 148.242;
4. The Tennessee-Tombigbee Waterway Development Authority pursuant to KRS 182.305;
5. The Interstate Water Sanitation Control Commissions as prescribed by KRS 224.18-710; and
6. The Kentucky Mining Advisory Council for the Interstate Mining Compact as provided by KRS 350.310.

- (2) Nothing in this section shall prohibit the Governor and Lieutenant Governor from agreeing upon additional duties within the executive branch of the state government to be performed by the Lieutenant Governor.

Section 5. KRS 11.515 is amended to read as follows:

- (1) There is hereby established a Geographic Information Advisory Council to advise the executive director of the Commonwealth Office of Technology on issues relating to geographic information and geographic information systems.
- (2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.
- (3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.
- (4) The Geographic Information Advisory Council shall consist of twenty-four (24) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretary of the Cabinet for Health and Family Services or his or her designee;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Finance and Administration Cabinet or his designee;
5. The executive director of the Commonwealth Office of Technology or her or his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Governor's Office for Local Development~~[Department for Local Government]~~ or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Environmental and Public Protection Cabinet or his designee;
13. The Commissioner of the Department of Agriculture or his designee;
14. The secretary of the Commerce Cabinet or his designee;
15. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
17. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of

the Council of Area Development Districts.

- (b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.
- (5) The chair shall be appointed by the Governor. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.
- (6) A member of the council shall not:
 - (a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;
 - (b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;
 - (c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;
 - (d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;
 - (e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or
 - (f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.
- (7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.
- (8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.
- (9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.
- (10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 6. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- 1. The Governor.
- 2. Lieutenant Governor.
- 3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- 4. Department of Law.
 - (a) Attorney General.
- 5. Department of the Treasury.
 - (a) Treasurer.
- 6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- 7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

- (a) Department of State Police.
- (b) Department of Criminal Justice Training.
- (c) Department of Corrections.
- (d) Department of Juvenile Justice.
- (e) Office of the Secretary.
- (f) Offices of the Deputy Secretaries.
- (g) Office of General Counsel.
- (h) Division of Kentucky State Medical Examiners Office.
- (i) Parole Board.
- (j) Kentucky State Corrections Commission.
- (k) Commission on Correction and Community Service.

2. Education Cabinet:

- (a) Office of the Secretary.
- (b) Office of Legal Services.
 - 1. Client Assistance Program.
- (c) Office of Communication.
- (d) Office of Legislative and Intergovernmental Affairs.
- (e) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - 3. Division of Technology Services.
- (f) Board of Directors for the Center for School Safety.
- (g) Council on Postsecondary Education.
 - 1. Foundation for Adult Education.
- (h) Department of Education.
 - 1. Kentucky Board of Education.
- (i) Department for Libraries and Archives.
- (j) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Career and Technical Education.
 - 4. Office of Employment and Training.
- (k) Foundation for Workforce Development.
- (l) Kentucky Office for the Blind State Rehabilitation Council.
- (m) Kentucky Technical Education Personnel Board.
- (n) Kentucky Workforce Investment Board.
- (o) Statewide Council for Vocational Rehabilitation.
- (p) Statewide Independent Living Council.
- (q) Unemployment Insurance Commission.
- (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.

- (u) Kentucky Environmental Education Council.
- 3. Environmental and Public Protection Cabinet:
 - (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of Communications and Public Outreach.
 - 3. Office of Regulatory Affairs.
 - 4. Office of Legal Services.
 - 5. Office of Administrative and Information Services.
 - 6. Office of Administrative Hearings.
 - 7. Office of Inspector General.
 - 8. Mine Safety Review Commission.
 - 9. Workers' Compensation Board.
 - 10. Kentucky State Nature Preserves Commission.
 - 11. Kentucky Environmental Quality Commission.
 - 12. Kentucky Occupational Safety and Health Review Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division of Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Services.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Office of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.
 - 5. Division of Abandoned Mine Lands.
 - 6. Division of Oil and Gas Conservation.
 - 7. Office of Mine Safety and Licensing.
 - 8. Division of Forestry.
 - 9. Division of Conservation.
 - (d) Department of Public Protection.
 - 1. Office of the Commissioner.
 - 2. Division of Administrative Services.
 - 3. Crime Victims Compensation Board.
 - 4. Board of Claims.
 - 5. Board of Tax Appeals.
 - 6. Kentucky Boxing and Wrestling Authority.
 - 7. Kentucky Horse Racing Authority.
 - 8. Kentucky Public Service Commission.
 - 9. Office of Alcoholic Beverage Control.
 - 10. Office of Charitable Gaming.
 - 11. Office of Financial Institutions.
 - 12. Office of Housing, Buildings and Construction.
 - 13. Office of Insurance.
 - (e) Department of Labor.

1. Office of the Commissioner.
 2. Office of Occupational Safety and Health.
 3. Office of Labor Management Relations and Mediation.
 4. Office of Workplace Standards.
 5. Office of Workers' Claims.
 6. Workers' Compensation Funding Commission.
 7. Kentucky Labor Management Advisory Council.
 8. Occupational Safety and Health Standards Board.
 9. Prevailing Wage Review Board.
 10. Kentucky Employees Insurance Association.
 11. Apprenticeship and Training Council.
 12. State Labor Relations Board.
 13. Workers' Compensation Advisory Council.
 14. Workers' Compensation Nominating Commission.
 15. Employers' Mutual Insurance Authority.
 16. Division of Administrative Services.
4. Transportation Cabinet:
- (a) Department of Highways.
 1. Office of Program Planning and Management.
 2. Office of Project Development.
 3. Office of Construction and Operations.
 4. Office of Intermodal Programs.
 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Aviation.
 - (e) Department of Intergovernmental Programs.
 1. Office of Transportation Enhancement Programs.
 2. Office of Rural and Secondary Roads.
 - (f) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of Public Affairs.
 3. Office of Transportation Delivery.
 4. Office for Business and Occupational Development.
 5. Office of Budget and Fiscal Management.
 6. Office of Legal Services.
 7. Office of Inspector General.
 8. Office of the Transportation Operations Center.
 9. Office of Personnel Management.
5. Cabinet for Economic Development:
- (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
 - (g) Office of Research and Information Technology.
 - (h) Department of Commercialization and Innovation.

- (i) Office of Legal Services.
- (j) Commission on Small Business Advocacy.
- 6. Cabinet for Health and Family Services:
 - (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission for Children with Special Health Care Needs.
 - (e) Office of Health Policy.
 - (f) Office of the Secretary.
 - (g) Office of Legal Services.
 - (h) Office of Inspector General.
 - (i) Office of Legislative and Public Affairs.
 - (j) Department for Community Based Services.
 - (k) Department for Disability Determination Services.
 - (l) Office of the Ombudsman.
 - (m) Department for Human Support Services.
 - (n) Kentucky Commission on Community Volunteerism and Service.
 - (o) Office of Fiscal Services.
 - (p) Office of Human Resource Management.
 - (q) Office of Technology.
 - (r) Office of Contract Oversight.
 - (s) Governor's Office of Wellness and Physical Activity.
- 7. Finance and Administration Cabinet:
 - (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Department for Facilities and Support Services.
 - (f) Department of Revenue.
 - (g) Commonwealth Office of Technology.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Savings Bond Authority.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - ~~(k) — County Officials Compensation Board.~~
 - ~~(h)}~~ Kentucky Employees Retirement Systems.
 - ~~(l)}~~~~(m)}~~ Commonwealth Credit Union.
 - ~~(m)}~~~~(n)}~~ State Investment Commission.
 - ~~(n)}~~~~(o)}~~ Kentucky Housing Corporation.
 - ~~(o)}~~~~(p)}~~ Kentucky Local Correctional Facilities Construction Authority.
 - ~~(p)}~~~~(q)}~~ Kentucky Turnpike Authority.
 - ~~(q)}~~~~(r)}~~ Historic Properties Advisory Commission.
 - ~~(r)}~~~~(s)}~~ Kentucky Tobacco Settlement Trust Corporation.
 - ~~(s)}~~~~(t)}~~ State Board for Proprietary Education.
 - ~~(t)}~~~~(u)}~~ Kentucky Higher Education Assistance Authority.
 - ~~(u)}~~~~(v)}~~ Kentucky River Authority.
 - ~~(v)}~~~~(w)}~~ Kentucky Teachers' Retirement System Board of Trustees.
- 8. Commerce Cabinet:
 - (a) Department of Tourism.

- (1) Division of Tourism Services.
- (2) Division of Marketing and Advertising.
- (3) Division of Parks Marketing.
- (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Personnel and Payroll.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Project Administration.
 - (6) Division of Customer Services.
 - (7) Division of Recreation.
 - (8) Division of Golf Courses.
 - (9) Division of Food Services.
 - (10) Division of Rangers.
 - (11) Division of Eastern Parks.
 - (12) Division of Southern Parks.
 - (13) Division of Western Parks.
- (c) Department of Fish and Wildlife Resources.
 - (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.
 - (3) Division of Engineering.
 - (4) Division of Fisheries.
 - (5) Division of Information and Education.
 - (6) Division of Wildlife.
 - (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
 - (1) Division of Expositions and Admission.
 - (2) Division of Kentucky Fair and Exposition Center Operations.
 - (3) Division of Commonwealth Convention Center.
 - (4) Division of Public Relations and Media.
 - (5) Division of Administrative Services.
 - (6) Division of Personnel Management and Staff Development.
 - (7) Division of Sales.
 - (8) Division of Security and Traffic Control.
- (f) Office of the Secretary.
- (g) Office of Finance and Administration.
- (h) Office of Legal Affairs.
- (i) Office of Intergovernmental Affairs.
- (j) Office of Human Resources.
- (k) Office of Public Affairs and Constituent Services.
- (l) Office of Information Technology.
- (m) Office of the Kentucky Sports Authority.
 - (1) Kentucky Sports Authority Board.
- (n) Office of Creative Services.

- (o) Office of Capital Plaza Operations.
 - (p) Office of Energy Policy.
 - (1) Energy Policy Advisory Council.
 - (q) Office of Arts and Cultural Heritage.
 - (r) Kentucky African-American Heritage Commission.
 - (s) Kentucky Foundation for the Arts.
 - (t) Kentucky Humanities Council.
 - (u) Kentucky Heritage Council.
 - (v) Kentucky Arts Council.
 - (w) Kentucky Historical Society.
 - (1) Division of Museums.
 - (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
 - (x) Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
 - (y) Kentucky Artisans Center at Berea.
 - (z) Martin Luther King Commission.
 - (aa) Northern Kentucky Convention Center.
 - (ab) Eastern Kentucky Exposition Center.
9. Personnel Cabinet:
- (a) Office of the Secretary.
 - (b) Department for Personnel Administration.
 - (c) Office for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Office of Government Training.
 - (h) Department for Employee Insurance.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. **Governor's Office for Local Development**~~[Department for Local Government]~~.
- 3. Kentucky Commission on Human Rights.
- 4. Kentucky Commission on Women.
- 5. Department of Veterans' Affairs.
- 6. Kentucky Commission on Military Affairs.
- 7. Office of Minority Empowerment.
- 8. Governor's Council on Wellness and Physical Activity.

Section 7. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

- (1) Department of Military Affairs;
- (2) **Governor's Office for Local Development**~~[Department for Local Government]~~;
- (3) Kentucky Commission on Human Rights;
- (4) Kentucky Commission on Women;
- (5) Kentucky Commission on Military Affairs;
- (6) Governor's Scholars Program;
- (7) Agricultural Development Board;
- (8) Kentucky Agency for Substance Abuse Policy;

- (9) Kentucky Agricultural Finance Corporation;
- (10) Office of Minority Empowerment;
- (11) Office of Homeland Security; and
- (12) Governor's Council on Wellness and Physical Activity.

Section 8. KRS 15.755 is amended to read as follows:

- (1) The compensation of each Commonwealth's attorney shall be paid out of the State Treasury.
- (2) The compensation of the staff of each Commonwealth's attorney shall be paid out of the State Treasury.
- (3) In each judicial circuit containing a city of the first or second class or an urban-county government, or a city of the third class and a population of sixty-eight thousand (68,000) or more, or which has a full-time Commonwealth's attorney, the Commonwealth's attorney shall not engage in the private practice of law. The population of a judicial circuit shall, for the purpose of this statute, be determined by the most recent federal decennial census enumeration. All other Commonwealth's attorneys shall not be prohibited from engaging in the private practice of law.
- (4) Each Commonwealth's attorney who is prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of twenty-six thousand dollars (\$26,000) per annum.
- (5) Each Commonwealth's attorney who is not prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of fourteen thousand three hundred dollars (\$14,300) per annum.
- (6) Each full-time Commonwealth's attorney of the state shall be paid each month the sum of one thousand dollars (\$1,000) and each part-time Commonwealth's attorney shall be paid each month the sum of five hundred dollars (\$500), which sums are declared to be the equivalent of the minimum sums that each Commonwealth's attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the State Treasury.
- (7) In order to equate the compensation of Commonwealth's attorneys with the purchasing power of the dollar, the Governor's Office for Local Development~~{Department for Local Government}~~ shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars (\$12,000) per annum. The Governor's Office for Local Development~~{Department for Local Government}~~ shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled in accordance with the increase or decrease in the consumer price index. Upon notification from the Governor's Office for Local Development~~{Department for Local Government}~~, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Governor's Office for Local Development~~{Department for Local Government}~~.

Section 9. KRS 15.765 is amended to read as follows:

- (1) Each county attorney shall receive, for prosecutorial duties, an annual salary to be paid out of the State Treasury which shall be the total compensation as county attorney which he received during the calendar year 1976, but which in no event shall be less than twenty thousand dollars (\$20,000). Except, however, the annual salary of each county attorney shall be equal to that of each Commonwealth's attorney who is not prohibited from the private practice of law as provided in KRS 15.755(5), effective January 1, 1990.
- (2) Each county attorney shall be paid each month the sum of five hundred dollars (\$500), which sum is declared to be the equivalent of the minimum sum that each county attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the State Treasury.
- (3) In order to equate the compensation of county attorneys with the purchasing power of the dollar, the Governor's Office for Local Development~~{Department for Local Government}~~ shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars (\$12,000) per annum. The Governor's Office for Local Development~~{Department for Local Government}~~ shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the Governor's Office for Local Development~~{Department for Local Government}~~, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Governor's Office for Local Development~~{Department for Local Government}~~.
- (4) The county attorney shall not be prohibited from engaging in the private practice of law.

Section 10. KRS 16.220 is amended to read as follows:

- (1) Subject to the duty to return confiscated firearms to innocent owners pursuant to KRS 500.090, all firearms confiscated by the Kentucky State Police and not retained for official use pursuant to KRS 500.090 shall be sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearm sold. The Kentucky State Police shall transfer firearms that are to be sold to the Department for Facilities and Support Services, Division of Surplus

Properties, for sale. Proceeds of the sale shall be transferred to the account of the Governor's Office for Local Development~~[Department for Local Government]~~ for use as provided in subsection (3) of this section. Prior to the sale of any firearm, the Kentucky State Police shall make an attempt to determine if the firearm to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law.

- (2) The Kentucky State Police shall receive firearms and ammunition confiscated by or abandoned to every law enforcement agency in Kentucky. The Kentucky State Police shall dispose of the firearms received in the manner specified in subsection (1) of this section. However, firearms which are not retained for official use, returned to an innocent lawful owner, or transferred to another government agency or public museum shall be sold as provided in subsections (1) and (3) of this section.
- (3) The proceeds of firearms sales shall be utilized by the Governor's Office for Local Development~~[Department for Local Government]~~ to provide grants to city, county, charter county, and urban-county police departments, university safety and security departments organized pursuant to KRS 164.950 and sheriff's departments for the purchase of body armor for sworn peace officers of those departments and service animals, as defined in KRS 525.010, of those departments or for the purchase of firearms or ammunition. Body armor purchased by the department receiving grant funds shall meet or exceed the standards issued by the National Institute of Justice for body armor. No police or sheriff's department shall apply for a grant to replace existing body armor unless that body armor has been in actual use for a period of five (5) years or longer.
- (4) The Kentucky State Police may transfer a machine gun, short-barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any other weapon, or destructive device as defined by the National Firearms Act which is subject to registration under the National Firearms Act, and is not properly registered in the national firearms transfer records for those types of weapons, to the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the Treasury, after a reasonable attempt has been made to transfer the firearm to an eligible state or local law enforcement agency or to an eligible museum and no eligible recipient will take the firearm or weapon. National Firearms Act firearms and weapons which are properly registered and not returned to an innocent lawful owner or retained for official use as provided in this section shall be sold to properly licensed dealers under subsection (3) of this section.

Section 11. KRS 26A.160 is amended to read as follows:

- (1) The Chief Justice shall establish rules of procedure or guidelines on matters relating to the design, financing, and construction of court facilities. The rules or guidelines shall encompass:
 - (a) The duties and responsibilities of the Administrative Office of the Courts under this section;
 - (b) Criteria for evaluating the feasibility or practicability of various contracting or construction methods;
 - (c) A project management system for managing, monitoring, and reporting on projects through all phases from funding to completion, including change-order procedures;
 - (d) Assistance to counties in evaluating proposals for architectural, construction, or other professional services;
 - (e) Methods for financing energy savings projects, Americans with Disabilities Act projects, and other improvement projects;
 - (f) Kentucky standards for court facilities, including detailed requirements for space, construction, interior and exterior finishes, structural and mechanical systems, fixed and moveable furniture and equipment, and maximum unit cost for court facilities throughout the Commonwealth; and
 - (g) The maintenance and operation of court facilities after construction.
- (2) The Administrative Office of the Courts shall oversee the design, financing, and construction of court facilities. The Administrative Office of the Courts shall:
 - (a) Assess the need for court facilities construction or renovation throughout the Commonwealth. The assessment shall consider the age, space adequacy, projected needs, structural soundness, mechanical and electrical systems, security needs, and interior and exterior quality of existing court facilities;
 - (b) Develop a project program for the construction or renovation of court facilities that the Administrative Office of the Courts determines to be most in need of construction or renovation, based on the needs assessment required under paragraph (a) of this subsection. The project program shall detail a complete and specifically defined court facilities project that conforms to the Kentucky standards for court facilities established under paragraph (f) of subsection (1) of this section, and shall include itemized space requirements, space relationships, design goals, scope limits, site considerations, cost estimates, and a proposed project budget;
 - (c) Establish the financial condition of any county that contains a court facility for which a project program under paragraph (b) of this subsection has been developed to determine the county's ability to participate in the proposed project. The Administrative Office of the Courts may discharge this responsibility by obtaining certification of the county's financial condition from the Governor's Office for Local Development~~[Department for Local Government]~~, under KRS 147A.021(5);
 - (d) Develop a prioritized list, with cost estimates, based on land availability and the considerations required by this section, of proposed court facilities projects, and submit the list to the Chief Justice for approval and to the Court

Facilities Standards Committee for informational purposes only. Upon approval by the Chief Justice, the Administrative Office of the Courts shall submit the prioritized list to the Capital Planning Advisory Board, by April 15 of each odd-numbered year, in accordance with KRS 7A.120; and

- (e) Develop and maintain uniform contracts to be used by local units of government when procuring architectural, construction, financial, or other services relating to court facilities projects authorized by the General Assembly.
- (3) Before the Administrative Office of the Courts submits a budget request for court projects under KRS 48.050, each local unit of government that is expected to participate in financing a requested court project shall enter into a written memorandum of agreement with the Administrative Office of the Courts. Each county with a court project authorized by the 2000 General Assembly shall enter into a written memorandum of agreement with the Administrative Office of the Courts. The agreement shall be developed by the Administrative Office of the Courts, shall specify the rights, duties, and obligations of the local unit of government and the Administrative Office of the Courts relating to the project, and shall be contingent upon the project's authorization by the General Assembly.
- (4) No contract, and no modification to any contract, relating to the design, financing, or construction of court facilities projects authorized by the General Assembly shall be executed unless first reviewed and approved by the Administrative Office of the Courts.
- (5) All court facilities projects, beginning with those authorized by the 2000 General Assembly, shall comply with the Kentucky standards for court facilities established under paragraph (f) of subsection (1) of this section. No other standards shall be used.
- (6) This section shall not affect or apply to any contract executed prior to July 14, 2000.
- (7) All local units of government or any other entity providing space to the Court of Justice under KRS 26A.100 shall, consistent with the law, comply with the rules of procedure and guidelines established by the Chief Justice and administered by the Administrative Office of the Courts under this section.

Section 12. KRS 39G.020 is amended to read as follows:

- (1) The Kentucky Office of Homeland Security shall identify and maintain a record of all federal homeland security funding, including grants, received in Kentucky. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.
- (2)
 - (a) Not later than September 15 of each year, each department headed by an elected officer, as identified in KRS 12.020 I., each cabinet headed by an appointed officer, as identified in KRS 12.020 II., and each department headed by an appointed officer, as identified in KRS 12.020 III., shall submit to the Kentucky Office of Homeland Security a record of all federal homeland security funding, including grants, received during the state fiscal year starting with the fiscal year ending June 30, 2005. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.
 - (b) Not later than August 1 of each year, each city, county, urban-county, charter county, consolidated local government, and special taxing district shall submit to its area development district a record of all federal homeland security funding, including grants, received during the state fiscal year by the city, county, urban-county, charter county, consolidated local government, special taxing district, or a public agency thereof, starting with the fiscal year ending June 30, 2005. The record shall identify, at a minimum, the specific federal source, the amount, the specific recipient, the intended use of the funding, the actual use, and any unspent amount.
 - (c) Not later than August 15 of each year, each area development district shall group the records required under paragraph (b) of this subsection by county and submit them to the Governor's Office for Local Development~~Department for Local Government~~.
 - (d) Not later than September 20 of each year, the Governor's Office for Local Development~~Department for Local Government~~ shall submit the records received under paragraph (c) of this subsection to the Kentucky Office of Homeland Security.
 - (e) Any funds received for the purpose of homeland security shall be monitored by the Kentucky Office of Homeland Security and subject to audit and compliance inspections as directed by the executive director.
- (3) The Kentucky Office of Homeland Security, area development districts, and the Governor's Office for Local Development~~Department for Local Government~~ shall educate entities that report under this section about their responsibilities under this section. If an entity is late in reporting under this section, the office, an area development district, or the Governor's Office for Local Development~~Department for Local Government~~ shall remind that entity of its reporting requirements under this section.
- (4) The Kentucky Office of Homeland Security shall directly notify the chief executive officer of each city, county, urban-county, charter county, and consolidated local government concerning grants for homeland security projects as the grants become available.

Section 13. KRS 42.016 is amended to read as follows:

The following corporate bodies and instrumentalities of the Commonwealth shall be attached to the Office of the Secretary for administrative purposes and staff services:

- (1) State Property and Buildings Commission;
- (2) Kentucky Savings Bond Authority;
- (3) ~~County Officials Compensation Board;~~
- (4) Kentucky Turnpike Authority;
- ~~(4)(5)~~ State Investment Commission;
- ~~(5)(6)~~ Kentucky Housing Corporation;
- ~~(6)(7)~~ Kentucky Tobacco Settlement Trust Corporation; and
- ~~(7)(8)~~ Kentucky River Authority.

Section 14. KRS 42.200 is amended to read as follows:

- (1) The "Water Project Interest Rate Buy Down Fund" is hereby created as a special fund in the State Treasury. The fund may receive state appropriations, gifts, grants, and federal funds and shall include earnings from investments of moneys in the fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in this fund shall be continuously appropriated only for the purposes specified in this section.
- (2) The fund shall be used to provide financial assistance to government agencies for the construction of publicly-owned water supply projects located in rural areas of the Commonwealth. In order to qualify for the financial assistance, the governmental agency shall obtain a loan from a bank or combined bank and trust company organized under the laws of this Commonwealth and at an interest rate no greater than two (2) percentage points higher than the current prime rate. The financial assistance provided shall consist of an annual grant to the governmental agency to be made over the life of the loan obtained by the governmental agency for the construction of the publicly-owned water supply project. The amount of the annual grant shall be calculated over the life of the loan to provide to the governmental agency each year the portion of the interest on the loan calculated at a four percent (4%) interest rate. The governmental agency shall be responsible for the payment of the interest on the loan in excess of the four percent (4%) interest rate and for the payment of the principal on the loan.
- (3) The Finance and Administration Cabinet shall administer the fund and may promulgate administrative regulations as necessary to implement the provisions of this section. The Governor's Office for Local Development ~~Department for Local Government~~ shall advise government agencies of the fund and how to apply for moneys from the fund.
- (4) The provisions of this section shall be known and may be cited as the Kentucky Rural Water Act.

Section 15. KRS 42.350 is amended to read as follows:

- (1) The area development fund in the State Treasury shall be administered by the Governor's Office for Local Development ~~Department for Local Government~~. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon the warrant of the commissioner of the Governor's Office for Local Development ~~Department for Local Government~~. Any unallotted or unencumbered balances in the fund shall be invested in United States government securities maturing not later than one (1) year from the date of investment and the income from the investments shall be prorated for expenditure for capital projects in area development districts according to the formula provided in KRS 42.370.
- (2) Money in the fund shall be used only for capital projects which contribute to community or industrial development in the Commonwealth, KRS 48.300 and 48.500 notwithstanding. Capital projects eligible for financing out of the fund include and shall be limited to:
 - (a) The construction, reconstruction, renovation, and maintenance of buildings and other improvements to real estate;
 - (b) The acquisition of real property and interests in real property;
 - (c) The purchase of major items of equipment;
 - (d) Industrial site development projects, including land reclamation, clearing, grading, draining, landscaping, and the construction of walkways and fences;
 - (e) The extension and installation of water, gas, sewer, and electrical utilities lines to public facilities and industrial sites;
 - (f) The provision of solid waste management or disposal systems bringing counties into compliance with state or federal law. All expenses incurred in connection with or incidental to the construction or acquisition of a capital project under this section, including architectural, engineering, legal, and other expenses required for the projects may be paid out of the fund. Money in the fund may be used to retire a mortgage or other indebtedness encumbering an eligible capital project made within the preceding five (5) calendar years to secure the repayment of moneys loaned or advanced to finance the construction or acquisition of the project, and may be used in match or in combination with funds obtained from other sources for an eligible capital project. No money shall be expended out of the fund, directly or indirectly, to pay or reimburse the cost of any feasibility study, master plan for any capital improvement development or redevelopment project, the purchase of consumable supplies or any administrative salary, or other operating or capital expense of any area development district, or for the acquisition, construction, reconstruction, renovation, or maintenance of any building or property of schools, state institutions of

higher learning, or any road, street, bridge, or highway.

- (3) The board of directors of each area development district shall determine from among the capital project proposals submitted by eligible beneficiary agencies, the capital projects to be proposed to be constructed or acquired out of the fund. The area development districts shall submit to the commissioner of the Governor's Office for Local Development~~[Department for Local Government]~~ the capital projects selected for construction or acquisition within the districts. Each project proposal shall include: a detailed description of the project; a statement of the public benefit to be derived from the project; if available, design plans and specifications for the project; an itemized estimate of the cost of the project; a statement of the sources and amounts of funds available from any other source for the construction or acquisition of the project; and other information relating to the proposed capital project as the Governor's Office for Local Development~~[Department for Local Government]~~ may require.

Section 16. KRS 42.355 is amended to read as follows:

- (1) The Governor's Office for Local Development~~[Department for Local Government]~~ shall examine each capital project selected by the area development districts, and when it finds that a proposed project conforms to the requirements of KRS 42.350 to 42.370; that the estimated costs of the project are reasonable; that the costs proposed to be paid from the fund are within the amount available; and that the proposed beneficiary agency will be reasonably able to finance the operation and maintain the capital project during its estimated useful life, the commissioner of the Governor's Office for Local Development~~[Department for Local Government]~~ shall approve it. If the Governor's Office for Local Development~~[Department for Local Government]~~ determines that a capital project proposal does not conform to the requirements of KRS 42.350 to 42.370, that the estimated costs of the project are excessive or unreasonable in light of the public benefit to be derived from the project, or the unencumbered balance in the fund available for expenditure in the area development district is insufficient to pay the costs of the project, or the part thereof proposed to be paid out of the fund, or the beneficiary agency cannot reasonably finance the operation of or maintain the capital project during its estimated useful life, the project proposal shall be disapproved by the Governor's Office for Local Development~~[Department for Local Government]~~. The final decision to either approve or disapprove any project proposal shall be made no later than forty-five (45) days following official submittal of a complete proposal by the area development district, and the area development district shall be accordingly notified at that time.
- (2) The commissioner of the Governor's Office for Local Development~~[Department for Local Government]~~ may make direct grants in aid of money out of the fund to any beneficiary agency for the construction or acquisition of any approved capital project. When a direct grant in aid has been made to a beneficiary agency, all contracts awarded for the purchase of materials, supplies, equipment, or services, except professional and technical services, required for the construction or acquisition of the project shall be awarded to the lowest and best bidder in the discretion of the beneficiary agency after public advertisement as required by KRS Chapter 424 or other applicable law. All contracts awarded under this section for the construction, reconstruction, or renovation of a building or other improvement to real estate shall be deemed contracts for public works within the meaning of KRS 341.317 and KRS Chapter 376 and other applicable statutes. All beneficiary agencies receiving a direct grant in aid under this subsection shall keep and maintain complete and accurate records of accounts of all expenditures of the grant moneys which shall be subject to audit by the Commonwealth for a period of five (5) years after completion of the capital project. Beneficiary agencies shall complete approved capital projects within a reasonable period of time as determined by the Governor's Office for Local Development~~[Department for Local Government]~~. Upon completion of capital projects, beneficiary agencies shall submit project completion reports to the Governor's Office for Local Development~~[Department for Local Government]~~ as prescribed by the Governor's Office for Local Development~~[Department for Local Government]~~ and containing documents and information as may be necessary to determine compliance with KRS 42.350 to 42.360 and other applicable statutes and administrative regulations. Beneficiary agencies shall be liable to repay to the fund any granted funds for failure to submit full project completion reports within a reasonable period of time or for expenditure of granted funds in violation of statutes and regulations. No additional area development funds may be approved until compliance, except at the discretion of the commissioner of the Governor's Office for Local Development~~[department]~~. Any grant moneys not required after all of the costs of the capital project have been paid by the beneficiary agency shall be promptly returned to the Commonwealth for reallocation for expenditure for other capital projects in the area development district to which the funds had been originally allocated.
- (3) No capital project shall be constructed under KRS 42.350 to 42.370 except upon land to which (a) the Commonwealth, a political subdivision of the Commonwealth, or the beneficiary agency of the capital project has a good and marketable title, free of encumbrances, or (b) the beneficiary agency of the project has the right to the uninterrupted use, occupancy, and possession for a period longer than the estimated useful life of the capital project; provided nothing herein shall prohibit the construction or renovation of public buildings on land with an existing encumbrance to secure payment of funds obtained for the acquisition or improvement of said land. Each beneficiary agency shall execute and deliver to the Commonwealth its written assurances, which shall be binding on the agencies' successors and assigns, guaranteeing that during its estimated useful life, the capital project shall be operated and maintained for public purposes and pledging that no mortgage or other encumbrances shall be placed against any capital project wholly financed out of the fund, except industrial development projects, for the breach of which assurances the Commonwealth shall have right of entry to the capital project and the beneficiary agency, or its successors and assigns, shall forthwith convey the title to the capital project to the Commonwealth. Similar assurances shall be executed and delivered to the Commonwealth by the beneficiary agencies of capital projects financed in part out of the fund and in part from other sources, except that when additional

funding is derived from the issuance and sale of revenue bonds or under other statutorily authorized financing methods, to secure the repayment of which funds a statutory mortgage lien is granted in favor of any person or group of persons, the capital project may be encumbered to the extent authorized or required by the law under which the financing method was undertaken; nor shall anything in this section prohibit the encumbrance of any real property located within an industrial park or constituting an industrial site, developed or improved as a capital project under KRS 42.350 and this section, by any person, firm, company, partnership, or corporation to which the property has been conveyed, to obtain financing for the construction upon the property of industrial and commercial buildings. The written assurances provided by beneficiary agencies under this section shall be lodged for recording and recorded in the office of the county clerk of the county in which the proposed project shall be located.

Section 17. KRS 42.360 is amended to read as follows:

The commissioner of the Governor's Office for Local Development~~{Department for Local Government}~~ shall promulgate rules and regulations governing submission and approval of proposed capital projects, the expenditure of moneys from the fund, and the designation of beneficiary agencies involved in capital projects as shall be appropriate to the implementation of KRS 42.350 and 42.355.

Section 18. KRS 42.455 is amended to read as follows:

- (1) There is established within the Governor's Office for Local Development~~{Department for Local Government}~~ a Local Government Economic Assistance Program to consist of a system of grants to local governments to improve the environment for new industry and to improve the quality of life for the residents.
- (2) Grants obtained under this program shall be used for priority expenditures. Thirty percent (30%) of all moneys in the fund shall be spent on the coal haul road system as described in subsection (7) of this section. The remaining seventy percent (70%) of the fund shall be spent on priority categories limited to the following, but in no event shall grants obtained under this program be used for expenses related to administration of government:
 - (a) Public safety, including law enforcement, fire protection, ambulance service, and other related services;
 - (b) Environmental protection, including sewage disposal, sanitation, solid waste, and other related programs;
 - (c) Public transportation, including mass transit systems, streets, and roads;
 - (d) Health;
 - (e) Recreation;
 - (f) Libraries and educational facilities;
 - (g) Social services for the poor, the elderly, and individuals with disabilities;
 - (h) Industrial and economic development;
 - (i) Vocational education;
 - (j) Workforce training; and
 - (k) Secondary wood industry development.
- (3) The use of entitlement funds for repayment of debt as related to long-term bond issues is permissible as long as the revenue from the bond issues is expended on priority categories.
- (4) Grants obtained under this program may be used as local portion to secure federal programs as long as program expenditures are in the priority category area. Interest earned on funds received by local units of government shall be considered available for use by the local unit of government in the priority expenditure categories.
- (5) The Governor's Office for Local Development~~{Department for Local Government}~~ shall be responsible for the promulgation of rules and regulations necessary to implement the grants programs authorized by this section.
- (6) The Governor's Office for Local Development~~{Department for Local Government}~~ shall assure that a public hearing is held on the expenditure of funds received under KRS 42.450 to 42.495. Advertisement of the public hearing shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The Governor's Office for Local Development~~{department}~~ shall submit an annual report to the Governor indicating how the grants were used and an evaluation of the program's effectiveness in improving the economy of the units of government receiving assistance.
- (7) On or before August 15, 1980, and each year thereafter, the Transportation Cabinet shall publish and furnish to the Governor's Office for Local Development~~{Department for Local Government}~~ a directory, including supporting maps and other documents, designating the official state coal road system in coal impact and coal producing counties which shall include all public highways, roads, and streets over which quantities of coal, sufficient to significantly affect the condition and state of repair of highways, roads, and streets, have been transported in the immediately preceding fiscal year. The cabinet shall further publish the total county mileage of the official state coal road system and the total ton/miles within each coal impact and coal producing county for said preceding fiscal year.
- (8) Every person shipping or transporting coal, and every carrier for hire or common carrier hauling coal over the public highways, roads, and streets shall file with the Transportation Cabinet such information and at intervals as the cabinet~~{department}~~ shall designate by regulation duly adopted for the purpose of identifying those highways, roads, and

streets comprising the coal haul road system and the quantities of coal transported thereon, in order that the cabinet can accurately calculate total ton/miles within each coal impact and coal producing county.

- (9) The Department of Revenue shall make available to the Transportation Cabinet coal severance and processing tax data for use in verifying and supplementing the information furnished under the provisions of subsection (8) of this section. The information shall be furnished in such a manner as to conceal the identity of individual taxpayers; if the data cannot be furnished without revealing the identity of individual taxpayers, it shall be withheld.

Section 19. KRS 42.4588 is amended to read as follows:

- (1) (a) A Local Government Economic Development Program is established to consist of a system of grants to counties to attract new industry. Grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be administered by the Governor's Office for Local Development~~Department for Local Government~~. Grants from funds provided for in KRS 42.4592(1)(c) shall be administered by the Kentucky Economic Development Finance Authority.
- (b) All references in this section to the commissioner of the Governor's Office for Local Development~~Department for Local Government~~ relate only to the grants or industrial development projects funded through KRS 42.4592(1)(a) and (b). All references in this section to the secretary of the Cabinet for Economic Development or the Kentucky Economic Development Finance Authority relate only to grants or industrial development projects funded through KRS 42.4592(1)(c).
- (2) Grants obtained under this program shall be used for:
 - (a) Industrial development projects if an industrial firm has agreed with the local government, to the satisfaction of the Kentucky Economic Development Finance Authority or the Governor's Office for Local Development~~Department for Local Government~~, to develop, in conjunction with the industrial development project, manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Governor's Office for Local Development~~Department for Local Government~~;
 - (b) Industrial development projects if the secretary of the Cabinet for Economic Development or the commissioner of the Governor's Office for Local Development~~Department for Local Government~~ finds that the project is necessary for the creation of an environment for new industry in order to obtain an agreement from an industrial firm to develop manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Governor's Office for Local Development~~Department for Local Government~~; and
 - (c) Debt service for industrial development projects, as defined in subsection (2)(a) and (b) of this section, or for facilities approved by the secretary of the Cabinet for Economic Development or the commissioner of the Governor's Office for Local Development~~Department for Local Government~~ under the provisions of subsection (3) of this section.
- (3) The secretary of the Cabinet for Economic Development or the commissioner of the Governor's Office for Local Development~~Department for Local Government~~ may approve facilities, other than manufacturing, processing, or assembling facilities, for industrial development projects when the secretary or the commissioner finds that the facility will add value to a product. Value-added facilities shall include data processing, telecommunication, and distribution facilities, but shall not include retail facilities or coal mining, coal processing, or coal transportation facilities. The secretary or the commissioner may also approve privately owned facilities for transient lodging and recreation where the secretary or commissioner finds that the cost of the recreation component of the facility is equal to, or greater than, the cost of the lodging component of the facility. The criteria for approval of applications for grants provided for in subsection (10)(a), (b), and (c) of this section shall be paramount in the case of lodging and recreational facilities.
- (4) Applications for grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund. Applications for grants from funds provided for in KRS 42.4592(1)(c) shall be made by the legislative bodies of two (2) or more counties with accounts in the local government economic development fund. No grant shall be awarded without application for a grant.
- (5) A grant may be awarded for an industrial development project located in a county that does not have an account in the local government economic development fund, if the secretary of the Cabinet for Economic Development or the commissioner of the Governor's Office for Local Development~~Department for Local Government~~ finds that the industrial development project may be reasonably expected to create jobs for residents of the local unit or units of government applying for the grant. Application for the grant shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund.
- (6) An industrial development project may include legal, accounting, engineering, and marketing expenses for a regional industrial park, in addition to the activities set forth in subsection (11)(a) of this section.
- (7) Grants awarded from funds provided for in KRS 42.4592(1)(a) and (b) shall not exceed the total balance of the accounts of the applicant counties at the time of the award of the grant.
- (8) Grants awarded under the provisions of subsection (2)(c) of this section may be for a period not to exceed the current biennium of the Commonwealth, and shall be limited to an amount not to exceed the amount estimated to be allocated to the applicant county or counties for the current biennium under the provisions of KRS 42.4592(1)(a) and (b).

- (9) Approval of grant applications shall be by the secretary of the Cabinet for Economic Development or the commissioner of the Governor's Office for Local Development~~{Department for Local Government}~~. Award of grants from funds provided for in KRS 42.4592(1)(c) shall be by the Kentucky Economic Development Finance Authority. Award of grants from funds provided for in KRS 42.4592(1)(a) and (b) shall be by the commissioner of the Governor's Office for Local Development~~{Department for Local Government}~~.
- (10) Criteria for approval of applications and the award of grants to be considered, if applicable, shall include:
- (a) The number of jobs to be created or preserved, directly or indirectly, by the industrial development project;
 - (b) Payrolls, and the taxes generated, both at the state and local levels, by the industrial development project and taxes generated by the employment created or preserved by the industrial development project;
 - (c) The size, nature, and cost of the industrial development project, including the prospect of the industrial development project providing long-term jobs in enterprises consistent with the changing economies of the affected local units of government;
 - (d) The needs, and degree of needs, of the local units of government which will be affected by the industrial development project;
 - (e) The needs of any industrial firm benefiting from the industrial development project;
 - (f) The amount and kind of assistance, if any, available to an industrial firm from other government agencies through tax exemption or abatement, financing assistance through industrial development bonds, and otherwise, with respect to the industrial development project;
 - (g) The amount of capital made available to the facility by lenders and by the industrial firm; and
 - (h) The economic feasibility of the facility.
- (11) For purposes of this section:
- (a) "Industrial development project" includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of the real estate for conveyance to or lease to industrial firms to be used for manufacturing, processing, or assembling purposes, including surveys; site tests and inspections; subsurface site work; excavation, removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage; storm water retention; installation of utilities, such as water, sewer, sewage treatment, gas, electricity, communication, and other similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation on the real estate of the industrial firm of buildings, including buildings to be used for worker training and education; rail facilities; roads; sidewalks; curbs; other improvements to the real estate necessary to its manufacturing, processing, assembling, or other approved use by industrial entities; workforce training; and job development incentive grants;
 - (b) "Industrial firm" means any corporation, limited liability company, limited liability partnership, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, assembling, or other approved facility on the site of an industrial development project financed pursuant to this section;
 - (c) "Job development incentive grant" means an award to a county of funds from its account administered by the Governor's Office for Local Development~~{Department for Local Government}~~ pursuant to KRS 42.4592(1)(a) and (b) for the use by the county to encourage job development for those industrial development projects located in that county which create at least twenty-five (25) new full-time jobs held by Kentucky residents who receive a minimum wage of at least one hundred thirty percent (130%) of the federal minimum wage. Each job development incentive grant shall be limited to five thousand dollars (\$5,000) for each job created which fulfills the requirements of this subsection. The industrial firm receiving the job development incentive grant shall pay its employees at the project site an average wage equal to or greater than one hundred fifty percent (150%) of the federal minimum wage and shall invest at least ten thousand dollars (\$10,000) per new job created. After a fiscal court has received authorization for the job development grant by the Governor's Office for Local Development~~{Department for Local Government}~~, the county, the industrial firm, and the Governor's Office for Local Development~~{Department for Local Government}~~ shall enter into an agreement committing the grant funds to be disbursed at such time as the industrial firm certifies the authenticity of the following information to be delivered to the county:
 - 1. The industrial firm has made at least the minimum investment required;
 - 2. At least twenty-five (25) new full-time Kentucky jobs have been created at the project site by the industrial firm;
 - 3. No employee at the project site is paid a salary by the industrial firm which is less than one hundred thirty percent (130%) of the federal minimum wage;
 - 4. The employees at the project site are paid an average wage by the industrial firm at least equal to one hundred fifty percent (150%) of the federal minimum wage;

5. Each employee hired for the project by the industrial firm shall have worked on a full-time basis at the minimum wages described in this section at least twelve (12) full consecutive months at the site prior to any grant funds disbursement; and
6. No job created by the industrial firm after twenty-four (24) months from the date of the first eligible hire at the project site shall be considered for the grant.

If the county is satisfied the information provided is accurate and qualifies the industrial firm for the job development incentive grant as described in the agreement, it shall forward the certified information to the Governor's Office for Local Development~~[Department for Local Government]~~ which shall make the job development grant disbursement upon sufficient evidence that all terms of the agreement have been met; and

- (d) "Regional industrial park" means an industrial development project authorized for a grant award by the Kentucky Economic Development Finance Authority for a minimum of three (3) counties eligible for grant funds provided for in KRS 42.4592(1)(c), which coalition may include a county as approved under subsection (5) of this section.
- (12) Findings by the secretary of the Cabinet for Economic Development or the commissioner of the Governor's Office for Local Development~~[Department for Local Government]~~, provided for in subsections (2)(b), (3), and (5) of this section, shall be made in writing to the affected counties, the Governor, and the Legislative Research Commission.
- (13) By October 1 of each odd-numbered year, the secretary of the Cabinet for Economic Development and the commissioner of the Governor's Office for Local Development~~[Department for Local Government]~~ shall each provide, in writing, to the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section subsequent to the last report, indicating which applications were approved or disapproved, with the reason for disapproval when the decision was to disapprove, and a listing of all grants awarded, with the amount of the award, the recipient county, and the related industrial development project.

Section 20. KRS 42.4592 is amended to read as follows:

- (1) Moneys remaining in the local government economic development fund following the transfer of moneys to the local government economic assistance fund provided for in KRS 42.4585 and following the transfer of moneys to the secondary wood products development fund provided for in KRS 42.4586 shall be allocated as follows:
 - (a) Thirty-three and one-third percent (33-1/3%) shall be allocated to each coal producing county on the basis of the ratio of total tax collected in the current and preceding four years on coal severed in each respective county to the total tax collected statewide in the current and four (4) preceding years.
 - (b) Thirty-three and one-third percent (33-1/3%) shall be allocated quarterly to each coal producing county on the basis of the following factors, which shall be computed for the current and four (4) preceding years, and which shall be equally weighted:
 1. Percentage of employment in mining in relation to total employment in the respective county;
 2. Percentage of earnings from mining in relation to total earnings in the respective county; and
 3. Surplus labor rate.
 - (c) Thirty-three and one-third percent (33-1/3%) shall be reserved for expenditure for industrial development projects benefiting two or more coal producing counties. For purposes of this paragraph, "coal producing county" shall mean a county which has produced coal in the current or any one of the four (4) preceding years.
- (2)
 - (a) For purposes of paragraph (b) of subsection (1) of this section, "percentage of employment in mining" and "percentage of earnings from mining" shall be the percentages published for the latest available five (5) year period by the Bureau of Economic Analysis in the United States Department of Commerce; "surplus labor rate" shall be the rate published for the latest available five (5) year period by the Office of Employment and Training in the Education Cabinet, as provided in paragraph (b) of this subsection.
 - (b)
 1. Each year the Office of Employment and Training shall estimate surplus labor for each county and for the Commonwealth, and shall annually publish an estimate of the surplus labor rate for each county and the Commonwealth.
 2. The estimate of surplus labor for each county and for the Commonwealth shall be made using the best practical method available at the time the estimates are made. In determining the method to be adopted, the Office of Employment and Training may consult with knowledgeable individuals, including but not limited to the Office of the United States Bureau of Labor Statistics, state and national researchers, state and local officials, and staff of the Legislative Research Commission. The description of the method used to estimate surplus labor shall be reported in each annual publication provided for in subparagraph 1. of this paragraph.
 3. For purposes of this section, "surplus labor" means the total number of residents who can be classified as unemployed or as discouraged workers, and "surplus labor rate" means the percentage of the potential civilian labor force which is surplus labor.
- (3) The funds allocated under the provisions of paragraphs (a) and (b) of subsection (1) of this section shall retain their identity with respect to the county to which they are attributable, and a separate accounting of available moneys within the fund shall be maintained for the respective counties. Accounting for funds allocated under the provisions of this section

shall be by the Governor's Office for Local Development~~[Department for Local Government]~~.

Section 21. KRS 42.4595 is amended to read as follows:

The Governor's Office for Local Development~~[Department for Local Government]~~ may promulgate administrative regulations to implement the provisions of KRS 42.4582, 42.4585, 42.4592, and KRS 42.4588 as it relates to KRS 42.4592(1)(a) and (b). The Cabinet for Economic Development or the Kentucky Economic Development Finance Authority may promulgate administrative regulations to implement the provisions of KRS 42.4588 as it relates to KRS 42.4592(1)(c).

Section 22. KRS 42.460 is amended to read as follows:

Except as provided in KRS 91A.040(4)(b), any assistance granted under KRS 42.450 to 42.495 shall include an agreement that an independent annual audit shall be conducted and that the audit report shall include a certification that the funds were expended for the purpose intended. A copy of the audit and certification of compliance shall be forwarded to the Governor's Office for Local Development~~[Department for Local Government]~~, in the case of assistance granted from the local government economic assistance fund or the local government economic development fund as allocated in KRS 42.4592(1)(a) and (b), or to the Cabinet for Economic Development and the Kentucky Economic Development Finance Authority, in the case of assistance granted from the local government economic development fund, within eighteen (18) months after the end of the fiscal year.

Section 23. KRS 42.472 is amended to read as follows:

Moneys from tar sands distributed to counties under KRS 42.470(2) shall be used for economic development purposes as approved by the Governor's Office for Local Development~~[Department for Local Government]~~.

Section 24. KRS 42.480 is amended to read as follows:

- (1) On or before July 1, 1992, and each year thereafter, the commissioner of the Governor's Office for Local Development~~[Department for Local Government]~~ shall provide the Cabinet for Economic Development, the Kentucky Economic Development Finance Authority, and the legislative body of each local government eligible for funds under the provisions of KRS 42.450 to 42.495, an estimate of the funds that will be allocated to the local government for fiscal year 1992-93, and each year thereafter.
- (2) On or before the fifteenth of the first month of a quarter, the commissioner of the Governor's Office for Local Development~~[Department for Local Government]~~ shall cause to be remitted to the legislative bodies of the local governments eligible for funds from the local government economic assistance fund, the funds allocated to the respective local governments for the prior quarter; except that the remittance for the last quarter of a fiscal year shall be made after the close of the fiscal year accounting records, and shall be adjusted to provide the balance of the annual allocation due the local government.

Section 25. KRS 43.090 is amended to read as follows:

- (1) Immediately upon completion of each audit and investigation, except those provided for in KRS 43.070, the Auditor shall prepare a report of his findings and recommendations. He shall furnish one (1) copy of the report to the head of the agency to which the report pertains, one (1) copy to the Governor, one (1) copy to the secretary of the Finance and Administration Cabinet, one (1) copy to the Legislative Research Commission and one (1) copy to the state librarian. The agency to which an Auditor's draft report pertains shall respond in writing to any adverse or critical audit findings and to any recommendations contained in the draft report within fifteen (15) days of receipt of the draft report. The Auditor shall distribute the agency's response to those entitled by this subsection to a copy of the audit report. Within sixty (60) days of the completion of the final audit report, the agency to which an Auditor's report pertains shall notify the Legislative Research Commission and the Auditor of the audit recommendations it has implemented and of the audit recommendations it has not implemented. The agency shall state the reasons for its failure to implement any recommendation made in the final audit report. The Auditor shall prepare and transmit to each member of the General Assembly, by December 15 immediately preceding the convening of each regular session of the General Assembly, a printed report of his activities, summarizing the findings and recommendations in his report on each audit or investigation made since the last preceding biennial report to the General Assembly listing, by state agency, the audit recommendations that have not been implemented and the reason(s) given by state agencies for nonimplementation, and presenting such other findings and recommendations as he sees fit to make. He shall file a copy of this report with the Governor and five (5) copies with the state librarian. All audit reports shall be public documents to which taxpayers shall have access.
- (2) The Auditor shall, within a reasonable time after the examination of each county as provided in KRS 43.070, make a written report to the Governor, the General Assembly, the Attorney General~~[the County Officials' Compensation Board]~~, the state librarian and to the fiscal court and county attorney of the county examined, calling attention in specific terms to any mismanagement, misconduct, misapplication or illegal appropriation or extravagant use of money received or disbursed by any officer of the county examined. In addition, said report shall be sent to a newspaper having general circulation in the county examined and the letter of transmittal accompanying the report shall be published in said newspaper in accordance with the provisions of KRS Chapter 424.

Section 26. KRS 44.020 is amended to read as follows:

- (1) Within three (3) working days after the first and fifteenth of each month, the sheriff, or any other public official with a claim payable from the State Treasury for duties performed in any court of the Court of Justice, shall make out the claim and have it certified by the judge of the court as allowable for payment, and transmit the list to the Governor's Office for

Local Development~~{Department for Local Government}~~. The claim approved by the judge of the court shall serve as an order of allowance notwithstanding any statutory provision to the contrary. The Governor's Office for Local Development~~{Department for Local Government}~~ shall keep a separate record of all claims allowed in each county, noting the number and amount of each warrant issued for the payment of the claims.

- (2) The order of any court authorized by law to approve and allow fee-bills, settlements, credits, charges, and other claims against the State Treasury shall not be treated as a judgment, or made conclusive against the state, but shall only be regarded as prima facie evidence of the correctness and legality of the fee-bill, settlement, credit, charge, or claim. The Governor's Office for Local Development~~{Department for Local Government}~~, if it believes the fee-bill, settlement, credit, charge, or claim to be fraudulent, erroneous, or illegal, may, upon the advice of the Attorney General, refuse to pay and may contest the claim in the Franklin Circuit Court, which shall have exclusive jurisdiction of all actions against the Governor's Office for Local Development~~{Department for Local Government}~~ to compel the payment of claims against the State Treasury.

Section 27. KRS 45.031 is amended to read as follows:

- (1) Any department, board, commission, agency, advisory council, interstate compact, corporate body, or instrumentality of the Commonwealth of Kentucky applying for federal funds, aids, loans, or grants shall file a summary notification of the intended application with the Governor's Office for Local Development~~{Department for Local Government}~~ in accordance with the existing A-95 procedures.
- (2) When as a condition to receiving federal funds, the Commonwealth of Kentucky is required to match the federal funds, a statement shall be filed with the notice of intent or summary of the application stating:
- (a) The amount and source of state funds needed for matching purposes;
 - (b) The length of time the matching funds shall be required;
 - (c) The growth of the program;
 - (d) How the program will be evaluated;
 - (e) What action will be necessary should the federal funds be canceled, curtailed, or restricted; and
 - (f) Any other financial and program management data required by the Finance and Administration Cabinet or by law.
- (3) Any application for federal funds, aids, loans, or grants which will require state matching or replacement funds at the time of application or at any time in the future, must be approved by the secretary of the Finance and Administration Cabinet, the Legislative Research Commission, and the Chief Justice for their respective branches of government or their designated agents prior to its filing with the appropriate federal agency. Any application for federal funds, aids, loans, or grants which will require state matching or replacement funds at the time of application or at any time in the future, when funds have not been appropriated for that express purpose, must be approved by the General Assembly, if in session. When the General Assembly is not in session, the application shall be reported to and reviewed by the Interim Joint Committee on Appropriations and Revenue, as provided by subsection (4) of KRS 48.500.
- (4) When any federal funds, aids, loans, or grants are received by any department, board, commission or agency of the Commonwealth of Kentucky, a report of the amount of funds received shall be filed with the Finance and Administration Cabinet; and this report shall specify the amount of funds which would reimburse an agency for indirect costs as provided for under OMB Circular A-87.
- (5) The secretary of the Finance and Administration Cabinet may refuse to issue his warrant for the disbursement of any state or federal funds from the State Treasury as the result of any application which is not approved as provided by this section, or in regard to which the statement or reports required by this section were not filed.
- (6) The secretary of the Finance and Administration Cabinet shall be responsible for the orderly administration of this section and for issuing the appropriate guidelines and regulations from each source of fund used.

Section 28. KRS 45A.023 is amended to read as follows:

- (1) Notwithstanding any other provision of law to the contrary, the Governor's Office for Local Development~~{Department for Local Government}~~, the Department of Military Affairs, and the Kentucky Office of Homeland Security may enter into multiyear contracts, memoranda of agreement, memoranda of understanding, grant agreements, or any other similar documents that exceed the biennium in which they are made for projects that are funded solely through federal grant money.
- (2) All documents entered into in accordance with subsection (1) of this section shall contain a provision stating that the contract funding may be discontinued by the General Assembly in a subsequent budget.

Section 29. KRS 45A.050 is amended to read as follows:

- (1) Except as provided in KRS 45A.800 to 45A.835 and KRS Chapters 175, 176, 177, and 180, all rights, powers, duties, and authority relating to the procurement of supplies, services, and construction, and the management, control, warehousing, sale, and disposal of supplies, services, and construction now vested in or exercised by any state agency under the several statutes relating thereto, are hereby transferred to the secretary of the Finance and Administration Cabinet as provided in this code, subject to the provisions of subsection (2) of this section.

- (2) Unless otherwise ordered by the secretary of the Finance and Administration Cabinet, the acquisition of the following shall not be required through the Finance and Administration Cabinet:
 - (a) Works of art for museum and public display;
 - (b) Published books, maps, periodicals, and technical pamphlets; and
 - (c) Services of visiting speakers, professors, and performing artists.
- (3) The Finance and Administration Cabinet shall include in all state agency price contracts for the purchase of materials or supplies a provision that, as approved by the secretary of the Finance and Administration Cabinet, any political subdivision, including cities of all classes, counties, school districts, or special districts, may participate in these contracts to the same extent as the Commonwealth. Any political subdivision may purchase materials and supplies in accordance with a contract for supplies and materials entered into by the Finance and Administration Cabinet for the Commonwealth, including those contracts negotiated by the cabinet with vendors who maintain a General Services Administration price agreement as provided in subsection (8) of KRS 45A.045. Political subdivisions of the Commonwealth must comply with other provisions of the Kentucky Revised Statutes which require purchase by competitive bidding, before participating in the contract, unless the state contract has been let by competitive bidding, or the contract was negotiated as provided in subsection (8) of KRS 45A.045.
- (4) The Finance and Administration Cabinet shall inform the Governor's Office for Local Development~~{Department for Local Government}~~, which shall then inform the appropriate purchasing agent of each political subdivision interested in participating under this section, of all state agency contracts in effect between the Commonwealth and vendors.
- (5) The secretary of the Finance and Administration Cabinet shall promulgate administrative regulations necessary for the implementation of this section and necessary to provide that the Commonwealth be reimbursed for any additional expenses incurred by the Commonwealth in allowing political subdivisions to participate in contracts with vendors.
- (6) The Finance and Administration Cabinet shall comply with all provisions relating to the methods of purchasing in the Kentucky Revised Statutes. This section is not intended to repeal or otherwise affect any provision of the Kentucky Revised Statutes regarding purchasing methods of the Finance and Administration Cabinet.

Section 30. KRS 45A.310 is amended to read as follows:

- (1) All payments received by a supplying public purchasing unit from any other public purchasing unit or foreign purchasing activity shall be available or appropriated to the supplying public purchasing unit to defray the cost of the services provided.
- (2) Where the public purchasing unit or foreign purchasing activity administering a cooperative purchase complies with the requirements of this code, any public purchasing unit participating in such a purchase shall be deemed to have complied with this code.
- (3) Where the public purchasing unit or foreign purchasing activity administering a cooperative purchase does not follow this code, then the purchasing officer of a state public purchasing unit must determine, in writing, that he has examined the procurement system of the public purchasing unit or foreign purchasing activity administering the purchase, and has found that the proposed method of purchase substantially meets the requirements of this code.
- (4) The Governor's Office for Local Development~~{Department for Local Government}~~ shall collect information concerning the type, cost, quality, and quantity of commonly used supplies, services, or construction being procured or used by state public purchasing units. The Governor's Office for Local Development~~{Department for Local Government}~~ may also collect this information from local public purchasing units. The Governor's Office for Local Development~~{Department for Local Government}~~ may make available all such information to any public purchasing unit upon request.
- (5) Nothing in KRS 45A.295 to 45A.320 shall be deemed to require a local public purchasing unit to comply with any other provision of KRS Chapter 45A.

Section 31. KRS 46.010 is amended to read as follows:

- (1) The Governor's Office for Local Development~~{Department for Local Government}~~ shall prescribe and keep in operation a uniform system of accounting and reporting on the receipt, use and handling of all public funds, other than taxes, due and payable to the state from county, district, and other local officers and agencies.
- (2) The system so adopted shall require each county treasurer, and each county officer who receives or disburses state funds, to keep an accurate account of receipts and disbursements, showing a daily balance of receipts and disbursements.
- (3) The system shall require all county officers handling state funds, other than taxes, to make an annual report to the Governor's Office for Local Development~~{Department for Local Government}~~, showing receipts and disbursements, and to make other financial statements as the Governor's Office for Local Development~~{Department for Local Government}~~ requires.
- (4) The Governor's Office for Local Development~~{Department for Local Government}~~, subject to the approval of the Governor, may from time to time change the system, or any book, report, form, or record provided for by the system, whenever in its opinion a change is necessary in order to conform to existing conditions.

Section 32. KRS 46.020 is amended to read as follows:

The Governor's Office for Local Development~~[Department for Local Government]~~ shall prepare, and shall cause to be printed and paid for in the same manner as other books, blanks, and records for counties and county officers, all books, blanks, and records necessary for the system of uniform accounting established under KRS 46.010. The Governor's Office for Local Development~~[department]~~ shall deliver to each county, district, or other local officer charged with the duty of collecting, disbursing, or handling state funds the books, blanks, and records as are necessary for that officer. Each county, district, or other local officer receiving the books, blanks, or records shall use them in the performance of his duties with reference to the handling and disbursing of state funds. Any of these books, blanks, or records used by state officers or employees shall be printed and paid for in the same manner as other state printing.

Section 33. KRS 46.990 is amended to read as follows:

- (1) Any county or district officer authorized by law to make collections of funds for the state who fails or refuses to pay over to the state the funds so collected at the time he is required by law to report the collections to any state department shall be required to pay a penalty of ten percent (10%) on all funds not so paid.
- (2) Any officer who fails or neglects to perform any duty required of him by subsection (1) of KRS 46.030 shall be fined not less than fifty dollars (\$50) nor more than one hundred dollars (\$100) for each offense.
- (3) Any officer who fails to use any book, blank or record required to be used under KRS 46.020, or who willfully refuses to make any report required by the Governor's Office for Local Development~~[Department for Local Government]~~ under the provisions of KRS 46.010 or 46.020, shall be subject to indictment in the Franklin Circuit Court, and upon conviction shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) for each offense.

Section 34. KRS 48.810 is amended to read as follows:

Each program cabinet, the Governor's Office for Local Development~~[Department for Local Government]~~, the Department of Military Affairs, and the Commonwealth Office of Technology shall develop and submit a four (4) year strategic plan to meet the broad goals outlined by the Governor, and shall submit an electronic copy of the full plan and an electronic copy of a brief summary of that plan to the state budget director, the secretary of the Executive Cabinet, and the Legislative Research Commission with each biennial budget request.

- (1) Each strategic plan shall include, but not be limited to:
 - (a) A statement of the cabinet or administrative entity's value, vision, and mission;
 - (b) A statement of how the cabinet or administrative entity's strategic plan is aligned with the Governor's goals and linked to the budget request and the six (6) year capital plan of the cabinet or administrative entity;
 - (c) A brief summary of a situation analysis conducted by the program cabinet or administrative entity;
 - (d) Identification of measurable goals for the next four (4) years;
 - (e) Specification of objectives to meet the stated goals;
 - (f) Identification of performance indicators to be used to measure progress toward meeting goals and objectives; and
 - (g) A progress report providing data and information on the performance indicators set forth in the program cabinet or administrative entity's most recent strategic plan.
- (2) On or before September 1 of each even-numbered fiscal year, program cabinets and administrative entities which have submitted strategic plans in the previous fiscal year shall submit a progress report to the Office of the State Budget Director, or its designee, which provides data and information regarding the progress the program cabinet or entity has made toward meeting its goals as measured by performance indicators set forth in the cabinet's or entity's most recent strategic plan.
- (3) The state budget director shall designate an entity to develop and implement a methodology for strategic planning and progress reporting for use by program cabinets and administrative entities submitting strategic plans and progress reports pursuant to this section. The entity designated by the state budget director shall develop and make available a training course in strategic planning that is appropriate for and targeted to state government managers, and shall make that training course available to state managers and their designees who have responsibility for the completion of a strategic plan as required by this section.
- (4) The Commonwealth Office of Technology shall maintain uniform electronic strategic plan and progress report submission forms and a procedure that allows all plans and progress reports to be entered into an electronic database that is searchable by interested parties. The database shall be developed and maintained in a form that complies with all provisions of KRS 48.950, 48.955, and 48.960. The Commonwealth Office of Technology shall develop and maintain a program to provide public access to submitted plans and progress reports.

Section 35. KRS 64.050 is amended to read as follows:

- (1) When the term of any county clerk in counties of seventy-five thousand (75,000) population or over expires, or he dies or resigns, or is removed from office, he or his personal representative, trustee or committee, as the case may be, shall at once deliver to his successor in office all accounts, claims and fees due him in his official capacity. The successor shall have the fees, claims and accounts collected, or the Governor's Office for Local Development~~[Department for Local Government]~~ may, in its discretion, when said accounts, fees and claims are so delivered to the successor, appoint a person to collect them. If a collector is appointed, the successor shall at once, or when demanded by the collector, deliver to him all

accounts, fees and claims uncollected. The successor or collector, as the case may be, shall, every sixty (60) days after receiving the accounts, fees, and claims, report to the Governor's Office for Local Development~~[Department for Local Government]~~, under oath, the amount collected thereon, and at the same time pay to the Governor's Office for Local Development~~[Department for Local Government]~~ the amount so collected, and shall continue to so report for three (3) years, unless the accounts, fees and claims are sooner collected.

- (2) The Governor's Office for Local Development~~[Department for Local Government]~~ shall, upon each payment, draw a warrant on the State Treasurer in favor of the person collecting, for an amount equal to twenty percent (20%) of the amount so paid in, which shall be the full compensation allowed for the collection.
- (3) If the amount paid to any clerk during his term or incumbency was not sufficient to pay the salaries and office expenses of the clerk, the Governor's Office for Local Development~~[Department for Local Government]~~ shall, out of the money collected and paid in as provided in subsection (1) of this section, pay to the clerk, or to the person entitled to receive the same, an amount sufficient to supply the deficit due for salaries and expenses, not exceeding seventy-five percent (75%) of the amount of fees accrued during his official term and which have been collected and paid to the Governor's Office for Local Development~~[Department for Local Government]~~.

Section 36. KRS 64.480 is amended to read as follows:

- (1) Effective, with respect to the offices of Governor on December 11, 1979, and Lieutenant Governor on the fifth Tuesday following the regular November election in 1975, and with respect to the other offices named in this section on the first Monday in January, 1976, the compensation of the following named officers, payable monthly out of the State Treasury, shall be the sum per annum designated for the respective offices, as follows: Governor, forty-five thousand dollars (\$45,000) until December 11, 1981, then fifty thousand dollars (\$50,000) until December 13, 1983, and then sixty thousand dollars (\$60,000) until January 1, 1985; Lieutenant Governor, twenty-seven thousand nine hundred dollars (\$27,900) per annum, plus any compensation received while acting in the place of the Governor; Attorney General, Commissioner of Agriculture, Secretary of State, State Treasurer, Auditor of Public Accounts, and clerk of the Supreme Court of Kentucky elected in November, 1975, as clerk of the Court of Appeals, twenty-seven thousand nine hundred dollars (\$27,900).
- (2) In order to equate or adjust the compensation of the Lieutenant Governor, Attorney General, Commissioner of Agriculture, Secretary of State, State Treasurer, Auditor of Public Accounts, and clerk of the Supreme Court of Kentucky with the purchasing power of the 1949 dollar, the Governor's Office for Local Development~~[Department for Local Government]~~ of Kentucky shall compute by the second Friday in February of every year, beginning in 1977, the maximum permissible compensation of the officials mentioned in this subsection based precisely upon the consumer price index formula approved in *Matthews v. Allen*, Kentucky, 360 S.W.2d 139 (1962). Thus the maximum permissible compensation effective for the entire year of 1977 and subsequent years will be the actual compensation to be paid said officials. The year of adjustment will be the particular full calendar year involved.
- (3) It is the intention of the Legislature that the constitutionally permissible adjustment of salaries of these officials be framed around equating current salaries with the purchasing power of the dollar in 1949 when Section 246 of the Constitution of Kentucky was amended. Section 246 of the Constitution of Kentucky, as amended, established a monetary level of twelve thousand dollars (\$12,000) per annum for said officials. The formula merely effects an adjustment of the constitutional monetary level in terms of the current consumer price index.
- (4) In order to adjust the compensation of the Governor to reflect changes in the purchasing power of the dollar, the Governor's Office for Local Development~~[Department for Local Government]~~ shall compute by the second Friday in February of every year, beginning in 1985, an adjusted salary of the Governor by multiplying sixty thousand dollars (\$60,000) by the increase in the consumer price index during the period from January 1, 1984, to the beginning of the then-current calendar year. The actual compensation paid to the Governor for the entire calendar year of 1985 and subsequent years shall be the adjusted salary.

Section 37. KRS 64.527 is amended to read as follows:

In order to equate the compensation of jailers who do not operate full service jails, constables in counties having an urban-county form of government, justices of the peace, county commissioners, and coroners with the purchasing power of the dollar, the Governor's Office for Local Development~~[Department for Local Government]~~ shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than seven thousand two hundred dollars (\$7,200) per annum. The Governor's Office for Local Development~~[Department for Local Government]~~ shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled in accordance with the increase or decrease in the consumer price index. Upon notification from the Governor's Office for Local Development~~[Department for Local Government]~~, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Governor's Office for Local Development~~[Department for Local Government]~~.

Section 38. KRS 64.5275 is amended to read as follows:

- (1) The General Assembly of the Commonwealth of Kentucky hereby finds and determines that county judges/executive,

county clerks, jailers who operate a full service jail, and sheriffs in all counties are officers whose duties or jurisdictions are coextensive with that of the Commonwealth within the meaning of Section 246 of the Constitution of Kentucky.

- (2) Effective on the first Monday in January of 1999, the maximum salary of county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall be fixed by the Governor's Office for Local Development~~Department for Local Government~~ according to a salary schedule in accordance with Section 246 of the Kentucky Constitution. The salary schedule provides that these officials, as officers whose jurisdiction or duties are coextensive with the Commonwealth, shall be paid at a rate no greater than twelve thousand dollars (\$12,000) per annum as adjusted for any increase or decrease in the consumer price index and as described in subsection (4) of this section.
- (3) The salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties provides for nine (9) levels of salary based upon the population of the county in the year prior to the election of county officials as determined by the United States Department of Commerce, Bureau of the Census's annual estimates. To implement the salary schedule, the Governor's Office for Local Development~~Department for Local Government~~ shall, by November 1 of each year preceding the election of county officials, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. For the purposes of this section, the salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall remain as determined by the Governor's Office for Local Development~~Department for Local Government~~ pursuant to this section, regardless of changes in the population estimates or the actual census count that may occur during the term for which the official has been elected or appointed. The salary schedule provides four (4) steps for yearly increments within each population group. County officers named in this section shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each officer, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. Prior to assuming office on the first Monday in January, 1999, or thereafter, any person assuming any of the offices for which the salary is determined by this section must certify to the commissioner of the Governor's Office for Local Development~~Department for Local Government~~ the total number of years, not to exceed four (4) years, that the person has previously served in the office. The Governor's Office for Local Development~~Department for Local Government~~ shall place the officer in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Affected Officers			
	Step 1	Step 2	Step 3	Step 4
Group I				
0-4,999	\$ 6,600	\$ 6,800	\$ 7,000	\$ 7,200
Group II				
5,000-9,999	7,200	7,400	7,600	7,800
Group III				
10,000-19,999	7,800	8,000	8,200	8,400
Group IV				
20,000-29,999	8,100	8,400	8,700	9,000
Group V				
30,000-44,999	8,700	9,000	9,300	9,600
Group VI				
45,000-59,999	9,000	9,400	9,800	10,200
Group VII				
60,000-89,999	9,600	10,000	10,400	10,800
Group VIII				
90,000-499,999	9,900	10,400	10,900	11,400
Group IX				
500,000 and up	10,500	11,000	11,500	12,000

- (4) Upon publication of the annual consumer price index by the United States Department of Commerce, the Governor's Office for Local Development~~Department for Local Government~~ shall fix the salary of the county judge/executive, county clerk, jailer who operates a full service jail, and sheriff at an annual rate of salary to which the county official is entitled pursuant to the increase in the Consumer Price Index and the salary schedule contained in this section. This salary determination shall be retroactive to the preceding January 1.
- (5) Notwithstanding any provision contained in this section, no county official holding office on July 15, 1998, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 15, 1998.
- (6) In addition to the step increases based on service in office, each officer shall be paid an annual incentive of one hundred

dollars (\$100) per calendar year for each forty (40) hour training unit successfully completed, based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If an officer fails, without good cause as determined by the commissioner of the Governor's Office for Local Development~~{Department for Local Government}~~, to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. Each training unit shall be approved and certified by the Governor's Office for Local Development~~{Department for Local Government}~~. No officer shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each officer shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. Each annual incentive payment shall be adjusted by the Governor's Office for Local Development~~{Department for Local Government}~~ on an annual basis for any increase or decrease in the consumer price index in the same manner as salaries are adjusted as described in subsection (4) of this section. The Governor's Office for Local Development~~{Department for Local Government}~~ shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.

- (7) Except in counties that contain an urban-county form of government, justices of the peace who serve on fiscal courts, county commissioners, and jailers who operate life safety jails, jailers who are part of a transportation plan, or jailers who act as court bailiffs shall also be eligible for the training incentive payments in accordance with subsection (6) of this section.
- (8) The provisions of this section shall not apply to a county judge/executive in a county which has established a consolidated local government pursuant to KRS Chapter 67C.

Section 39. KRS 64.990 is amended to read as follows:

- (1) If any officer to whom KRS 64.050 applies, or his personal representative, trustee, or committee, as the case may be, collects any fees, accounts, or demands due him in his official capacity after the expiration of his term, or after he has resigned or died or vacated the office, or fails to deliver to his successor all the fees, claims, and accounts due to him in his official capacity, he, or his personal representative, committee, or trustee, as the case may be, shall be guilty of a Class B misdemeanor.
- (2) If any successor or collector mentioned in subsection (1) of KRS 64.050 fails to make any report or pay the money collected to the Governor's Office for Local Development~~{Department for Local Government}~~, as required by subsection (1) of KRS 64.050, he shall be guilty of a Class B misdemeanor. If he knowingly omits or fails to report a correct statement of all money received or collected, or knowingly makes or subscribes any false statement concerning the same, he shall be guilty of a Class D felony.
- (3) If any deputy or personal representative issuing a fee bill in accordance with KRS 64.420 knowingly makes a wrong charge, or in any respect issues an illegal fee bill, he shall be subject to the same penalties as an officer issuing such a fee bill.
- (4) Every fee bill containing one (1) illegal charge, or which, in any respect, is not according to what is required by law, shall be void for the whole amount.
- (5) Any officer who splits up and divides his services so as to make two (2) charges, when the law intends but one (1) charge or fee for the whole service, or who knowingly makes an illegal charge, or issues an illegal fee bill, or collects or attempts to collect his fees twice for the same services, or by any indirection collects or attempts to collect more for his services than is allowed by law, shall be guilty of a Class B misdemeanor and his conviction shall be prima facie evidence of his guilt in a proceeding to remove him from office.
- (6) Any official who violates the provisions of KRS 64.820 to 64.850 shall be guilty of a Class B misdemeanor.

Section 40. KRS 65.003 is amended to read as follows:

- (1) The governing body of each city, county, urban-county, consolidated local government, and charter county, shall adopt, by ordinance, a code of ethics which shall apply to all elected officials of the city, county, urban-county, consolidated local government, or charter county, and to appointed officials and employees of the city, county, urban-county, consolidated local government, or charter county government, or agencies created jointly, as specified in the code of ethics. The elected officials of a city, county, or consolidated local government to which a code of ethics shall apply include the mayor, county judge/executive, members of the governing body, county clerk, county attorney, sheriff, jailer, coroner, surveyor, and constable but do not include members of any school board. Agencies created jointly may include planning or administrative commissions or boards. Candidates for the local government elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.
- (2) Any city, county, or consolidated local government may enter into a memorandum of agreement or an interlocal agreement with one (1) or more other cities, counties, or consolidated local governments for joint adoption of a code of ethics which shall apply to all elected officials of the cities, counties, or consolidated local governments, and to appointed officials and employees as specified by each of the cities, counties, or consolidated local governments which enters into the agreement. Interlocal agreements shall be executed pursuant to the Interlocal Cooperation Act in KRS 65.210 to 65.300. The interlocal agreement or memorandum of agreement may provide for but shall not be limited to:

2007 Regular Session

- (a) The provision of administrative services relating to the implementation of a code of ethics;
- (b) The creation of a regional ethics board which serves independently to provide advice to member governments and their officials and provides for the enforcement of locally adopted codes of ethics; and
- (c) Contracting by a memorandum of agreement with an area development district for the provision of administrative services relating to the implementation of a code of ethics.

Candidates for the city, county, or consolidated local government elective offices specified in this subsection shall comply with the annual financial disclosure statement filing requirements contained in the code of ethics.

- (3) Each code of ethics adopted as provided by subsection (1) or (2) of this section, or amended as provided by subsection (4) of this section, shall include but not be limited to provisions which set forth:
 - (a) Standards of conduct for elected and appointed officials and employees;
 - (b) Requirements for creation of financial disclosure statements, which shall be filed annually by all candidates for the city, county, or consolidated local government elective offices specified in subsection (1) of this section, elected officials of each city, county or consolidated local government, and other officials or employees of the city, county, or consolidated local government, as specified in the code of ethics, and which shall be filed with the person or group responsible for enforcement of the code of ethics, provided that nonpaid members of jointly created agencies may be exempted from filing financial disclosure statements;
 - (c) A policy on the employment of members of the families of officials or employees of the city, county, or consolidated local government, as specified in the code of ethics;
 - (d) The designation of a person or group who shall be responsible for enforcement of the code of ethics, including maintenance of financial disclosure statements, all of which shall be available for public inspection, receipt of complaints alleging possible violations of the code of ethics, issuance of opinions in response to inquiries relating to the code of ethics, investigation of possible violations of the code of ethics, and imposition of penalties provided in the code of ethics.
- (4) The code of ethics ordinance adopted by a city, county, or consolidated local government may be amended but shall not be repealed.
- (5)
 - (a) Within twenty-one (21) days of the adoption of the code of ethics required by this section, each city, county, or consolidated local government shall deliver a copy of the ordinance by which the code was adopted and proof of publication in accordance with KRS Chapter 424 to the Governor's Office for Local Development~~{Department for Local Government}~~. The Governor's Office for Local Development~~{department}~~ shall maintain the ordinances as public records and shall maintain a list of city, county, or consolidated local governments which have adopted a code of ethics and a list of those which have not adopted a code of ethics.
 - (b) Within twenty-one (21) days of the amendment of a code of ethics required by this section, each city, county, or consolidated local government shall deliver a copy of the ordinance by which the code was amended and proof of publication in accordance with KRS Chapter 424 to the Governor's Office for Local Development~~{Department for Local Government}~~, which shall maintain the amendment with the ordinance by which the code was adopted.
 - (c) For ordinances adopting or amending a code of ethics under this section, cities of the first class and consolidated local governments shall comply with the publication requirements of KRS 83A.060(9), notwithstanding the exception contained in that statute.
- (6) If a city, county, or consolidated local government fails to comply with the requirements of this section, the Governor's Office for Local Development~~{Department for Local Government}~~ shall notify all state agencies, including area development districts, which deliver services or payments of money from the Commonwealth to the city, county, or consolidated local government. Those agencies shall suspend delivery of all services or payments to the city, county, or consolidated local government which fails to comply with the requirements of this section. The Governor's Office for Local Development~~{Department for Local Government}~~ shall immediately notify those same agencies when the city, county, or consolidated local government is in compliance with the requirements of this section, and those agencies shall reinstate the delivery of services or payments to the city, county, or consolidated local government.

Section 41. KRS 65.005 is amended to read as follows:

- (1)
 - (a) "Special district" means any agency, authority, or political subdivision of the state which exercises less than statewide jurisdiction and which is organized for the purpose of performing governmental or other prescribed functions within limited boundaries. It includes all political subdivisions of the state except a city, a county, or a school district.
 - (b) "Governing body" means the body possessing legislative authority in a city, county, or special district.
- (2) No special district shall be legally created without sending notification of its existence in writing to the clerk of the county within the jurisdiction of which its principal office shall be located. This requirement for notification is in addition to all other provisions of existing law providing for the creation of special districts. The notification shall contain the names and addresses of the members of the governing body of the district, the name and address of its chief executive officer, a specific reference to the statute or statutes under which it was created, and a brief description of its service area and

activities. The clerk shall record the original and forward a copy of the notification to the state local finance officer and the state local debt officer, Governor's Office for Local Development~~(Department for Local Government)~~. The clerk shall be paid a fee of two dollars (\$2) by the district for recording and mailing the notification.

- (3) The governing body of any existing special district shall submit notification as required in subsection (2) of this section within thirty (30) days after June 16, 1966, and the governing body of a newly-created special district shall submit the required notification at or before its first meeting.

Section 42. KRS 65.065 is amended to read as follows:

- (1) The governing body of each district shall annually prepare a budget and, as appropriate, shall classify budget units in the same fashion as county budgets are classified in accordance with KRS 68.240(2) to (5). The state local finance officer shall prepare standard budget forms for district use and shall furnish them to county clerks for distribution to district officers. No moneys shall be expended from any funds or any sources, except in accordance with the budget which has been filed with the fiscal court to be available for public inspection. No budget of a district shall become effective until filed with the fiscal court of the county in which the district is located for submission to the Governor's Office for Local Development~~(Department for Local Government)~~. For those districts with multicounty jurisdictions, the district shall file a copy with each of the fiscal courts within the jurisdiction of the district for their review. If the budget is not filed with the fiscal court at least thirty (30) days prior to the start of the district fiscal year, the fiscal court shall immediately notify the county attorney. The county attorney shall then notify the governing board of the special district of the noncompliance and then proceed with any steps necessary to prevent the expenditure of funds by the special district until the district is in compliance.
- (2) The governing body of each district which for the year in question receives from all sources or expends for all purposes less than four hundred thousand dollars (\$400,000) shall annually prepare a financial statement, except that once every four (4) years the district's governing body shall provide for the performance of an audit as provided in subsection (4) of this section.
- (3) The governing body of each district which for the year in question receives from all sources or expends for all purposes four hundred thousand dollars (\$400,000) or more shall provide for the performance of an annual audit as provided in subsection (4) of this section.
- (4) To provide for the performance of an audit, the governing body of a district shall employ an independent certified public accountant or contract with the Auditor of Public Accounts to perform an audit of the funds in the district budget. The audit shall conform to:
- (a) Generally-accepted governmental auditing standards, which means those standards for audits of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States; and
 - (b) Additional procedures and reporting requirements as may be required by the Auditor of Public Accounts. A unit of government furnishing funds directly to a district may require additional audits at its own expense. Upon request, the State Auditor of Public Accounts may review the final report and all related work papers and documents of the independent certified public accountant relating to the audit. If a district is required by law to audit its funds more often than is required by this section, it shall perform those audits and may submit them in lieu of the requirements of this section, if the audits meet the requirements of this subsection.
- (5) The provisions of subsection (2) of this section shall not apply to any district that is required by law to annually submit a financial report to an agency of state government. The districts shall annually submit a copy of their financial report to the county judge/executive and to the state local finance officer and once every four (4) years provide for the performance of an audit as provided in subsection (4) of this section.
- (6) Any resident of the district may bring an action in the Circuit Court to enforce the provisions of this section. The Circuit Court shall hear the action and, on a finding that the governing body of the district has violated the provisions of this section, shall order the district to comply with the provisions. The Circuit Court, in its discretion, may allow the prevailing party, other than the district, a reasonable attorney's fee and court costs, to be paid from the district's treasury.

Section 43. KRS 65.070 is amended to read as follows:

- (1) Within sixty (60) days following the close of the fiscal year, the district shall:
- (a) File with the county clerk of each county with territory in the district a certification showing any of the following information that has changed since the last filing by the district:
 1. The name of the district;
 2. A map or general description of its service area;
 3. The statutory authority under which it was created; and
 4. The names, addresses, and the date of expiration of the terms of office of the members of its governing body and chief executive officer;
 - (b) Submit for review a copy of the summary financial statement with the fiscal court of each county with territory in the district; and
 - (c) Publish, in lieu of the provisions of KRS 424.220, but in compliance with other applicable provisions of KRS

Chapter 424, the names and addresses of the members of its governing body and chief executive officer, and either a summary financial statement, which includes the location of supporting documents, or the location of district financial records which may be examined by the public.

- (2) The district shall submit for review a copy of the audit with the fiscal court of each county with territory in the district. The submission shall be made within thirty (30) days of the district's receipt of the completed audit.
- (3) The Governor's Office for Local Development~~{Department for Local Government}~~ shall prepare and furnish to county clerks standard reporting forms which districts may use to comply with the provisions of this section.
- (4) Any resident of the district may bring an action in the Circuit Court to enforce the provisions of this section. The Circuit Court shall hear the action and, on a finding that the governing body of the district has violated the provisions of this section, shall order the district to comply with its provisions. The Circuit Court, in its discretion, may allow the prevailing party, other than the district, a reasonable attorney's fee and court costs, to be paid from the district's treasury.

Section 44. KRS 65.260 is amended to read as follows:

- (1) No agreement made pursuant to KRS 65.210 to 65.300 shall relieve any public agency of any obligation or responsibility imposed upon it by law except that to the extent of actual and timely performance thereof by a joint board or other legal or administrative entity created by an agreement made pursuant to KRS 65.210 to 65.300, that performance may be offered in satisfaction of the obligation or responsibility.
- (2) Except as provided in subsections (3) and (4) of this section, every agreement made pursuant to KRS 65.210 to 65.300 shall, prior to and as a condition precedent to its entry into force, be submitted to the Attorney General who shall determine whether the agreement is in proper form and compatible with the laws of this state, except for interlocal agreements between cities, counties, charter counties, urban-county governments, and sheriffs upon approval of the fiscal court, which shall be submitted to the Governor's Office for Local Development~~{Department for Local Government}~~. The Attorney General or the Governor's Office for Local Development~~{Department for Local Government}~~ shall approve any agreement submitted to them under this subsection unless they find that it does not meet the conditions set forth in KRS 65.210 to 65.300. If the agreement does not meet these conditions, the Attorney General or the Governor's Office for Local Development~~{Department for Local Government}~~ shall detail in writing, addressed to the governing bodies of the public agencies concerned, the specific respects in which the proposed agreement fails to meet the requirements of law. Failure to disapprove an agreement submitted hereunder within sixty (60) days of its submission shall constitute approval thereof.
- (3) The submission of an interlocal cooperative agreement to the Attorney General or the Governor's Office for Local Development~~{Department for Local Government}~~ as provided in subsection (2) of this section shall not be required for any cooperative agreement which involves only the construction, reconstruction, or maintenance of a municipal road or bridge, provided a written agreement is approved by each of the affected governing bodies.
- (4) Interlocal cooperative agreements between school boards and counties shall be exempt from the provisions of subsection (2) of this section.

Section 45. KRS 65.320 is amended to read as follows:

There shall be created a Local Government Training Advisory Council in Kentucky, to be composed of the presidents or their designees of the Kentucky Association of Counties, the County Judge/Executives Association, and the Kentucky League of Cities~~[- the chairperson of the Kentucky Urban Affairs Council,]~~ and the commissioner of the Governor's Office for Local Development~~{Department for Local Government}~~.

Section 46. KRS 65.323 is amended to read as follows:

- (1) The Local Government Training Advisory Council shall:
 - (a) Develop and update on a biennial basis a local government training plan that:
 1. Quantifies the training needs of local governments;
 2. Evaluates the abilities of existing training programs to meet the needs;
 3. Identifies areas of unmet need that justify expanding existing programs or the creation of new programs; and
 4. Formulates a strategy, giving consideration to the use of state-of-the-art communication techniques to enhance training efforts, that meets the needs of local governments;
 - (b) Submit a copy of the local government training plan to the Legislative Research Commission by November 1 of odd-numbered years;
 - (c) Ensure the proper coordination of training programs for city and county governments; and
 - (d) Elect a chairperson annually from its membership.
- (2) The council shall adopt the plan provided for in subsection (1)(a) of this section by majority vote, at which time it shall become the policy document used by the Governor's Office for Local Development~~{Department for Local Government}~~ to determine priorities for the expenditure of training funds.

Section 47. KRS 65.327 is amended to read as follows:

- (1) The Local Government Training Advisory Council shall use the expertise of existing training providers in developing new or expanded programs. This includes, but is not limited to:
 - (a) All institutions of higher education and affiliate organizations that provide training and technical assistance to local governments;
 - (b) State agencies that provide training related to statutory or regulatory oversight responsibilities;
 - (c) Area development districts;
 - (d) Public official professional associations;
 - (e) Private providers associated with established certification programs; and
 - (f) Any other provider suitable for developing effective training programs.

- (2) The council shall be attached to the Governor's Office for Local Development~~{Department for Local Government}~~ for administrative purposes.

Section 48. KRS 65.905 is amended to read as follows:

- (1) Except as otherwise provided in subsection (2) of this section, each local government as defined in KRS 65.900 shall annually, after the close of the fiscal year, complete a uniform financial information report. The report shall be submitted to the Governor's Office for Local Development~~{Department for Local Government}~~ by May 1 immediately following the close of the fiscal year. The Governor's Office for Local Development~~{Department for Local Government}~~ shall immediately send one (1) copy of the uniform financial information report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.
- (2) The final quarterly report filed by a county within fifteen (15) days after the end of the last quarter of the fiscal year, in accordance with KRS 68.360(2), shall be deemed the uniform financial information report for that county for purposes of compliance with KRS 65.900 to 65.925, if that quarterly report contains, at a minimum, all information required by KRS 65.910.
- (3) Each city may have the uniform financial information report completed by its selected auditor as part of the terms and conditions of the written agreement between the city and the auditor in accordance with KRS 91A.040. Each county may have the uniform financial information report completed by its auditor selected in accordance with KRS 43.070 or 64.810. Each special district may have the uniform financial information report completed by its auditor selected in accordance with KRS 65.065. If a city does not use the auditor to complete the uniform financial information report, it shall by order designate an elected or nonelected official to be responsible for annually completing the report and submitting it to the Governor's Office for Local Development~~{Department for Local Government}~~. If a local government has any agency, board, or commission that receives any funding from the local government, but conducts its operations on an autonomous or semi-autonomous basis, the local government shall note on the uniform financial information report the name of the agency, board, or commission; the mailing address of the agency, board, or commission; and the dollar amount annually appropriated by the local government to the agency, board, or commission.
- (4) The Governor's Office for Local Development~~{Department for Local Government}~~ shall by administrative regulation prescribe the format of the uniform financial information report, ~~and the department shall attempt to coordinate and combine efforts with the United States Bureau of the Census in the development of the format of the uniform financial information report so that a single report will meet the needs of both agencies and fulfill the requirements of KRS 65.900 to 65.925. Regardless of any agreement between the Governor's Office for Local Development and the United States Bureau of the Census, the Governor's Office for Local Development shall maintain responsibility for assuring that a uniform financial information report is distributed to each local government as soon as practicable after the close of each fiscal year, but in no event later than one hundred twenty (120) days prior to the required submission date of May 1.~~
- (5) The Governor's Office for Local Development~~{Department for Local Government}~~ shall use the uniform financial information report to replace as many financial information forms as possible that local governments are currently required to complete and submit to ~~that office~~~~{the department}~~ for use by either the state or federal governments, by consolidating the required information into the uniform report.

Section 49. KRS 65.910 is amended to read as follows:

- (1) The uniform financial information report shall include, but not be limited to, information relating to demographics, bonded indebtedness, debt service requirements, lease-purchase agreements, tax rates and revenues, licenses, permits, fees, utilities, intergovernmental revenues, miscellaneous revenues, charges for services, and all expenditures as set forth in this section.
- (2) Demographic information shall include:
 - (a) The name of the unit of local government;
 - (b) The county in which the city or special district is located;
 - (c) The classification of the city;
 - (d) The population of the unit of local government;

- (e) The form of government of the city; and
 - (f) The area development district in which the unit of local government is located.
- (3) Bonded indebtedness and debt service information shall include:
- (a) The name of each project listed individually;
 - (b) The type of bond issue used for each project;
 - (c) The bonded indebtedness of each project;
 - (d) The debt service requirements of each project; and
 - (e) The specific source of debt service funds, whether local government appropriations or use of nongovernment funds.
- (4) Lease-purchase agreement information shall include:
- (a) Purpose of the agreement;
 - (b) Identity of the lessor;
 - (c) Principal amount of the agreement;
 - (d) Interest rate or rates for the agreement;
 - (e) Date the local government entered into agreement;
 - (f) Length of term of agreement;
 - (g) Current annual debt service requirements for agreement; and
 - (h) A list of and the purpose of any short-term renewal bank notes.
- (5) Tax rate and revenue information shall include:
- (a) The compensating tax rate and the maximum tax rate for the current fiscal year and the preceding fiscal year;
 - (b) The current fiscal year ad valorem tax rate levied by the local government, the preceding fiscal year revenues collected by the local government, and the assessed property valuation for real property, personal property, and motor vehicles and watercraft; and
 - (c) The current fiscal year tax rate levied by the local government and the preceding fiscal year revenues collected by the local government for the following types of taxes:
 - 1. Occupational license tax on persons;
 - 2. Occupational license tax on business net profits, gross receipts, or a flat rate;
 - 3. Insurance premium tax on fire and allied perils, casualty liability only, vehicle, inland marine, health, life, all other risks taxed, minimum tax and company taxable reserves;
 - 4. Transient room tax;
 - 5. Restaurant tax;
 - 6. Bank franchise tax;
 - 7. Delinquent collections; and
 - 8. Special purpose and other taxes.
- (6) Information on licenses, permits, and fees shall include the amount charged and the preceding fiscal year revenues collected by the local government for the following types of licenses, permits, and fees:
- (a) Alcoholic beverage licenses for the manufacture and sale, distilled spirits and wine, malt beverages, Sunday sales, and regulatory license fee on gross receipts;
 - (b) Required sticker fees on automobiles and trucks;
 - (c) Motor vehicles fees on taxicabs, truck-tractors, semitrailers and trailers;
 - (d) Coin-operated machines;
 - (e) Cable television;
 - (f) Building, electrical, and plumbing permits;
 - (g) Zoning permits and development impact fees;
 - (h) Building, elevator, electrical, plumbing, food, rehabilitation, and any other inspection fees;
 - (i) Licensing of electricians and electrical contractors;
 - (j) Unloading fees;
 - (k) Public service fees for fire protection, police protection;
 - (l) Ambulance service franchise fees and ambulance run fees;
 - (m) Animal license fees; and
 - (n) Any other source of license, permit, or fee.

If varying rates or fees are charged based upon classification, volume, value, or other criteria, the local government shall submit a fee chart with the report form.

- (7) Information on utilities shall include the franchise tax or fee, charge for service, user fee or "tap on" fee, and preceding fiscal year revenues collected by the local government on the following utilities:
- (a) Waterworks;
 - (b) Sewage treatment;
 - (c) Electric light, heat, and power;
 - (d) Gas;
 - (e) Garbage collection for residential, commercial, and industrial customers, and landfill fees;
 - (f) Transit authority; and
 - (g) Any other type of utility.

If varying rates or fees are charged based upon classification, volume, value, or other criteria, the local government shall submit a fee chart with the report form.

- (8) Information on intergovernmental revenues shall include the types of intergovernmental revenues received by the local government, preceding fiscal year revenues collected by the local government, and rate and interest requirements for loan repayments that shall include:
- (a) Kentucky Law Enforcement Foundation Program fund;
 - (b) Professional Firefighters Foundation Program fund;
 - (c) Community development block grant funds;
 - (d) County or municipal road aid;
 - (e) Local government economic assistance funds;
 - (f) Net court revenues;
 - (g) Kentucky Infrastructure Authority funds;
 - (h) Economic development bonds;
 - (i) Kentucky Economic Development Finance Authority funds;
 - (j) Environmental Protection Agency funds;
 - (k) County or city transfers; and
 - (l) Any other source of state or federal funds.
- (9) Information on miscellaneous revenues and charges for services shall include the source of revenue, charge, or fee levied by the local government and preceding fiscal year revenues collected for the following:
- (a) Parking meter receipts;
 - (b) Parking facility receipts;
 - (c) Parking violation fines;
 - (d) Charges for impounded vehicles;
 - (e) Sale of abandoned vehicles;
 - (f) Delinquent tax bills;
 - (g) Fines and forfeitures;
 - (h) Penalties and interest;
 - (i) Franchise payments for governmental services bid out to the private sector;
 - (j) Golf course receipts;
 - (k) Parks and recreation;
 - (l) Proceeds from sale of seized and forfeited property;
 - (m) Rent;
 - (n) Interest from investments and dividends; and
 - (o) Any other source of revenue or charge for service.

- (10) Information on expenditures shall be listed by total only and indicate the fund from which an appropriation was made. The Governor's Office for Local Development~~Department for Local Government~~ shall consult with the Kentucky League of Cities, the Kentucky Association of Counties, the Kentucky Municipal Finance Officers' Association, the Kentucky Society of Certified Public Accountants, and other affected interest groups, as well as local officials in the development of information to be included in the expenditure section of the uniform financial information report.

Section 50. KRS 65.900 is amended to read as follows:

As used in KRS 65.905 to ~~65.925~~~~[65.920]~~, unless the context requires otherwise:

- (1) "City" means every city organized and governed under the mayor-alderman form of government pursuant to KRS Chapter 83, every city organized and governed under the mayor-council form of government pursuant to KRS Chapter 83A, every city organized and governed under the commission form of government pursuant to KRS Chapter 83A, every city organized and governed under the city manager form of government pursuant to KRS Chapter 83A, and every urban-county government organized and governed under the urban-county form of government pursuant to KRS Chapter 67A.
- (2) "County" means any of Kentucky's one hundred and twenty (120) counties.
- (3) "Special district" means any district with ad valorem taxing powers including, but not limited to, those specified in the following KRS statutes: KRS 75.010 to 75.260, KRS 76.274 to 76.279, KRS 104.450 to 104.680, KRS 107.310 to 107.500, KRS 108.080 to 108.180, KRS 109.115 to 109.190, KRS 147.610 to 147.710, KRS 164.605 to 164.675, KRS 173.450 to 173.650, KRS 173.710 to 173.800, KRS 179.700 to 179.990, KRS 210.370 to 210.480, KRS 212.720 to 212.760, KRS 216.310 to 216.360, KRS 220.010 to 220.613, KRS 262.010 to 262.660, KRS 262.700 to 262.990, KRS 266.010 to 266.990, KRS 268.010 to 268.990, and KRS 269.100 to 269.270.
- (4) "Local government" includes the terms city, county, and special district as defined in this section.
- (5) "Lease-purchase agreement" means an agreement to lease or to lease and purchase major items of property, equipment, or services estimated to cost fifty thousand dollars (\$50,000) or more, and two hundred thousand dollars (\$200,000) or more for the construction or installation of a building or a utility.

Section 51. KRS 65.920 is amended to read as follows:

- (1) Any local government that fails to submit annually a uniform financial information report to the Governor's Office for Local Development~~[Department for Local Government]~~ shall be ineligible to receive county or municipal road aid moneys in accordance with KRS 177.360 or 177.366. Any local government receiving road aid moneys in accordance with KRS 177.365 to 177.369 or KRS 177.320 and 177.360 that fails to comply with the provisions of KRS 65.900 to ~~65.925~~~~[65.915]~~ shall immediately have all road aid payments suspended until the local government submits the uniform financial information report to the Governor's Office for Local Development~~[Department for Local Government]~~.
- (2) If a local government receives payments of money from the Commonwealth and fails to comply with the provisions of KRS 65.900 to 65.925 or KRS 92.280(1), the state local finance officer may notify those agencies making payments to the local government of noncompliance, and those agencies shall immediately suspend delivery of all payments to the local government except those payments made pursuant to KRS Chapter 154 or KRS 42.4588, until the state local finance officer determines that the local government has complied with the requirements of KRS 65.900 to 65.925 or KRS 92.280(1).

Section 52. KRS 65.925 is amended to read as follows:

The Governor's Office for Local Development~~[Department for Local Government]~~ shall consult with the Legislative Research Commission to determine a format for electronic data which is acceptable to both. At the earliest date possible, but no later than September 30, 1992, and each year thereafter, the Governor's Office for Local Development~~[Department for Local Government]~~ shall provide a copy of all reliable data from the uniform financial information reports of all reporting governments to the Legislative Research Commission in the agreed upon electronic format. The Governor's Office for Local Development~~[Department for Local Government]~~ shall, upon receipt, file a copy of each completed uniform financial information report with the county clerk of the county in which the reporting unit of local government is located.

Section 53. KRS 66.370 is amended to read as follows:

- (1) A county may, by order of its fiscal court, surrender to the state local debt officer, Governor's Office for Local Development~~[Department for Local Government]~~, all money in hand, notes, bonds, accounts, or other credits representing assets available, and any other sums which may hereafter become available from any and all sources, for paying the principal and interest of any bonded debt of the county; however, if a county surrenders the sinking fund for any bond issue payable either from the tax levy authorized by Section 157 or by Section 157a of the Constitution of Kentucky or from any special tax levy authorized by law, it shall also surrender the sinking funds for all other bonds payable from the same tax levy as herein defined. The surrender shall be irrevocable on the part of the county. Any county which has a bond issue approved under KRS 66.310 may comply with the provisions of this subsection with respect to the sinking funds for the bonds thus approved and for any other bonds payable from the same tax levy as herein defined.
- (2) All cash received under this section by the state local debt officer, Governor's Office for Local Development~~[Department for Local Government]~~, shall be deposited with the commissioner, Governor's Office for Local Development~~[Department for Local Government]~~ to the credit of a fund designated the "county sinking fund." All assets other than cash shall be deposited with the commissioner, Governor's Office for Local Development~~[Department for Local Government]~~ and shall be liquidated, upon authorization of the commissioner~~[commission]~~, within a reasonable time.
- (3) The county treasurer of any county complying with the provisions of this section shall remit monthly to the state local debt officer, Governor's Office for Local Development~~[Department for Local Government]~~, all moneys received from any tax levy made for the exclusive purpose of paying principal and interest on any bonds. Any moneys appropriated in the county budget from any other source or any moneys required by law to be used for the same purpose shall be remitted as required for paying any principal or interest maturities, or both, or meeting sinking fund requirements. The state local debt officer,

Governor's Office for Local Development,~~{Department for Local Government}~~ may institute actions in the Franklin Circuit Court to enforce the provisions of this subsection or to recover any funds that may have been misapplied.

- (4) Accounts showing the county sinking fund receipts and disbursements shall be kept by the state local debt officer, *Governor's Office for Local Development*,~~{Department for Local Government}~~ for each bond issue of each county for which deposits are made in the fund. As of the close of the county fiscal year the state local debt officer, *Governor's Office for Local Development*,~~{Department for Local Government}~~ shall, within thirty (30) days thereafter, render to the county judge/executive of each county having deposits in the fund a statement thereof for each bond issue of that county. On or about the first day of May of each year, the state local debt officer, *Governor's Office for Local Development*,~~{Department for Local Government}~~ shall deliver to the county judge/executive an estimate of the principal and interest requirements of outstanding bonds issued by that county or of the proportionate annual amount which should be deposited in a sinking fund.
- (5) Disbursements from the county sinking fund shall, when authorized by the state local debt officer, *Governor's Office for Local Development*,~~{Department for Local Government}~~ be made in the same manner as other claims on the Commonwealth are paid. Disbursements may be made only for:
 - (a) The payment of principal or interest, or both, of the bonds for which the deposit was made; and
 - (b) The investment of the funds as authorized by law.
- (6) All coupons and bonds for the payment of which deposits are made in the county sinking fund shall be paid either directly by the state local debt officer, *Governor's Office for Local Development*,~~{Department for Local Government}~~ or by the bank designated as paying agent. That bank may be paid a reasonable fee for its services by the *Governor's Office for Local Development*,~~{Department for Local Government}~~ out of its appropriation. All paid bonds and coupons shall be surrendered to the state local debt officer and canceled, and shall be delivered to the judge/executive of each county along with the annual statement provided for in this section.

Section 54. KRS 67.680 is amended to read as follows:

- (1) A county acting under authority of this section may by ordinance create a county cemetery board that may apply to the *Governor's Office for Local Development*,~~{Department for Local Government}~~ for grants to restore and maintain nonprofit cemeteries that do not receive perpetual care funds pursuant to KRS 367.952.
- (2) The county cemetery boards shall meet three (3) times annually in space provided by the fiscal court and shall have five (5) volunteer members with no more than three (3) representing the same political party. Members shall be appointed by the county judge/executive with approval of the fiscal court, shall have lived in the county for at least one (1) year prior to appointment, and shall have demonstrated an interest in cemetery preservation, genealogy, local history, or a related area.

Section 55. KRS 67.682 is amended to read as follows:

- (1) The *Governor's Office for Local Development*,~~{Department for Local Government}~~ shall establish a county cemetery fund to receive appropriations, gifts, grants, federal funds, revolving funds, and any other funds from public and private sources.
 - (a) Moneys deposited in the fund shall be disbursed by the State Treasurer and any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9).
 - (b) Income earned from investment including unalloted or unencumbered balances in the fund shall not lapse, shall be returned to the *Governor's Office for Local Development*,~~{Department for Local Government}~~, and may be redistributed to other counties.
- (2) The *Governor's Office for Local Development*,~~{Department for Local Government}~~ shall promulgate administrative regulations related to responsibilities of the boards, grant appropriation amounts and eligible expenditures, application and reporting procedures, accountability criteria for grant recipients, and other issues of importance to the board's operation.

Section 56. KRS 67C.131 is amended to read as follows:

- (1) The salary of the members of the legislative council of a newly consolidated local government created by the provisions of KRS 67C.101 to 67C.137 shall be eighty percent (80%) of that amount that is permitted for county commissioners on July 14, 2000, as provided by Section 246 of the Kentucky Constitution. In order to equate the compensation of legislative council members with the purchasing power of the dollar, the *Governor's Office for Local Development*,~~{Department for Local Government}~~ shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year. The *Governor's Office for Local Development*,~~{Department for Local Government}~~ shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled in accordance with the increase or decrease in the consumer price index. Upon notification from the *Governor's Office for Local Development*,~~{Department for Local Government}~~, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the *Governor's Office for Local Development*,~~{Department for Local Government}~~.
- (2) Each legislative council member may hire one (1) full-time staff person.

Section 57. KRS 68.001 is amended to read as follows:

As used in this chapter and other provisions of law, "state local finance officer" shall mean the commissioner of the *Governor's Office for Local Development*,~~{Department for Local Government}~~, or his agent designated in writing with the approval of the

Governor.

Section 58. KRS 81A.470 is amended to read as follows:

- (1) If the limits of a city are enlarged or reduced, the city shall, within sixty (60) days of the enlargement or reduction, cause an accurate map and description of the annexed, transferred, or severed area, together with a copy of the ordinance duly certified, to be recorded in the office of the county clerk of the county or counties in which the city is located, in the office of the Secretary of State, and in the Governor's Office for Local Development~~{Department for Local Government}~~. The map and description shall be prepared by a professional land surveyor. The documents shall depict the parcel annexed, transferred, or severed as a closed geometric figure on a plat annotated with bearings and distances, or sufficient curve data to describe each line. The professional land surveyor shall clearly state on the documents the location of the existing municipal boundary, any physical feature with which the proposed municipal boundary coincides, and a statement of the recorded deeds, plats, right-of-way plans, or other resources used to develop the documents depicting the municipal boundary.
- (2) No city which has annexed unincorporated or accepted transfer of incorporated territory may levy any tax upon the residents or property within the annexed or transferred area until the city has complied with the provisions of subsection (1) of this section, and of KRS 81A.475.

Section 59. KRS 83.580 is amended to read as follows:

- (1) The mayor shall:
 - (a) Cause the ordinances of the city and the laws of the state to be executed and enforced;
 - (b) Communicate to the board of aldermen at least once a year a statement of the finances and general condition of the affairs of the city, and information in relation thereto as the board of aldermen requires;
 - (c) Recommend, by written message to the board of aldermen, the measures he deems expedient;
 - (d) Fill, with the consent of the board of aldermen, all vacancies in executive and ministerial offices and the filling of which is not otherwise provided for;
 - (e) Exercise a general supervision over all the executive and ministerial officers of the city, and see that their official duties are honestly performed; and
 - (f) No later than January 31 of each year, mail to the Governor's Office for Local Development~~{Department for Local Government}~~ a list containing current city information including, but not limited to the following:
 1. The correct name of the mayor, members of the board of aldermen, and the following appointed officials who are serving as of January 1 of each year:
 - a. Clerk of the board of aldermen;
 - b. City treasurer;
 - c. City attorney;
 - d. Finance director;
 - e. Police chief;
 - f. Fire chief; and
 - g. Public works director;
 2. The correct name of the city, mailing address for city hall, and the telephone number of city hall; and
 3. The name and telephone number of either an elected or appointed official to serve as a contact person that may be reached during normal business hours of 8:00 a.m. to 4:30 p.m.
- (2) The mayor shall appoint to those seats which are not subject to prior qualification on a board or commission an equal number of members from each county commissioner's district, as created in accordance with KRS 67.045, into which the authority of the board or commission extends. If there are more districts than members of a particular board or commission, the mayor shall not appoint more than one (1) member from any district. If there are more members of a particular board or commission than there are districts, the mayor shall equalize appointments from among districts to the extent possible. The mayor shall not be required, but shall use his best efforts, to balance appointments from among districts on a board or commission if the appointments are to be made from nominees submitted by other groups or individuals, or if nominees shall have a professional or technical background, expertise, or membership. The mayor shall attempt to balance appointments from among districts on all boards and commissions to equalize representation of all districts over the entire range of boards and commissions.
- (3) The mayor may:
 - (a) Remove from office, by a written order, any officer appointed by him, unless otherwise provided by law;
 - (b) Appoint his own staff, and remove them at pleasure;
 - (c) Require from any executive or ministerial officer of the city or joint agency of the city a statement in writing concerning the discharge of his duties; and

(d) Exercise the same power to administer oaths that justices of the peace and other judicial officers of the state have.

- (4) The Governor's Office for Local Development~~{Department for Local Government}~~ shall immediately forward one (1) copy of the information received from the mayor to the Legislative Research Commission.

Section 60. KRS 83A.075 is amended to read as follows:

- (1) In order to equate the compensation of mayors and members of city legislative bodies with the purchasing power of the dollar, the Governor's Office for Local Development~~{Department for Local Government}~~ shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the mayor in cities of the first class shall be paid at a rate no greater than twelve thousand dollars (\$12,000) per annum and mayors in cities other than the first class and legislative body members shall be paid at a rate no greater than seven thousand two hundred dollars (\$7,200) per annum.
- (2) The legislative body of the city shall set the compensation of the officer in accordance with KRS 83A.070 at a rate no greater than that stipulated by the Governor's Office for Local Development~~{Department for Local Government}~~.

Section 61. KRS 83A.085 is amended to read as follows:

- (1) Each city, except a city of the first class, shall establish the office of city clerk.
- (2) The office of city clerk may be combined with any other nonelected city office by inclusion of the title and duties of the office in the ordinance establishing the office of city clerk.
- (3) The duties and responsibilities of the clerk shall include, but not be limited to, the following:
- (a) Maintenance and safekeeping of the permanent records of the city;
 - (b) Performance of the duties required of the "official custodian" or "custodian" in accordance with KRS 61.870 to 61.882;
 - (c) Possession of the seal of the city if used;
 - (d) No later than January 31 of each year, mail to the Governor's Office for Local Development~~{Department for Local Government}~~ a list containing current city information including, but not limited to, the following:
 1. The correct name of the mayor, legislative body members, and the following appointed officials who are serving as of January 1 of each year:
 - a. City clerk;
 - b. City treasurer;
 - c. City manager;
 - d. City attorney;
 - e. Finance director;
 - f. Police chief;
 - g. Fire chief; and
 - h. Public works director;
 2. The correct name of the city, mailing address for city hall, and telephone number of city hall; and
 3. The name and telephone number of either an elected or appointed official to serve as a contact person that may be reached during normal business hours of 8 a.m. to 4:30 p.m.;
 - (e) Performance of all other duties and responsibilities required of the city clerk by statute or ordinance; and
 - (f) The Governor's Office for Local Development~~{Department for Local Government}~~ shall immediately forward one (1) copy of the information received from each city clerk to the Legislative Research Commission.

Section 62. KRS 91A.040 is amended to read as follows:

- (1) Each city of the first through fifth class shall, after the close of each fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year being audited. Within ten (10) days of the completion of the audit and its presentation to the city legislative body, in accordance with subsection (4)(e) of this section, each city shall forward three (3) copies of the audit report to the Governor's Office for Local Development~~{Kentucky Department for Local Government}~~ for information purposes. The Governor's Office for Local Development~~{department}~~ shall forward one (1) copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.
- (2) Except as provided in subsection (3) of this section, each city of the sixth class shall, after the close of each odd-numbered fiscal year, cause each fund of the city to be audited by the Auditor of Public Accounts or a certified public accountant. The audits shall be completed by February 1 immediately following the fiscal year to be audited. Within ten (10) days of the completion of the audit and its presentation to the city legislative body, in accordance with subsection (4)(e) of this section, each sixth class city shall forward three (3) copies of the audit report to the Governor's Office for Local Development~~{Kentucky Department for Local Government}~~ for information purposes. The Governor's Office for Local Development~~{Kentucky Department for Local Government}~~

~~Development~~~~[department]~~ shall forward one (1) copy of the audit report to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975. After the close of each even-numbered fiscal year, each sixth class city shall prepare a financial statement in accordance with KRS 424.220 and immediately forward one (1) copy to the Governor's Office for Local Development, which~~[Kentucky Department for Local Government]~~~~The department~~ shall forward one (1) copy of the financial statement to the Legislative Research Commission.

- (3) Any city of the sixth class, which for any fiscal year receives and expends, from all sources and for all purposes, less than seventy-five thousand dollars (\$75,000), and which has no long-term debt, whether general obligation or revenue debt, shall not be required to audit each fund of the city for that particular fiscal year. Each city shall annually prepare a financial statement in accordance with KRS 424.220 and immediately forward one (1) copy to the Governor's Office for Local Development~~[Kentucky Department for Local Government]~~ for information purposes. The Governor's Office for Local Development~~[department]~~ shall be responsible for forwarding one (1) copy of the financial statement to the Legislative Research Commission to be used for the purposes of KRS 6.955 to 6.975.
- (4) Each city required by this section to conduct an annual or biannual audit shall enter into a written contract with the selected auditor. The contract shall set forth all terms and conditions of the agreement which shall include, but not be limited to, requirements that:
 - (a) The auditor be employed to examine the basic financial statements, which shall include the government-wide and fund financial statements;
 - (b) The auditor shall include in the annual city audit report an examination of local government economic assistance funds granted to the city under KRS 42.450 to 42.495. The auditor shall include a certification with the annual audit report that the funds were expended for the purpose intended;
 - (c) All audit information be prepared in accordance with generally accepted governmental auditing standards which include tests of the accounting records and auditing procedures considered necessary in the circumstances. Where the audit is to cover the use of state or federal funds, appropriate state or federal guidelines shall be utilized;
 - (d) The auditor prepare a typewritten or printed report embodying:
 1. The basic financial statements and accompanying supplemental and required supplemental information;
 2. The auditor's opinion on the basic financial statements or reasons why an opinion cannot be expressed; and
 3. Findings required to be reported as a result of the audit;
 - (e) The completed audit and all accompanying documentation shall be presented to the city legislative body at a regular or special meeting; and
 - (f) Any contract with a certified public accountant for an audit shall require the accountant to forward a copy of the audit report and management letters to the Auditor of Public Accounts upon request of the city or the Auditor of Public Accounts, and the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers upon request.
- (5) A copy of an audit report which meets the requirements of this section shall be considered satisfactory and final in meeting any official request to a city for financial data, except for statutory or judicial requirements, or requirements of the Legislative Research Commission necessary to carry out the purposes of KRS 6.955 to 6.975.
- (6) Each city shall, within thirty (30) days after the presentation of an audit to the city legislative body, publish an advertisement in accordance with KRS Chapter 424 containing:
 - (a) The auditor's opinion letter;
 - (b) The "Budgetary Comparison Schedules-Major Funds," which shall include the general fund and all major funds;
 - (c) A statement that a copy of the complete audit report, including financial statements and supplemental information, is on file at city hall and is available for public inspection during normal business hours;
 - (d) A statement that any citizen may obtain from city hall a copy of the complete audit report, including financial statements and supplemental information, for his personal use;
 - (e) A statement which notifies citizens requesting a personal copy of the city audit report that they will be charged for duplication costs at a rate that shall not exceed twenty-five cents (\$0.25) per page; and
 - (f) A statement that copies of the financial statement prepared in accordance with KRS 424.220 are available to the public at no cost at the business address of the officer responsible for preparation of the statement.
- (7) Any city of the fifth or sixth class may utilize the alternative publication methods authorized by KRS 424.190(2) to comply with the provisions of this section.
- (8) Any person who violates any provision of this section shall be fined not less than fifty dollars (\$50) nor more than five hundred dollars (\$500). In addition, any officer who fails to comply with any of the provisions of this section shall, for each failure, be subject to a forfeiture of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500), in the discretion of the court, which may be recovered only once in a civil action brought by any resident of the city. The costs of all proceedings, including a reasonable fee for the attorney of the resident bringing the action, shall be assessed against the unsuccessful party.

Section 63. KRS 91A.050 is amended to read as follows:

The Governor's Office for Local Development~~{Department for Local Government}~~ shall make available to all cities assistance in meeting the requirements of KRS 91A.010 to 91A.060, including the preparation and dissemination of model systems for accounting and budgeting, and other technical materials.

Section 64. KRS 96.530 is amended to read as follows:

- (1) Any city acquiring or constructing an electric light, heat, and power plant under the provisions of KRS 96.520 shall, by ordinance, appoint a city utility commission consisting of three (3) commissioners to operate, manage, and control the plant, except that a city of the second class shall appoint five (5) commissioners. The utility commission shall have absolute control of the plant in every respect, including its operation and fiscal management and the regulation of rates, except that in fixing rates the commission shall be governed by the provisions of KRS 96.430, as it is made applicable to those plants by KRS 96.520, and by any ordinance enacted under that section, except that in fixing rates the commission in a city of the second or third class shall be governed by the provisions of KRS 96.535 and any ordinance enacted according to this section. The utility commission, when so appointed, shall be a public body politic and corporate, with perpetual succession; and the body may contract and be contracted with, sue and be sued, in and by its corporate name, and have and use a corporate seal. The utility commission shall provide rules for the management of the plant, and it shall fix the number, qualifications, pay, and terms of employment of all employees needed to operate the plant. In cities of the second or third class providing civil service coverage for city employees, the utility commission appointed under this section may provide civil service coverage for all of its employees and it shall exercise the powers and functions with respect to their employees which are vested in the city legislative body with respect to the city employees by KRS 90.380. Employees who have been in the employment of the utility commission for one (1) year immediately preceding the adoption of an order by the utility commission placing all of its employees under civil service coverage shall not be required to stand a civil service examination and they shall be eligible for all the benefits provided by civil service coverage. Out of the revenue of the plant, it shall pay operating expenses, repairs, and necessary additions and provide sufficient reserve fund against any emergency that may arise. The commission shall from time to time pay to the city the surplus revenue derived from the operation of the plant as is provided in KRS 96.430 and 96.440, as they are made applicable to the plants by KRS 96.520, except that the commission in a city of the second or third class shall pay to the city the surplus revenue derived from the operation of the plant as is provided in KRS 96.535 and any ordinance adopted according to this section. Notwithstanding the foregoing provisions, the utility commission, for the purpose stated in subsection (1) of KRS 96.520, may enter into an agreement for the operation of any of its plants or other facilities.
- (2) Except as provided in KRS 61.070, no person shall be appointed a member of the commission who has, within the last two (2) years before his appointment, held any city, county, state, or federal office, or been a member of any committee of any political party, or who is related within the third degree to the mayor, or a member of a city legislative body. The commission shall not appoint to any subordinate office that it may create any person who is related to any commissioner, to the mayor or to any member of the city legislative body. No officer or employee of the city, whether holding a paid or unpaid office, shall be eligible to be appointed as a member of the commission or to be employed by the commission in any capacity. The members of the commission shall be citizens, taxpayers, and legal voters of the city and shall not at the time of appointment be indebted to the city or be surety on the official bond of any officer of the city. If at any time during his term of office any member of the commission becomes a candidate for or is elected or appointed to any public office, he shall automatically vacate his membership on the commission and another person shall be appointed in his place.
- (3) The city shall pay the cost of securing bonds for the commissioners from a surety company, and each commissioner shall execute bond to be approved by the city legislative body.
- (4) The city legislative body shall fix the salary to be paid each member of the commission at a sum not to exceed two thousand four hundred dollars (\$2,400) per annum. The Governor's Office for Local Development~~{Department for Local Government}~~ shall compute by the second Friday in February of every year the annual increase or decrease in the Consumer Price Index of the preceding year by using 1998 as the base year, and the salary of the commissioners may be adjusted at a rate no greater than that stipulated by the Governor's Office for Local Development~~{department}~~.
- (5) The first commissioners appointed under this section shall be appointed one (1) for the term of one (1) year, one (1) for the term of two (2) years and one (1) for the term of three (3) years. Upon the expiration of the first terms, successors shall be appointed for a term of three (3) years. On a commission with five (5) members, not more than two (2) members shall hold concurrent terms of office.
- (6) All commission members appointed subsequent to the initial members shall be appointed by the mayor or chief executive of the municipality, with the approval of the governing body of the municipality.

Section 65. KRS 136.658 is amended to read as follows:

- (1) The Local Distribution Fund Oversight Committee is hereby created and administratively attached to and staffed by the department. The oversight committee shall consist of nine (9) members appointed by the Governor and shall be representative of local government and state government officials. The Governor shall receive recommendations for four (4) members each from the Kentucky Association of Counties and the Kentucky League of Cities from which the Governor shall select two (2) members each. The Governor shall receive recommendations for two (2) members each from the Kentucky School Board Association, the Kentucky Superintendents Association, and the Kentucky School Administrators

Association from which the Governor shall select one (1) member each. One (1) member shall be appointed by the Governor to represent the interests of special districts other than school districts. The remaining member shall be the commissioner of the Governor's Office for Local Development,~~[Department for Local Government]~~ who shall serve as chairperson of the oversight committee. The members shall serve for a term of three (3) years. Five (5) members of the oversight committee shall constitute a quorum. A member may be removed for cause in accordance with procedures established by the oversight committee and shall serve without salary but shall be reimbursed for expenses in the same manner as state employees. Any vacancy occurring on the oversight committee shall be filled by the Governor for the unexpired term.

- (2) The duties of the oversight committee shall be:
 - (a) To monitor the department's implementation and distribution of funds from the gross revenues and excise tax fund and the state baseline and local growth fund and to report its findings to the commissioner of the department; and
 - (b) To act as a finder of fact for the commissioner of the department in disputes in and between political subdivisions, school districts, special districts, and sheriff departments, and between political subdivisions, school districts, special districts, and sheriff departments, and the department regarding the implementation and distribution of funds from the gross revenues and excise tax fund and the state baseline and local growth fund.
- (3) The department shall provide the oversight committee with an annual report reflecting the amounts distributed to each participating political subdivision, school district, special district, or sheriff department.
- (4) Any political subdivision, school district, special district, or sheriff department may file a complaint and request a hearing with the oversight committee on a form prescribed by the committee. The oversight committee shall give notice to any political subdivision, school district, special district, or sheriff department that may be affected by the complaint. Any political subdivision, school district, special district, or sheriff department intending to respond to the complaint shall do so in writing within thirty (30) days of notice of the complaint.
- (5) In conducting its business:
 - (a) The oversight committee shall give due notice of the times and places of its hearings;
 - (b) The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses;
 - (c) The oversight committee shall act by majority vote;
 - (d) The oversight committee shall adopt and publish rules of procedure and practice regarding its hearings; and
 - (e) The oversight committee shall make written findings and recommendations to the commissioner of the department.
- (6) The commissioner of the department shall review the findings and recommendations of the oversight committee and issue a final ruling within sixty (60) days of receipt of the recommendations.
- (7) The parties in the dispute shall have the rights and duties to appeal any final ruling to the Kentucky Board of Tax Appeals under KRS 131.340.
- (8) Nothing contained in this section shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the hearing process.

Section 66. KRS 147A.004 is amended to read as follows:

- (1) The Governor's Office for Local Development,~~[Department for Local Government]~~ shall administer distribution of state and federal planning funds to area development districts and shall require by administrative regulation financial and operational reports, audits, and other controls as are necessary to assure compliance with state and federal laws relating to funds received by the area development districts.
- (2) The Governor's Office for Local Development,~~[Department for Local Government]~~ shall promulgate administrative regulations as will assure statewide coordination of the planning and assistance operations of the area development districts.

Section 67. KRS 147A.020 is amended to read as follows:

- (1) The state local debt officer and the state local finance officer within the Governor's Office for Local Development,~~[Department for Local Government]~~ shall exercise the following administrative functions of the state:
 - (a) The state local debt officer shall exercise all administrative functions as provided in the county debt act, KRS 66.280 to 66.390, and administrative functions relating to local government bonds as provided in KRS 66.045; and
 - (b) The state local finance officer shall exercise all administrative functions regarding county and local government budgets, as provided in KRS 68.210 to 68.360.
- (2) The state local debt officer shall have the following powers and duties:
 - (a) To require reports from local governments to enable him to adequately provide the technical and advisory assistance authorized by this section. The reports shall provide the necessary information for a complete file on local government debt, which the state local debt officer shall keep open for public inspection at the Governor's Office for Local Development,~~[Department for Local Government]~~;
 - (b) To conduct studies in debt management, including ways and means of appraising the terms of alternative bids;

- (c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government, to enable the state local debt officer to carry out his duties under this section; and
 - (d) To compile and publish annually a report which shall include detailed information on local government long-term debt issued and retired during the previous year and outstanding, and other available statistical data on local government finances.
- (3) The state local finance officer shall have the following powers and duties:
- (a) To coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, general revenue sharing for local government;
 - (b) To provide technical assistance and information to units of local government on matters including, but not limited to, fiscal management, purchases, and contracts; and
 - (c) To conduct training programs to instruct county and other local officials respecting their duties and responsibilities in the collection, expenditure, and management of public moneys subject to their control and jurisdiction.

Section 68. KRS 147A.021 is amended to read as follows:

- (1) The Governor's Office for Local Development~~{Department for Local Government}~~ shall have the following powers and duties:
- (a) To require any reports from local governments that will enable it adequately to provide the technical and advisory assistance authorized by this section.
 - (b) To encourage, conduct, or participate in training courses in procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists.
 - (c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the Governor's Office for Local Development~~{department}~~ to carry out its duties under this section.
 - (d) At its discretion, to compile and publish annually a report on local government.
- (2) The Governor's Office for Local Development~~{Department for Local Government}~~ shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, the following programs:
- (a) Demonstration cities and metropolitan development act as amended with the exception of Title I of the Housing and Community Development Act of 1974 as amended through 1981;
 - (b) Farmers Home Administration;
 - (c) Veterans Administration Act as amended, as it pertains to housing.
- (3) The Governor's Office for Local Development~~{Department for Local Government}~~ shall provide technical assistance and information to units of local government, including but not limited to:
- (a) Personnel administration;
 - (b) Ordinances and codes;
 - (c) Community development;
 - (d) Appalachian Regional Development Program;
 - (e) Economic Development Administration Program;
 - (f) Intergovernmental Personnel Act Program;
 - (g) Land and Water Conservation Fund Program;
 - (h) Area Development Fund Program;
 - (i)~~{Gas System Restoration Project;~~
 - (j) Joint Funding Administration Program;
 - (k)~~{(k)}~~ State clearinghouse for A-95 review;
 - (l)~~{(l)}~~ The memorandums of agreement with the area development districts to provide management assistance to local governments; and
 - (m) The urban development office.
- (4) The Governor's Office for Local Development~~{Department for Local Government}~~ shall exercise all of the functions of the state local finance officer provided in KRS Chapters 66, 68, and 131 relating to the control of funds of counties, cities, and other units of local government.
- (5) Upon request of the Administrative Office of the Courts, the Governor's Office for Local Development~~{Department for Local Government}~~ shall evaluate the financial condition of any local unit of government selected to participate in a court

facilities construction or renovation project under KRS 26A.160 and shall certify to the Administrative Office of the Courts the local unit of government's ability to participate in the project.

Section 69. KRS 147A.025 is amended to read as follows:

- (1) Except as provided in subsection (7) of this section, the Governor's Office for Local Development~~{Department for Local Government}~~ with the advice and approval of the state local finance officer annually shall conduct a program to instruct county clerks, sheriffs, jailers, and county treasurers respecting their duties and responsibilities in the collection and expenditure of public moneys, subject to their control and jurisdiction.
- (2) The Governor's Office for Local Development~~{department}~~ with the advice and approval of the state local finance officer shall establish the content and publish instructional materials essential to implementing this program. Subsequent to every regular and extraordinary session of the General Assembly, the Governor's Office for Local Development~~{department}~~ with the state local finance officer shall review and revise, if necessary, the program when it is found not to be consistent with state law.
- (3) The Governor's Office for Local Development~~{department}~~ may assess a charge to any person requesting copies of instructional materials published as provided by this section to cover actual costs of printing and handling these materials, except that no county official shall be charged for instructional materials provided for his use. Funds accruing from the sale of instructional materials shall be paid into the State Treasury, and the State Treasurer shall pay these funds into an account of the Governor's Office for Local Development~~{department}~~ to defray the costs of printing and handling these materials.
- (4) The commissioner of the Governor's Office for Local Development~~{department}~~ with the advice and approval of the state local finance officer may prescribe completion standards for this program, and may, subject to subsection (6) of this section, establish the number, type and sequence of instructional sessions to be conducted by the Governor's Office for Local Development~~{department}~~; but the commissioner of the Governor's Office for Local Development~~{department}~~ shall not require the attendance of any county official, nor shall he prescribe any requirement or standard that restricts or impairs a county official or elected candidate in the lawful pursuit or conduct of the office to which he is elected.
- (5) The Governor's Office for Local Development~~{department}~~ shall notify in advance each county clerk, sheriff, jailer, and county treasurer respecting instructional session pertinent to his office. Notification shall be by mail, and it shall be posted no later than twenty-one (21) days prior to the instructional session. At a minimum, the notice shall give the date, time, place and title of the instruction session.
- (6) The Governor's Office for Local Development~~{department}~~ shall conduct this program by providing a one (1) day session at various locations throughout this state in order to minimize the travel expenses of those officials attending, provided that the aggregate number of all sessions shall not exceed five (5) during any calendar year. Except as provided in subsection (7) of this section, the Governor's Office for Local Development~~{department}~~ may commence instruction anytime during a calendar year.
- (7) The Governor's Office for Local Development~~{department}~~ shall not conduct a program as provided by this section during any calendar year when a general election is held for every constitutional county office. The Governor's Office for Local Development~~{department}~~, however, shall commence instruction for the succeeding year within eighty (80) days following said general election.
- (8) Every county official who attends an instructional session shall be paid his actual and necessary expenses in attending from the operating funds of his office.
- (9) In fulfilling the requirements of this section, the Governor's Office for Local Development~~{department}~~ shall confer with and coordinate its duties and responsibilities with the Finance and Administration Cabinet and the Auditor of Public Accounts. The Governor's Office for Local Development~~{department}~~ shall also confer with those state universities whose mission statements mandate their participation in the training of public officials, the state associations for those officials listed in subsection (1) of this section, and the Kentucky Association of Counties, respecting the implementation of this section.

Section 70. KRS 147A.028 is amended to read as follows:

- (1) In enacting a parks establishment aid law, it is the intention of the General Assembly to supplement local efforts to establish park and recreational facilities. The inadequacy of present facilities and the high cost of acquisition and establishment of park recreational facilities are hereby declared to be matters of public interest and concern and vital to the promotion of the health, welfare and industrial development of the inhabitants of the Commonwealth.
- (2) The commissioner of the Governor's Office for Local Development~~{Department for Local Government}~~ shall cause to be established in the Treasury a special fund to be known as the local government parks and recreational facilities fund, to be administered by the commissioner. The fund shall be comprised of grants, contributions, appropriations and intergovernmental transfers. Moneys in the fund shall not lapse at the end of the fiscal year.
- (3) The commissioner may, when he determines that a proposed local government plan for a park or other recreational facility would serve the public interest, use moneys from the local government parks and recreational facilities fund to aid local governmental units in their acquisition and establishment of local parks and recreational facilities, provided that local governmental units must provide matching funds for the project. The Governor's Office for Local Development~~{Department for Local Government}~~ may grant an amount up to five hundred thousand dollars (\$500,000) for

any one (1) project, which amount shall not exceed fifty percent (50%) of the cost of the entire project. For the purposes of this section, local governmental units shall mean county governments, urban-county government, and governments of cities of any class. Title to parks and recreational facilities acquired by the use of funds authorized by this section shall vest in the local governmental unit which proposed the project and provided the matching funds.

- (4) In September of each year, the commissioner shall determine the amount of funds available for distribution by December 31 of that same year. The commissioner may prescribe standards for determining the amounts to be granted for local projects and any administrative regulations as may be necessary to implement the provisions of this section. Funds granted by the Governor's Office for Local Development~~[Department]~~ shall be spent by the local governing authorities only for the acquisition and establishment of parks and recreational facilities or major improvements or additions to existing parks and shall not be used for operating or maintenance expenses.

Section 71. KRS 147A.029 is amended to read as follows:

- (1) The commissioner of the Governor's Office for Local Development~~[Department for Local Government]~~ shall administer and determine the disbursement of funds for the Local Match Participation Program.
- (2) Funds appropriated for the Local Match Participation Program may be used as matching funds by local governments for flood-related projects and straight sewage pipe removal projects with:
- (a) The United States Army Corps of Engineers;
 - (b) The Federal Emergency Management Agency (FEMA); and
 - (c) Other federal government grant and loan programs requiring local matching funds.
- (3) Any general fund appropriations made for the Local Match Participation Program may be used for flood control planning and mitigation activities and straight sewage pipe removal and mitigation activities.

Section 72. KRS 147A.031 is amended to read as follows:

- (1) The Governor's Office for Local Development~~[Department for Local Government]~~, in cooperation with cities, counties, waste management districts, waste industries, the Environmental and Public Protection Cabinet, and the Environmental Quality Commission, shall develop procedures designed to resolve conflicts resulting from municipal solid waste management facility siting and operation. The procedures shall address:
- (a) Resolution of conflicts associated with multijurisdictional municipal solid waste management facilities, including the use of such techniques as negotiation, mediation, or arbitration to address issues including, but not limited to, host community compensation and collection and disposal fees; and
 - (b) Resolution of issues, except those relating to permit conditions imposed by the cabinet, resulting from municipal solid waste management facility siting and operation, including the use of such techniques as negotiation, mediation, or arbitration to address concerns of those persons and landowners who are directly affected by the facility's location and operation. Issues which may be addressed include, but are not limited to, the following:
 1. Operational issues, such as hours of operation;
 2. Recycling and composting efforts that may be implemented;
 3. Protection of property values;
 4. Traffic routing and road maintenance; and
 5. Establishment of local advisory committees.
- (2) The Governor's Office for Local Development~~[Department for Local Government]~~ shall adopt administrative regulations to implement the provisions of subsection (1) of this section.
- (3)~~[By January 1, 1992, the Department for Local Government shall report to the Governor and to the General Assembly the recommendations developed under subsection (1) of this section.]~~
- (4)} Nothing in this section shall be construed to abridge any rights or remedies provided by KRS Chapters 109 and 224, or at common law.

Section 73. KRS 147A.060 is amended to read as follows:

There shall be in each area development district a board of directors. The composition of the board and the terms and appointments of its members in each district shall be specified by administrative regulation promulgated by the Governor's Office for Local Development~~[Department for Local Government]~~ in accordance with KRS Chapter 13A. The designee of a mayor or county judge/executive shall be a member of the designator's respective legislative body or their staff. Other persons who are not elected officials or members of their staffs may be designated as representatives with the consent of that body. The Governor's Office for Local Development~~[Department for Local Government]~~ in specifying the composition of the board shall conform to applicable federal requirements. A person who is a state officer, a deputy state officer, or a member of the General Assembly may serve only in a nonmember advisory capacity to the board of directors of an area development district. An area development district board of directors shall notify legislators of the provisions of this section and of their right to participate in the activities of the area development district. If a legislator chooses to participate in accordance with this section, the area development district shall send meeting notices to that legislator at the same time board members are notified of the meetings.

Section 74. KRS 147A.250 is amended to read as follows:

A Railtrail Development Office is hereby created within the Governor's Office for Local Development~~{Department for Local Government}~~. The Governor's Office for Local Development~~{department}~~ shall insure that the office has the necessary expertise to carry out the requirements imposed upon it by this section. Among other railtrail functions and duties which may be assigned to it, the Railtrail Development Office shall carry on at least the following responsibilities:

- (1) The office shall monitor the proceedings of the United States Department of Transportation's Surface Transportation Board and shall disseminate to interested entities in Kentucky information regarding those proceedings of interest to railtrail conversion or policy in the Commonwealth. If a railroad applies to the Surface Transportation Board for authority to discontinue service over or abandon a railroad corridor in the Commonwealth, the office shall immediately notify those political subdivisions through which the corridor passes and any interested state agency of the proceedings and the potential for trail development of the corridor. Notice shall also be sent to the county judge/executive of each county through which the proposed abandonment passes, who shall distribute copies of the notice to each member of the chief legislative body of the county government at the next regularly scheduled meeting of that legislative body. The office shall also send a copy of the notice to each soil and water conservation district through which the abandonment passes. If time is of the essence and it appears that the corridor is a suitable candidate for conversion to a railtrail and that no other railtrail interested entity will be participating in the federal proceeding, the office shall take those steps necessary to cause a railbanking or public use condition to be imposed in the federal proceeding;
- (2) The office shall assist any requesting political subdivision or agency of state government with assistance on any application to the Surface Transportation Board regarding an abandoned or about-to-be-abandoned railroad corridor, including any requests for railbanking or imposition of public use conditions;
- (3) The office shall coordinate and promote railtrail development efforts among the various agencies of state government, including the Department of Parks and the Transportation Cabinet. While this subsection does not confer upon the office any powers beyond those that it may ordinarily possess, every entity of state government shall cooperate with the office to the extent practicable under the circumstances;
- (4) The office shall furnish to requesting political subdivisions assistance in applying to available federal, state, or local funding sources for funds to be used for the process of converting railroad corridors into public use trails; and
- (5) The office may apply for federal, state, or private grants or other forms of financial assistance to carry on its mission.

Section 75. KRS 148.022 is amended to read as follows:

- (1) The Governor's Office for Local Development~~{Department for Local Government}~~ shall administer and operate the outdoor recreation programs of the state and shall be responsible for developmental planning and the administration of United States Bureau of Outdoor Recreation funds.
- (2) All functions of the Commonwealth relating to the Breaks Interstate Park shall be attached to the Commerce Cabinet for administrative purposes.

Section 76. KRS 148.690 is amended to read as follows:

- (1) The department shall review all formal declarations of railroad right-of-way abandonments by the Surface Transportation Board or other agency with jurisdiction and may review former railroad corridors for possible inclusion in the state trails system. The commissioner shall, within three (3) years after the route of a trail or trail segment included in the system has been located, determine the boundaries of the right-of-way to be associated with that trail. Such boundaries shall be established in such a manner that they protect the scenic value of the trail.
- (2) The commissioner is authorized to develop effective procedures to assure that, wherever practicable, utility rights-of-way, abandoned railroad corridors, or similar properties having value for trail purposes may be made available for such use; however, the commissioner shall take into consideration the rights of adjacent property owners in the development of any such procedures. Other departments of state government having jurisdiction, control over, or information concerning the use, abandonment, or disposition of rights-of-way, railroad corridors, and similar properties that may be suitable for trail purposes shall cooperate with the commissioner in the transfer of these rights for trail use. These procedures shall include, at a minimum, that, for every railroad corridor that is the subject of a request for federal authority to discontinue service or for federal regulatory abandonment, the commissioner shall evaluate the potential of converting that corridor into a railtrail. The commissioner shall cause a preliminary review to be completed within thirty (30) days of the publication of the request for federal authority in the Federal Register. The commissioner shall cause a final review to be completed ninety (90) days after the publication of the request for federal authority in the Federal Register. The commissioner shall timely transmit copies of these reviews to the Legislative Research Commission and to the Commonwealth's Railtrail Development Office in the Governor's Office for Local Development~~{Department for Local Government}~~ as they are completed. If either review indicates the possibility of converting the corridor into a railtrail, the commissioner may participate in the federal proceeding to request that the corridor be railbanked in accordance with federal law or to request the imposition of a public use condition.

Section 77. KRS 152.055 is amended to read as follows:

The Governor's Office for Local Development~~{Department for Local Government}~~ shall have responsibility for the administration and coordination of Appalachian regional development programs and economic development administration programs.

Section 78. KRS 154.33-603 is amended to read as follows:

- (1) The corporation shall be governed by a board of directors consisting of seven (7) voting members and three (3) ex officio members as follows:
 - (a) Three (3) members representing the three (3) county governments, one (1) to be appointed by the county judge/executive of Knott County, one (1) to be appointed by the county judge/executive of Letcher County, and one (1) to be appointed by the county judge/executive of Perry County;
 - (b) Three (3) members appointed by the Governor, one (1) each from Knott, Letcher, and Perry Counties;
 - (c) The secretary of the Finance and Administration Cabinet, or his or her designee, as a voting member;
 - (d) The secretary of the Commerce Cabinet, or his or her designee, as an ex officio, nonvoting member;
 - (e) The secretary of the Cabinet for Economic Development, or his or her designee, as an ex officio, nonvoting member; and
 - (f) The commissioner of the Governor's Office for Local Development~~[Department for Local Government]~~, or his or her designee, as an ex officio, nonvoting member.
- (2) Appointed members shall serve staggered terms of four (4) years beginning August 1, 2000, except that of the initial appointments:
 - (a) One (1) member appointed by the Governor and the member appointed by the county judge/executive of Knott County shall each serve a term of four (4) years;
 - (b) One (1) member appointed by the Governor and the member appointed by the county judge/executive of Letcher County shall each serve a term of three (3) years;
 - (c) The one (1) member appointed by the county judge/executive of Perry County shall serve a term of two (2) years; and
 - (d) One (1) member appointed by the Governor shall serve a term of one (1) year.
- (3) A member may be removed by the appointing authority only for neglect of duty, misfeasance, or malfeasance and after being afforded an opportunity for a hearing in accordance with KRS Chapter 13B.
- (4) Members of the board shall serve without compensation but shall be reimbursed for actual and necessary travel expenses incurred in the performance of their duties. The reimbursement shall be in accordance with administrative regulations promulgated under KRS Chapter 13A by the Finance and Administration Cabinet.

Section 79. KRS 164.3571 is amended to read as follows:

- (1) The Governmental Services Center may, upon request~~[,]~~ of the Governor's Office for Local Development~~[Department for Local Government]~~, and as financial and staff resources permit, develop, coordinate, implement, assist, and conduct employee and management training programs, seminars, and conferences, for agencies, departments, divisions, boards, and commissions of county and city government, and any other political subdivisions of the state.
- (2) The Governmental Services Center may enter into contractual agreements with county and city governments and other political subdivisions as necessary to allow the Governmental Services Center to properly perform its duties and responsibilities as established by KRS 164.3571 to 164.3573.
- (3) Any agency of a county, city, or other political subdivision whose employees receive the benefit of the Governmental Services Center's services, shall reimburse the Governmental Services Center for those costs and expenses which it incurs as a result of providing these services.

Section 80. KRS 171.381 is amended to read as follows:

- (1) The Kentucky Heritage Council shall be dedicated to the preservation and protection of all meaningful vestiges of Kentucky's heritage for succeeding generations, and in pursuit of this dedication it shall engage in and concern itself with worthy projects and other matters related to the conservation and continuing recognition of buildings, structures, sites, and other landmarks associated with the archaeological, cultural, economic, military, natural, political, or social aspects of Kentucky's history.
- (2) The duties and functions of the council shall be to:
 - (a) Review and recommend appropriate projects and programs to insure the proper recognition, preservation, and protection of matters related to Kentucky's heritage, particularly those in the nature of or associated with real property;
 - (b) Advise, consult, and cooperate generally with state, local, and national officials and agencies to accomplish the purposes to which the council is dedicated, and specifically with the Kentucky Department of Parks and Historical Society in matters of common concern;
 - (c) Encourage, promote, and coordinate historic preservation programs being conducted in Kentucky by other agencies or groups, public and private; and
 - (d) Prepare and maintain an inventory or survey of Kentucky's resource of historic buildings, sites, structures, and other landmarks, and list in an official roll those such landmarks which possess statewide or national significance.

- (3) The council may:
- (a) Accept grants or other funds or property from any available source, public or private;
 - (b) Employ, with the approval of the Governor, such staff as may be necessary. Any member of such staff shall be entitled to compensation under KRS Chapter 18A, and may be reimbursed for necessary and actual expenses in accordance with the provisions of KRS Chapters 44 and 45;
 - (c) Enter into such contractual relationships as may be necessary;
 - (d) Acquire real property, by gift or devise or by purchase pursuant to the provisions of KRS 45A.045, and hold the same in the name of the Commonwealth for the use and benefit of the council;
 - (e) Initiate its own projects of an appropriate nature, and undertake or otherwise engage in joint projects with other agencies or groups, public or private; and
 - (f) Adopt such rules and regulations as may be necessary and incidental to the performance of the council's duties and functions.
- (4) The receipt, control, and expenditure of funds shall be subject to the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies.
- (5) No provision of this section shall be construed as repealing any of the laws of the Commonwealth relating to the preservation, protection, and recognition of historical matters, but shall be held and construed as ancillary and supplemental thereto.
- (6) The council shall receive applications, interview and recommend to the Governor three (3) persons as nominees for appointment as the director of the Heritage Division, Commerce Cabinet. The director of the Heritage Division shall be the state historic preservation officer.
- (7) The responsibilities of the state historic preservation officer shall include:
- (a) Development for the State Historic Preservation Program;
 - (b) Direction of a comprehensive statewide survey of historic properties;
 - (c) Nomination of historic properties to the National Register of Historic Places;
 - (d) Cooperation in the development of effective working relationships with federal, state, and local agencies that participate in the management of historic properties and in project planning that may affect historic properties;
 - (e) Cooperation in the integration of historic preservation planning with all levels of planning;
 - (f) Cooperation in the development and maintenance of a review procedure for publicly funded, assisted, and licensed undertakings that may affect historic properties within the state;
 - (g) Participation in the review of federal, federally assisted, and federally licensed undertakings that may affect historic properties included in or eligible for inclusion in the National Register under Section 106 of the National Historic Preservation Act and Executive Order 11593;
 - (h) Assisting federal agencies in fulfilling their historic preservation responsibilities under federal law and regulations;
 - (i) Liaison with organizations of professional archaeologists, historians, architects, architectural historians, planners, and others concerned with historic preservation;
 - (j) Development and operation of a program of public information and education concerning the preservation program;
 - (k) Administration of the grants program within the state;
 - (l) Preparation and maintenance of a comprehensive statewide historic preservation plan; and
 - (m) The immediate transmittal to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Governor's Office for Local Development~~Department for Local Government~~ of any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Section 81. KRS 174.130 is amended to read as follows:

- (1) The Transportation Cabinet, including any agency or other unit of government attached to the cabinet, shall immediately transmit to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Governor's Office for Local Development~~Department for Local Government~~ any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.
- (2) The Transportation Cabinet shall keep a record of railroad lines in the Commonwealth of Kentucky, including both lines that have been abandoned through the federal government's regulatory abandonment process and those where any railroad property interest in the railroad corridor itself has been abandoned under Kentucky law. The cabinet shall annually publish an updated map showing the location and as much information as to the status of these lines as practicable. The record shall include, inasmuch as possible:

- (a) A description of the line and its location;
- (b) The current or last railroad owner of the line;
- (c) The operator of the line;
- (d) The addresses and phone numbers for the owners and operators of the lines;
- (e) Whether the owner of the line has received authority from the Federal Government to discontinue service over the line;
- (f) Whether the owner of the line has received authority from the Federal Government to abandon the line;
- (g) Whether the owner of the line has consummated any authority granted by the Federal Government to discontinue service over the line or to abandon the line;
- (h) Whether the line has been railbanked under either federal or state law; and
- (i) Any other information the cabinet deems pertinent and useful to the public.

Section 82. KRS 177.360 is amended to read as follows:

- (1) Except as provided in subsection (5) of this section, the Department of Intergovernmental Programs shall allocate the funds set apart under KRS 177.320(1) for construction, reconstruction, and maintenance of state-maintained secondary and rural highways as follows:
 - (a) One-fifth (1/5) shall be apportioned equally among the one hundred twenty (120) counties.
 - (b) One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the rural population of each county bears to the total rural population of the state. "Rural population" as used here means the population in a county outside cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more as shown by the most recent decennial census of the United States Bureau of the Census, and county population shall be determined by the most recent decennial census of the United States Bureau of the Census.
 - (c) One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio that the public road mileage outside of cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more bears to the total mileage of such roads for the entire state.
 - (d) Two-fifths (2/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the square-mile rural area of the county bears to the total square-mile rural area of the state. "Rural area" as used here means that area of the county outside of cities, towns, and urban areas having a population of twenty-five hundred (2,500) or more and shown by the most recent decennial census of the United States Bureau of the Census.
- (2) A sum not exceeding six percent (6%) of the allocation provided by KRS 177.320(1) to each county shall be deducted at the beginning of each fiscal year and adjusted quarterly to cover the maintenance, administrative, engineering, and other costs of the program.
- (3) Of the total amount apportioned by the provisions of this section, a sum not exceeding six percent (6%) may be deducted and placed by the Department of Intergovernmental Programs in a special emergency account to be expended at the direction of the commissioner to meet unforeseen emergencies on rural and secondary roads and bridges.
- (4) Apportionments as required by the provisions of this section shall be made on the basis of revenue estimates supplied by the Finance and Administration Cabinet and adjusted quarterly in accordance with the most recent revision of the estimates by the Finance and Administration Cabinet.
- (5) Any county eligible to receive county road aid moneys in accordance with KRS 177.320 and this section shall be required to submit a uniform financial information report to the Governor's Office for Local Development~~Department for Local Government~~ in accordance with KRS 65.905 before any payment of county road aid funds shall be made. The Governor's Office for Local Development~~Department for Local Government~~ shall notify the Department of Intergovernmental Programs no later than March 1 annually of any county that has not submitted a uniform financial information report. The Department of Intergovernmental Programs shall, upon notification by the Governor's Office for Local Development~~department~~, immediately suspend all county road aid moneys to the county until the county complies with the provisions of KRS 65.900 to 65.925~~65.915~~ and submits the uniform financial information report to the Governor's Office for Local Development~~Department for Local Government~~. The Governor's Office for Local Development~~department~~ shall immediately notify the Department of Intergovernmental Programs to reinstate county road aid moneys to any county affected by this subsection as soon as the county submits the uniform financial information report.

Section 83. KRS 177.366 is amended to read as follows:

- (1) Except as provided in subsection (8) of this section, on and after July 1, 1980, the Finance and Administration Cabinet shall allocate to each incorporated city and "unincorporated urban place" its pro rata share of the funds set apart for construction, reconstruction, and maintenance of urban roads and streets on the basis of the ratio which the population in the incorporated cities and in "unincorporated urban places" bears to the total population in incorporated cities and in "unincorporated urban places" of the state. "Unincorporated urban places" as used here, means an area as defined in KRS

2007 Regular Session

81.015, and any area outside of incorporated cities, which area has a population of 2,500 or more as shown by the most recent decennial census of the United States Bureau of the Census, and all populations shall be determined by the most recent decennial census of the United States.

- (2) Any area which becomes incorporated after December 31, 1970, shall not be eligible to participate in the Municipal Aid Program until the beginning of the second fiscal year following its incorporation and population certification. It shall be the responsibility of the newly incorporated area to provide the Finance and Administration Cabinet with documentation from the United States Bureau of the Census showing the population of the newly incorporated area as it existed at the time of the last decennial census.
- (3) In the event the newly incorporated area cannot obtain a population count from the Bureau of the Census, it shall not be eligible to participate in the Municipal Aid Program until the next decennial census.
- (4) If an incorporated city, whose incorporation took place prior to December 31, 1970, annexes additional area, the population of the annexed area will not be counted in the allocation of municipal aid funds until the beginning of the second fiscal year following annexation and population certification.
- (5) It shall be the responsibility of the incorporated city to provide the Finance and Administration Cabinet with documentation from the United States Bureau of the Census showing the population for the annexed area as it existed at the time of the last decennial census.
- (6) If the incorporated area cannot obtain a population count from the Bureau of the Census, the annexed area's population shall not be eligible to be counted in the distribution of the municipal aid fund. However, the streets included in the annexed areas shall be eligible to receive work through this program.
- (7) Apportionments as required by the provisions of this section shall be made on the basis of revenue estimates supplied by the Office of State Budget Director and shall be adjusted quarterly in accordance with the most recent revision of the estimates by the Office of State Budget Director.
- (8) Any local government eligible to receive municipal road aid moneys pursuant to KRS 177.365 to 177.369 shall be required to submit a uniform financial information report to the Governor's Office for Local Development~~[Department for Local Government]~~ pursuant to KRS 65.905 before any payment of municipal road aid funds shall be made. The Governor's Office for Local Development~~[Department for Local Government]~~ shall notify the Finance and Administration Cabinet no later than March 1 annually of any local government that has not submitted a uniform financial information report. The Finance and Administration Cabinet shall, upon notification by the Governor's Office for Local Development~~[department]~~, immediately suspend all municipal road aid moneys to the local government until the local government complies with the provisions of KRS 65.900 to 65.925~~[65.915]~~ and submits the uniform financial information report to the Governor's Office for Local Development~~[Department for Local Government]~~. The Governor's Office for Local Development~~[department]~~ shall immediately notify the Finance and Administration Cabinet to reinstate municipal road aid moneys to any local government affected by this subsection as soon as the local government submits the uniform financial information report.

Section 84. KRS 179.410 is amended to read as follows:

The Governor's Office for Local Development~~[Department for Local Government]~~ shall allocate the sum appropriated by the General Assembly from the funds arising under the provisions of KRS 177.320(2), for the construction, reconstruction, improvement, and maintenance of county roads and bridges in accordance with the provisions of KRS 177.360(1).

Section 85. KRS 179.415 is amended to read as follows:

- (1) On and after the fiscal year beginning July 1, 1980, and each fiscal year thereafter, the Governor's Office for Local Development~~[Department for Local Government]~~ shall pay to each county its pro rata share of any funds appropriated and any unexpended balance of funds appropriated for construction, reconstruction, improvement, and maintenance of county roads and bridges. During each fiscal year, the Governor's Office for Local Development~~[department]~~ shall make quarterly payments to each such county of the funds allocated in accordance with KRS 177.369.
- (2) The expenditure of any money received by the county in accordance with the provisions of subsection (1) of this section shall be made solely for the purpose of construction, reconstruction, improvement, and maintenance of county roads and bridges.
- (3) Any county which has received any money in accordance with the provisions of subsection (1) of this section shall retain all records of the expenditure of the money for a period of five (5) years and said records shall be subject to audit by the Governor's Office for Local Development~~[Department for Local Government]~~ for said period of time in order to determine the proper expenditure of said money for the purpose required by KRS 179.410.

Section 86. KRS 198A.030 is amended to read as follows:

- (1) There is hereby created and established an independent, de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to be known as the Kentucky Housing Corporation.
- (2) The Kentucky Housing Corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people by the production of residential housing in Kentucky.

- (3) The corporation shall be governed by a board of directors, consisting of thirteen (13) members, five (5) of whom shall be the Lieutenant Governor, the secretary of the Finance and Administration Cabinet, the commissioner of the Governor's Office for Local Development~~[Department for Local Government]~~, the Attorney General, and the secretary of the Cabinet for Economic Development, or their duly appointed designees, as public directors, and eight (8) private directors who shall be appointed by the Governor, subject to confirmation by the Senate as provided by KRS 11.160, as follows:
- (a) One (1) private director representing the interests of financial lending institutions located within the Commonwealth;
 - (b) One (1) private director representing the interests of the manufactured housing industry within the Commonwealth;
 - (c) One (1) private director representing the interests of real estate practitioners licensed by the Kentucky Real Estate Commission;
 - (d) One (1) private director representing the interests of the homeless population within the Commonwealth;
 - (e) One (1) private director representing the interests of local government;
 - (f) One (1) private director representing the interests of the home construction industry in the Commonwealth;
 - (g) One (1) private director representing the interests of consumers in the Commonwealth; and
 - (h) One (1) private director representing the interests of the Kentucky State Building Trades Council.
- (4) Private directors appointed by the Governor may include previous members of the board, and members may be reappointed for successive terms. All appointments shall be for four (4) years, and the appointees shall serve until a qualified successor is appointed.
- (5) In case of a vacancy, the Governor may appoint a person for the vacancy to hold office during the remainder of the term. A vacancy shall be filled in accordance with the requirement and procedures for appointments.
- (6) The Governor may remove any private director whom he may appoint in case of incompetency, neglect of duty, gross immorality, or malfeasance in office; and he may declare his office vacant and may appoint a person for the vacancy as provided in this section.
- (7) The Governor shall designate a director of the corporation to serve as chairman. The term of the chairman shall extend to the earlier of either the date of expiration of his then current term as a director of the corporation or a date six (6) months after the expiration of the then current term of the Governor designating the chairman.
- (8) The board of directors shall annually elect one (1) of its members as vice chairman. The board of directors shall also elect or appoint, and prescribe the duties of, other officers the board of directors deems necessary or advisable, including an executive director and a secretary, and the board of directors shall fix the compensation of the officers.
- (9) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that copies are true copies, and all persons dealing with the corporation may rely upon the certificates.
- (10) A majority of the board of directors of the corporation shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. A majority shall be determined by excluding any existing vacancies from the total number of directors.
- (11) Action shall be taken by the corporation upon a vote of a majority of the directors present at a meeting at which a quorum shall exist called upon three (3) days' written notice to each director or upon the concurrence of at least eight (8) directors.
- (12) Each private director shall be entitled to a fee of one hundred dollars (\$100) for attendance at each meeting of the board of directors or duly called committee meeting of the board.

Section 87. KRS 198A.035 is amended to read as follows:

- (1) The Kentucky Housing Corporation shall oversee the development and implementation of the Kentucky housing policy. The corporation shall create an advisory committee on housing policy consisting of the following:
- (a) The following nine (9) state government members, or their duly-appointed designees: the commissioner of education; commissioner of the Governor's Office for Local Development~~[Department for Local Government]~~; executive director of the Office of Housing, Buildings and Construction; secretary of the Environmental and Public Protection Cabinet; secretary of the Cabinet for Health and Family Services; executive director of the Human Rights Commission; state historic preservation officer; secretary of the Transportation Cabinet; and executive director of the Kentucky Housing Corporation.
 - (b) At-large members shall be appointed by the chairman of the board of directors of the Kentucky Housing Corporation. There shall be one (1) at-large representative for each of the following:
 - 1. Public housing authorities;
 - 2. Mortgage banking industry;

3. Manufactured housing industry;
4. Realtors;
5. Homebuilders;
6. Urban nonprofit housing organizations;
7. Rural nonprofit housing organizations;
8. Urban advocates for the homeless;
9. Rural advocates for the homeless;
10. Residents of economically-diverse urban neighborhoods;
11. Residents of economically-diverse rural neighborhoods;
12. Rental property providers;
13. Advocates for persons with physical disabilities;
14. Advocates for persons with mental disabilities;
15. The Kentucky State Building Trades Council;
16. The Kentucky League of Cities; and
17. The Kentucky Association of Counties.

(c) One (1) member of the Senate and one (1) member of the House of Representatives.

- (2) State government members and General Assembly members shall serve on the advisory committee during the term of their elected or appointed state government positions. Members appointed as provided by subsection (1)(b) of this section shall be appointed for four (4) year terms, except that initially five (5) shall be appointed for two (2) year terms, six (6) shall be appointed for three (3) year terms, and six (6) shall be appointed for four (4) year terms.
- (3) The advisory committee shall meet at least quarterly and hold additional meetings as necessary. Eleven (11) members of the committee shall constitute a quorum for the purposes of conducting business and exercising its powers for all purposes.
- (4) Any vacancy shall be filled as provided by the requirements and procedures for the initial appointment and only for the remainder of the term of the initial appointment.
- (5) Any at-large member may be removed at any time, with or without cause, by resolution of a majority of the board of directors of the corporation.
- (6) The advisory committee shall consult with and advise the officers and directors of the corporation concerning matters relating to the Kentucky housing policy.
- (7) The corporation shall annually report its findings and recommendations regarding the Kentucky housing policy to the Governor and the Interim Joint Committee on Local Government of the Legislative Research Commission.
- (8) The advisory committee shall elect a presiding officer from among its members and may establish its own rules of procedure which shall not be inconsistent with the provisions of this chapter.
- (9) Members of the advisory committee shall serve without compensation. Members who are not employees of the Commonwealth shall be entitled to reimbursement for actual expenses incurred in carrying out their duties on the committee.
- (10) The Kentucky Housing Corporation shall provide the staff and funding for the administrative activities of the advisory committee. The Kentucky Housing Corporation shall perform all budgeting, procurement, and other administrative activities necessary to the functioning of the advisory committee. The advisory committee may authorize studies as it deems necessary and utilize Kentucky Housing Corporation funds and other available resources from the public or private sector to provide housing needs data.

Section 88. KRS 198B.040 is amended to read as follows:

The Kentucky Board of Housing, Buildings and Construction shall have the following general powers and duties:

- (1) To conduct or cause to be conducted studies to determine the needs of the building industry of Kentucky;
- (2) To conduct or cause to be conducted or participate in studies of the costs of the various factors of building construction and use of buildings, and to recommend programs and procedures which will minimize the cost of buildings, including the use of energy, while maintaining safety, durability, and comfort;
- (3) To administer regulatory legislation relating to buildings and construction;
- (4) To assume administrative coordination of the various state construction review programs and to cooperate with various federal, state, and local agencies in the programs as they relate to buildings and construction;
- (5) To assume administration and coordination of various state housing programs to include:
 - (a) Devising and implementing procedures, in conjunction with the Governor's Office for Local Development~~(Department for Local Government)~~, for attaining and maintaining an accurate count of the housing inventory in Kentucky, including information on the age, physical condition, size, facilities, and amenities of this

housing, and housing constructed and demolished each year;

- (b) Designing programs coordinating the elements of housing finance, production, maintenance, and rehabilitation for the purpose of assuring the availability of safe, adequate housing in a healthful environment for all Kentucky citizens;
 - (c) Establishing or causing to be established public information and educational programs relating to housing, to include informing Kentucky citizens about housing and housing related programs that are available on all levels of government;
 - (d) Designing and administering, or participating in the design and administration of educational programs to prepare low income families for home ownership, and counseling them during their early years as homeowners;
 - (e) Promoting educational programs to assist sponsors in the development and management of low and moderate income housing for sale or rental;
 - (f) Cooperating with various federal, state, and local agencies in their programs as they relate to housing; and
 - (g) Conducting or causing to be conducted studies to determine the housing preferences of Kentucky citizens and the present and future housing requirements of the state;
- (6) To recommend state building industry policies and goals to the Kentucky General Assembly;
 - (7) To adopt and promulgate a mandatory uniform state building code, and parts thereof, which shall establish standards for the construction of all buildings, as defined in KRS 198B.010, in the state;
 - (8) To promulgate administrative regulations providing for the proper construction of public water purification plants, other than the water treatment equipment and systems in such plants; provided, however, that any such regulations must require that applications for permits to build public water purification plants will be submitted by the office to the Environmental and Public Protection Cabinet for that cabinet's comments. Any such regulations shall require the Environmental and Public Protection Cabinet's comments to be completed and submitted to the office within sixty (60) days;
 - (9) To promulgate administrative regulations providing for the proper construction of sewage treatment plants, other than the sewage treatment equipment and systems in such plants; provided, however, that any such regulations must require that applications for permits to build public sewage treatment plants will be submitted by the office to the Environmental and Public Protection Cabinet for that cabinet's comments. Any such regulations shall require the Environmental and Public Protection Cabinet's comments to be completed and submitted to the office within sixty (60) days; and
 - (10) To promulgate administrative regulations for the safe installation and operation of plumbing and plumbing fixtures.
 - (11)
 - (a) As used in this subsection, "main board" means the Kentucky Board of Housing, Buildings and Construction.
 - (b) If the main board has proposed a new or amended administrative regulation that directly and clearly relates to the work of a profession, class of workers, or industry that is under the authority of any board or advisory committee that is created by statute and is controlled, superseded, administratively attached, or affiliated with the main board, the main board shall not promulgate the proposed administrative regulation without first receiving comments from the affected board or advisory committee, subject to the restrictions of paragraph (c) of this subsection.
 - (c)
 - 1. If a proposed administrative regulation affects a board or advisory committee that qualifies under paragraph (b) of this subsection, the main board shall distribute the proposed administrative regulation to the board or advisory committee.
 - 2. The affected board or advisory committee shall be granted a maximum of sixty (60) days to submit its comments on the proposed regulatory change. If the administrative regulation is a new emergency regulation, the affected board or advisory committee shall be granted a maximum of thirty (30) days to submit its comments on the proposed regulatory change.
 - 3. The time limits in this paragraph shall begin from the day the main board submits the regulatory change and sets a date for a proposed hearing for the comments of the affected board or advisory committee. If the board or advisory committee is already scheduled to meet at a time that will give it an adequate opportunity to review the regulation and respond, the hearing may be held at that meeting.
 - 4. If a board or advisory committee is not scheduled to meet or meets only at the call of the main board, the main board shall arrange for the board or advisory committee to meet at a time that will allow the board or advisory committee an adequate opportunity to review and comment on the regulation within the time limit. If the affected board or advisory committee fails to comment within the time limit, the main board may proceed with the administrative changes at its discretion.
 - (d) To the extent that any other statute relating to the main board's authority to promulgate administrative regulations conflicts with this section, this section shall take precedence.
 - (e) If a board or advisory committee chooses to produce written comments, those comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A.
 - (12) Any power or limitation relating to administrative regulations promulgated by the Kentucky Board of Housing, Buildings and Construction that are subject to subsection (11) of this section shall also apply to the office and executive director as

described in KRS 198B.030(9) and (10).

Section 89. KRS 224A.030 is amended to read as follows:

- (1) There is hereby created the Kentucky Infrastructure Authority, which authority shall be a body corporate and politic, constituting a public corporation and a governmental agency and instrumentality of the state. All powers, duties, and obligations of the Kentucky Pollution Abatement and Water Resources Finance Authority shall be transferred March 31, 1988, to the Kentucky Infrastructure Authority. The affairs of the authority shall be managed and carried out by a board consisting of nine (9) members. The secretaries of the Economic Development, Finance and Administration, and Environmental and Public Protection Cabinets; the executive director of the Public Service Commission; and the commissioner of the Governor's Office for Local Development~~[Department for Local Government]~~ shall serve as ex officio members of the authority. The secretaries, the executive director, and the commissioner may designate alternates. On or before August 1, 2000, the Governor shall additionally appoint five (5) at-large members. One (1) member shall be selected from a list of three (3) nominees submitted by the Kentucky Association of Counties, one (1) member selected from a list of three (3) nominees submitted by the Kentucky League of Cities, one (1) member selected from a list of three (3) nominees submitted by the Kentucky Rural Water Association, one (1) member representing for-profit private water companies, and one (1) member selected from a list of three (3) nominees submitted by the Kentucky section of the American Water Works Association. The at-large members shall serve as follows: two (2) shall serve a term ending June 30, 2004; two (2) shall serve a term ending June 30, 2003; and one (1) shall serve a term ending June 30, 2002. As the terms of the at large members expire, the Governor shall appoint successors for terms of four (4) years and until their successors are appointed. The members shall constitute the Kentucky Infrastructure Authority, with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers of the authority. In the carrying out of its purposes and the exercise by it of the powers conferred by this chapter, the authority is deemed and declared to be performing essential governmental functions and public purposes of the state.
- (2) The members of the authority shall receive no compensation for their services in said capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as such members.
- (3) Five (5) members of the authority shall constitute a quorum for the transaction of business, and in the absence of a quorum, one (1) or more members may adjourn from time to time until a quorum is convened. The members of the authority shall choose from their ranks a chair and a vice chair. The authority shall elect a secretary and a treasurer who shall not be members of the authority, each of whom shall serve at the pleasure of the authority and shall receive compensation as may be determined by the authority.
- (4)
 - (a) The authority shall, for administrative purposes, be attached to the Governor's Office for Local Development, which shall provide any office space required by the authority.~~[Office of the Governor, and shall establish and maintain offices in premises which shall be provided for that purpose by the Finance and Administration Cabinet; and]~~
 - (b) The secretary of the authority shall at all times maintain therein complete records of all of the authority's actions and proceedings which shall constitute public records open to inspection at all reasonable times.

Section 90. KRS 224A.300 is amended to read as follows:

- (1) The General Assembly finds that it is necessary to encourage~~[the work of the Water Resource Development Commission, created by executive order of the Governor and confirmed by the General Assembly in KRS 147A.011, established the necessity of encouraging]~~ regionalization, consolidation, and partnerships among governmental agencies, and private parties when appropriate, with the goal of making potable water and wastewater treatment available to all Kentuckians through the maximization of financial resources and the conservation of natural resources of the Commonwealth. Based on these findings, the General Assembly declares that the Kentucky Infrastructure Authority shall implement a program for the provision of water services as authorized in the budget and directed by the General Assembly.
- (2) The authority shall be responsible~~[On July 14, 2000, responsibility]~~ for the management and operation of the Water Resource Information System~~[shall be transferred from the Water Resource Development Commission to the authority]~~. The authority shall maintain and, at least annually, update the information contained in this system to ensure its accuracy.
- (3) The authority may request all branches of state and local government, including special districts and water districts, to provide information relating to the status of existing plants, the financial condition of existing systems, and the existing regulatory authority held by agencies of government regarding the issue of water resource development and management. All branches of state and local government shall, to the extent reasonable and appropriate, comply with such requests for information.
- (4) The authority shall promulgate administrative regulations that require a water supply and distribution system receiving or seeking funding to provide current information regarding the financial, managerial, and technical aspects of its system and, thereafter, to furnish updates to the information so provided.

Section 91. KRS 276.530 is amended to read as follows:

The Railroad Commission shall immediately transmit to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Governor's Office for Local Development~~(Department for Local Government)~~ any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Section 92. KRS 277.406 is amended to read as follows:

Each railroad proposing to discontinue service over or to obtain federal authority for regulatory abandonment of a railroad corridor in the Commonwealth of Kentucky shall, in addition to those notification requirements set out in federal law, notify the Commonwealth's Railtrail Development Office in the Governor's Office for Local Development~~(Department for Local Government)~~ and the trails coordinator in the Department of Parks that the railroad is attempting to obtain federal authority to do so.

Section 93. KRS 278.457 is amended to read as follows:

The Public Service Commission shall immediately transmit to the Department of Parks and to the Commonwealth's Railtrail Development Office in the Governor's Office for Local Development~~(Department for Local Government)~~ any information received from a railroad or other person having an ownership interest in a railroad corridor pertaining to a proposed or pending action or proceeding to obtain federal authority for the regulatory abandonment of that railroad corridor.

Section 94. KRS 424.190 is amended to read as follows:

- (1) If a statute gives discretion to a public officer or agency or governmental body as to the method of making an advertisement required by the statute, and if a statute provides that an advertisement may be made either by posting or by newspaper publication, the advertisement shall be made by newspaper publication in accordance with the provisions of this chapter, except as provided in subsection (2) of this section.
- (2) Any city may, when the cost of the newspaper publication exceeds the cost of postage, supplies, and reproduction for the alternative method of publication, in lieu of newspaper publication of advertisement, substitute delivery of a copy of the advertisement by first class mail to each residence within the publication area. Any city electing to use the alternative publication methods authorized by this section shall forward three (3) copies of its audit report or one (1) copy of its financial statement, whichever is applicable, to the Governor's Office for Local Development~~(Kentucky Department for Local Government)~~ in accordance with KRS 91A.040 and 424.220.

Section 95. The following KRS sections are repealed:

- 11.180 Kentucky Appalachian Commission.
- 11.182 Membership -- Reimbursement of expenses -- Designation of alternate.
- 11.184 Officers -- Duties -- Annual report.
- 64.770 County Officials' Compensation Board.
- 64.780 Questionnaires -- Reports of recommendations.
- 65.915 Date of filing first report.
- 82.025 Kentucky Urban Affairs Council.
- 147A.006 Local Government Advisory Commission established.
- 147A.009 Division of Flood Control.
- 147A.011 Water Resource Development Commission -- Duties -- Membership -- Term -- Authority to designate alternate.
- 151.560 Flood Control Advisory Commission.
- 151.570 Duties of commission.
- 154.33-020 Appalachian Development Council -- Functions -- Membership.
- 154.85-001 Short title for KRS 154.85-001 to 154.85-085.
- 154.85-010 Definitions for KRS 154.85-001 to 154.85-085.
- 154.85-015 Creation of West Kentucky Corporation -- Purpose -- Interim board of directors.
- 154.85-020 Eligibility for membership on board of directors and in corporation.
- 154.85-025 Board of directors -- Terms of office -- Vacancies.
- 154.85-027 Removal of members -- Meetings -- Officers.
- 154.85-030 Disclosure of conflict of interest -- Nonparticipation in contract authorization.
- 154.85-033 Limitation of liability of corporate members or officers.
- 154.85-035 Powers and authority of corporation.
- 154.85-040 Executive committee -- Membership -- Powers and duties -- Meetings -- Expenses.
- 154.85-045 Issuance of bonds.
- 154.85-050. West Kentucky economic development fund.

- 154.85-055 Construction of KRS 154.85-001 to 154.85-085.
- 154.85-060 Bonds payable from revenues and assets only.
- 154.85-065 Negotiability of obligations of corporation.
- 154.85-070 Status of obligations as authorized investments.
- 154.85-075 Tax-exempt status.
- 154.85-080 Disposition of corporation assets upon termination or dissolution.
- 154.85-085 Annual report -- Annual audit.

Section 96. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 97. The General Assembly hereby confirms Executive Order 2006-678, dated June 19, 2006, except for the provision abolishing the East Kentucky Corporation, to the extent it is not otherwise confirmed or superseded by this Act.

SB 79, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

- (1) Office of the Secretary. Within the Office of the Secretary, there shall be an Office of Legislative and Public Affairs, an Office of Legal Services, and an Office of Inspector General~~], and the Governor's Office of Wellness and Physical Activity].~~
 - (a) The Office of Legislative and Public Affairs shall be responsible for the development and implementation of the major legislative and policy initiatives of the cabinet, and shall include oversight of administrative hearings, legislative affairs, and communications with internal and external audiences of the cabinet. The Office of Legislative and Public Affairs shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.
 - (b) The Office of Legal Services shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of Legal Services shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney, giving legal advice and opinions concerning the operation of all programs in the cabinet. The Office of Legal Services shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.
 - (c) The Office of Inspector General shall be responsible for:
 1. The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;
 2. Licensing and regulatory functions as the secretary may delegate;
 3. Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.165 to 311.235, 311.241, 311.243, 311.245, and 311.247; and
 4. The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.The Office of Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary~~].~~
 - ~~(d) The Governor's Office of Wellness and Physical Activity shall be responsible for establishing and implementing a health, wellness, and fitness program for Kentucky and to promote a healthy lifestyle for all citizens of the Commonwealth as defined in KRS 194A.085];~~
- (2) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under with KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and

training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

- (3) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. *This shall include, but not be limited to, oversight of the Division of Women's Physical and Mental Health.* The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (4) Department for Mental Health and Mental Retardation Services. The Department for Mental Health and Mental Retardation Services shall develop and administer programs for the prevention of mental illness, mental retardation, brain injury, developmental disabilities, and substance abuse disorders and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, or who have mental retardation, brain injury, developmental disability, or a substance abuse disorder. The Department for Mental Health and Mental Retardation Services shall be headed by a commissioner for mental health and mental retardation who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for mental health and mental retardation shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for mental health and mental retardation shall exercise authority over the department under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (5) Commission for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of children with disabilities and, to the extent that funds are available, shall provide the services and facilities for children with disabilities as are deemed appropriate by the commission. The commission shall be composed of seven (7) members appointed by the Governor to serve a term of office of four (4) years. The commission may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Commission for Children with Special Health Care Needs shall be performed through the office of the executive director of the commission. The executive director shall be appointed by the Governor under KRS 12.040, and the commission may at any time recommend the removal of the executive director upon filing with the Governor a full written statement of its reasons for removal. The executive director shall report directly to the Commission for Children with Special Health Care Needs and serve as the commission's secretary;
- (6) Office of Health Policy. The Office of Health Policy shall lead efforts to coordinate health care policy, including Medicaid, mental health and mental retardation services, public health, certificate of need, health insurance, and the state employee health insurance program. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office. The Office of Health Policy shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor pursuant to KRS 12.050;
- (7) Department for Human Support Services. The Department for Human Support Services shall streamline the various responsibilities associated with the human services programs for which the cabinet is responsible. This shall include, but not be limited to, oversight of the ~~Division of Aging Services, the~~ Division of Child Abuse and Domestic Violence Services, ~~the Division of Women's Physical and Mental Health,~~ the Division of Family Resource and Youth Services Centers, and the Kentucky Commission on Community Volunteerism and Services. The Department for Human Support Services shall be headed by a commissioner for human support services who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for human support services shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for human support services shall exercise authority over the department under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (8) Office of the Ombudsman. The Office of the Ombudsman shall provide professional support in the evaluation of programs, including but not limited to quality improvement and information analysis and reporting, including contract monitoring, program monitoring, and the development of quality service delivery, and a review and resolution of citizen complaints about programs or services of the cabinet when those complaints are unable to be resolved through normal administrative remedies. The Office of the Ombudsman shall place an emphasis on research and best practice and program accountability and shall monitor federal compliance. The Office of the Ombudsman shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050;

- (9) Office of Technology. The Office of Technology shall develop and maintain technology, technology infrastructure, and information management systems in support of all units of the cabinet. The Office of Technology shall be headed by a chief information officer who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The chief information officer shall exercise authority over the Office of Technology under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (10) Office of Human Resource Management. The Office of Human Resource Management shall coordinate, oversee, and execute all personnel, training, and management functions of the cabinet. The office shall focus on the oversight, development, and implementation of quality personnel services; curriculum development and delivery of instruction to staff; the administration, management, and oversight of training operations; health, safety, and compliance training; and equal employment opportunity compliance functions. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (11) Office of Fiscal Services. The Office of Fiscal Services shall coordinate, oversee, and execute the accounting, treasury, and financial reporting functions of the cabinet. The office shall be headed by a chief financial officer appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (12) Office of Contract Oversight. The Office of Contract Oversight shall coordinate, oversee, and execute the contracting and procurement processes of the cabinet and shall maintain these processes in compliance with all applicable laws, rules, regulations, and procedures. The office shall ensure that the cabinet executes its contracting and procurement processes within the highest ethical standards and with the utmost integrity. The office shall oversee existing contracts to assure that the cabinet receives those services for which it has contracted or receives funds in payment for services that it has provided by contract, and shall have responsibility for determining that the cabinet maximizes the value of dollars spent by the cabinet for commodities and services. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (13) Department for Community Based Services. The Department for Community Based Services shall administer and be responsible for child and adult protection, foster care and adoption, permanency, and services to enhance family self-sufficiency, including child care, social services, public assistance, and family and child support. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; and
- (14) Department for Disability Determination Services. The Department for Disability Determination Services shall serve as the state unit as required by Title II and Title XVI of the Social Security Act, and shall have responsibility for determining eligibility for disability for those citizens of the Commonwealth who file applications for disability with the Social Security Administration. The department shall also make determinations for citizens of the Commonwealth who make application for the Kentucky Transitional Assistance Program and determine medical exemptions for participants in the Kentucky Works Program. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.
- (15) Department for Aging and Independent Living. The Department for Aging and Independent Living shall serve as the state unit as designated by the Administration on Aging Services under the Older Americans Act and shall have responsibility for administration of the federal community support services, in-home services, meals, family and caregiver support services, elder rights and legal assistance, senior community services employment program, the state health insurance assistance program, state home and community based services including home care, Alzheimer's respite services and the personal care attendant program, certifications of adult day care and assisted living facilities, the state Council on Alzheimer's Disease and other related disorders, and the Institute on Aging. The department shall also administer the Long Term Care Ombudsman program and the Medicaid Home and Community Based waivers Consumer Directed Option (CDO) program. The department shall serve as the information and assistance center for aging and disability services and administer multiple federal grants and other state initiatives. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.
- (16) The Governor's Office of Wellness and Physical Activity shall be responsible for establishing and implementing a health, wellness, and fitness program for Kentucky and to promote a healthy lifestyle for all citizens of the Commonwealth as defined in KRS 194A.085.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

- I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
2. Education Cabinet:
 - (a) Office of the Secretary.
 - (b) Office of Legal Services.
 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Legislative and Intergovernmental Affairs.
 - (e) Office of Budget and Administration.
 1. Division of Human Resources.
 2. Division of Administrative Services.
 3. Division of Technology Services.
 - (f) Board of Directors for the Center for School Safety.
 - (g) Council on Postsecondary Education.
 1. Foundation for Adult Education.
 - (h) Department of Education.
 1. Kentucky Board of Education.
 - (i) Department for Libraries and Archives.
 - (j) Department of Workforce Investment.
 1. Office for the Blind.
 2. Office of Vocational Rehabilitation.
 3. Office of Career and Technical Education.
 4. Office of Employment and Training.

- (k) Foundation for Workforce Development.
 - (l) Kentucky Office for the Blind State Rehabilitation Council.
 - (m) Kentucky Technical Education Personnel Board.
 - (n) Kentucky Workforce Investment Board.
 - (o) Statewide Council for Vocational Rehabilitation.
 - (p) Statewide Independent Living Council.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
 - (s) Kentucky Commission on the Deaf and Hard of Hearing.
 - (t) Kentucky Educational Television.
 - (u) Kentucky Environmental Education Council.
3. Environmental and Public Protection Cabinet:
- (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of Communications and Public Outreach.
 - 3. Office of Regulatory Affairs.
 - 4. Office of Legal Services.
 - 5. Office of Administrative and Information Services.
 - 6. Office of Administrative Hearings.
 - 7. Office of Inspector General.
 - 8. Mine Safety Review Commission.
 - 9. Workers' Compensation Board.
 - 10. Kentucky State Nature Preserves Commission.
 - 11. Kentucky Environmental Quality Commission.
 - 12. Kentucky Occupational Safety and Health Review Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division of Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Services.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Office of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.
 - 5. Division of Abandoned Mine Lands.
 - 6. Division of Oil and Gas Conservation.
 - 7. Office of Mine Safety and Licensing.
 - 8. Division of Forestry.
 - 9. Division of Conservation.
 - (d) Department of Public Protection.

1. Office of the Commissioner.
2. Division of Administrative Services.
3. Crime Victims Compensation Board.
4. Board of Claims.
5. Board of Tax Appeals.
6. Kentucky Boxing and Wrestling Authority.
7. Kentucky Horse Racing Authority.
8. Kentucky Public Service Commission.
9. Office of Alcoholic Beverage Control.
10. Office of Charitable Gaming.
11. Office of Financial Institutions.
12. Office of Housing, Buildings and Construction.
13. Office of Insurance.
- (e) Department of Labor.
 1. Office of the Commissioner.
 2. Office of Occupational Safety and Health.
 3. Office of Labor Management Relations and Mediation.
 4. Office of Workplace Standards.
 5. Office of Workers' Claims.
 6. Workers' Compensation Funding Commission.
 7. Kentucky Labor Management Advisory Council.
 8. Occupational Safety and Health Standards Board.
 9. Prevailing Wage Review Board.
 10. Kentucky Employees Insurance Association.
 11. Apprenticeship and Training Council.
 12. State Labor Relations Board.
 13. Workers' Compensation Advisory Council.
 14. Workers' Compensation Nominating Commission.
 15. Employers' Mutual Insurance Authority.
 16. Division of Administrative Services.
4. Transportation Cabinet:
 - (a) Department of Highways.
 1. Office of Program Planning and Management.
 2. Office of Project Development.
 3. Office of Construction and Operations.
 4. Office of Intermodal Programs.
 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Aviation.
 - (e) Department of Intergovernmental Programs.
 1. Office of Transportation Enhancement Programs.
 2. Office of Rural and Secondary Roads.
 - (f) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of Public Affairs.
 3. Office of Transportation Delivery.
 4. Office for Business and Occupational Development.

5. Office of Budget and Fiscal Management.
 6. Office of Legal Services.
 7. Office of Inspector General.
 8. Office of the Transportation Operations Center.
 9. Office of Personnel Management.
5. Cabinet for Economic Development:
- (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
 - (g) Office of Research and Information Technology.
 - (h) Department of Commercialization and Innovation.
 - (i) Office of Legal Services.
 - (j) Commission on Small Business Advocacy.
6. Cabinet for Health and Family Services:
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission for Children with Special Health Care Needs.
 - (e) Office of Health Policy.
 - (f) Office of the Secretary.
 - (g) Office of Legal Services.
 - (h) Office of Inspector General.
 - (i) Office of Legislative and Public Affairs.
 - (j) Department for Community Based Services.
 - (k) Department for Disability Determination Services.
 - (l) Office of the Ombudsman.
 - (m) Department for Human Support Services.
 - (n) Kentucky Commission on Community Volunteerism and Service.
 - (o) Office of Fiscal Services.
 - (p) Office of Human Resource Management.
 - (q) Office of Technology.
 - (r) Office of Contract Oversight.
 - (s) Governor's Office of Wellness and Physical Activity.
 - (t) Department for Aging and Independent Living.**
7. Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Department for Facilities and Support Services.
 - (f) Department of Revenue.
 - (g) Commonwealth Office of Technology.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Savings Bond Authority.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) County Officials Compensation Board.

- (l) Kentucky Employees Retirement Systems.
 - (m) Commonwealth Credit Union.
 - (n) State Investment Commission.
 - (o) Kentucky Housing Corporation.
 - (p) Kentucky Local Correctional Facilities Construction Authority.
 - (q) Kentucky Turnpike Authority.
 - (r) Historic Properties Advisory Commission.
 - (s) Kentucky Tobacco Settlement Trust Corporation.
 - (t) State Board for Proprietary Education.
 - (u) Kentucky Higher Education Assistance Authority.
 - (v) Kentucky River Authority.
 - (w) Kentucky Teachers' Retirement System Board of Trustees.
8. Commerce Cabinet:
- (a) Department of Tourism.
 - (1) Division of Tourism Services.
 - (2) Division of Marketing and Advertising.
 - (3) Division of Parks Marketing.
 - (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Personnel and Payroll.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Project Administration.
 - (6) Division of Customer Services.
 - (7) Division of Recreation.
 - (8) Division of Golf Courses.
 - (9) Division of Food Services.
 - (10) Division of Rangers.
 - (11) Division of Eastern Parks.
 - (12) Division of Southern Parks.
 - (13) Division of Western Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.
 - (3) Division of Engineering.
 - (4) Division of Fisheries.
 - (5) Division of Information and Education.
 - (6) Division of Wildlife.
 - (7) Division of Public Affairs.
 - (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
 - (e) Kentucky State Fair Board.
 - (1) Division of Expositions and Admission.
 - (2) Division of Kentucky Fair and Exposition Center Operations.
 - (3) Division of Commonwealth Convention Center.
 - (4) Division of Public Relations and Media.

- (5) Division of Administrative Services.
- (6) Division of Personnel Management and Staff Development.
- (7) Division of Sales.
- (8) Division of Security and Traffic Control.
- (f) Office of the Secretary.
- (g) Office of Finance and Administration.
- (h) Office of Legal Affairs.
- (i) Office of Intergovernmental Affairs.
- (j) Office of Human Resources.
- (k) Office of Public Affairs and Constituent Services.
- (l) Office of Information Technology.
- (m) Office of the Kentucky Sports Authority.
 - (1) Kentucky Sports Authority Board.
- (n) Office of Creative Services.
- (o) Office of Capital Plaza Operations.
- (p) Office of Energy Policy.
 - (1) Energy Policy Advisory Council.
- (q) Office of Arts and Cultural Heritage.
- (r) Kentucky African-American Heritage Commission.
- (s) Kentucky Foundation for the Arts.
- (t) Kentucky Humanities Council.
- (u) Kentucky Heritage Council.
- (v) Kentucky Arts Council.
- (w) Kentucky Historical Society.
 - (1) Division of Museums.
 - (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
- (x) Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
- (y) Kentucky Artisans Center at Berea.
- (z) Martin Luther King Commission.
- (aa) Northern Kentucky Convention Center.
- (ab) Eastern Kentucky Exposition Center.

9. Personnel Cabinet:

- (a) Office of the Secretary.
- (b) Department for Personnel Administration.
- (c) Office for Employee Relations.
- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Office of Administrative Services.
- (f) Office of Legal Services.
- (g) Office of Government Training.
- (h) Department for Employee Insurance.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Department for Local Government.
- 3. Kentucky Commission on Human Rights.
- 4. Kentucky Commission on Women.

5. Department of Veterans' Affairs.
6. Kentucky Commission on Military Affairs.
7. Office of Minority Empowerment.
8. Governor's Council on Wellness and Physical Activity.

Section 3. KRS 148.527 is amended to read as follows:

- (1) The Department of Tourism of the Commerce Cabinet shall, after appropriate research has been conducted, establish and maintain a Kentucky Certified Retirement Community Program whereby retirees and those planning to retire are encouraged to make their homes in Kentucky communities that have met certain criteria to be certified by the Commerce Cabinet as a Kentucky certified retirement community. In support of this program, the Department of Tourism shall identify certain issues of interest to retirees or potential retirees in order to inform them of the benefits of living in Kentucky. Issues of interest to retirees may include, but are not limited to:
 - (a) Kentucky's state and local tax structure;
 - (b) Housing opportunities and cost;
 - (c) Climate;
 - (d) Personal safety;
 - (e) Working opportunities;
 - (f) Health care services and other services along the continuum of services including, but not limited to, home and community based services;
 - (g) Transportation;
 - (h) Continuing education;
 - (i) Leisure living;
 - (j) Recreation;
 - (k) The performing arts;
 - (l) Festivals and events;
 - (m) Sports at all levels; and
 - (n) Other services and facilities that are necessary to enable persons to age in the community and in the least restrictive environment.
- (2) The mission of the Kentucky Certified Retirement Community Program shall be to:
 - (a) Promote the state as a retirement destination to retirees and those persons and families who are planning retirement both in and outside of Kentucky;
 - (b) Assist Kentucky communities in their efforts to market themselves as retirement locations and to develop communities that retirees would find attractive for a retirement lifestyle;
 - (c) Assist in the development of retirement communities and lifecare communities for economic development purposes and as a means of providing a potential workforce and enriching Kentucky communities; and
 - (d) Encourage tourism to Kentucky in the form of mature market travel to Kentucky in reference to retirement desirability for the future, and for the visitation of those who have chosen to retire in Kentucky.
- (3) The Commerce Cabinet shall coordinate the development and planning of the Kentucky Certified Retirement Community Program with the Cabinet for Economic Development, the Department for Aging and Independent Living ~~[Division of Aging Services]~~ in the Cabinet for Health and Family Services, the Kentucky Commission on Military Affairs, the Department of Veterans' Affairs, and other state and local groups interested in participating in and promoting the program.
- (4) To obtain certification as a Kentucky certified retirement community, the following requirements shall be met:
 - (a) Official community support. A resolution by the governing authority endorsing the local retirement recruitment effort is required;
 - (b) Designation of a sponsor. The program shall have an official sponsoring organization that shall appoint an individual who will be accountable to the community and to the state;
 - (c) Funding. The sponsoring organization must commit a minimum of ten thousand dollars (\$10,000) per year for the local program;
 - (d) Health services. There shall be a hospital and emergency medical services that are readily accessible to the community;
 - (e) Available housing. The community shall maintain information on both resale housing and rental housing to ensure that the quantity is sufficient to meet the needs of potential new retiree residents;
 - (f) Retiree desirability assessment. The community shall conduct a retiree desirability assessment that shall focus on a number of factors including, but not limited to, medical services, adult education opportunities, shopping,

recreation, cultural opportunities, safety, aging services, and a continuum of care including home and community based services, housing for the elderly, assisted living, personal care, and nursing care facilities;

- (g) Establishment of subcommittees. Each locality shall have a general retiree attraction committee and a minimum of four (4) subcommittees as follows:
 - 1. Community inventory/assessment subcommittee. This subcommittee shall conduct an unbiased inventory and assessment of whether the community can offer the basics that retirees demand and develop a professional portfolio containing brief biographies of professionals in the community;
 - 2. Community relations/fundraising subcommittee. This subcommittee shall locate retirees living in the community, act as salespersons for the program, raise funds necessary to run the program, recruit subcommittee members, organize special events, and promote and coordinate the program with local entities;
 - 3. Marketing and promotion subcommittee. This subcommittee shall establish a community image, evaluate target markets, develop and distribute promotional material, and coordinate advertising and public relations campaigns; and
 - 4. Ambassadors subcommittee. This subcommittee shall be the first contact with prospective retirees and provide tour guides when prospects visit the community. The subcommittee shall respond to inquiries, log contacts made, provide tours, invite prospects to special community events, and maintain continual contact with prospects until the time that the prospect makes a retirement location decision;
- (h) Community profile. The sponsor shall develop a community profile similar to that used by many chambers of commerce. It will include factors such as crime statistics, tax information, recreational opportunities, and housing availability; and
- (i) Written marketing plan. The retiree attraction committee shall submit a marketing plan that shall detail the mission, the target market, the competition, an analysis of the community's strengths, weaknesses, opportunities and threats, and the strategies the program will employ to attain its goals.
- (5) During the certification process, a representative of the retirement attraction committee shall attend state training meetings.
- (6) The retiree attraction committee shall work to gain the support of churches, clubs, businesses, and the local media, as this support is necessary for the success of the program.
- (7) Within ninety (90) days of certification, the locality shall submit a complete retiree attraction package to the Department of Tourism.
- (8) Before certification is awarded, the retiree attraction committee shall submit a written three (3) year commitment to the program and a long-term plan outlining steps the community will undertake to maintain its desirability as a destination for retirees. The long-range plan shall outline plans to correct any facility and service deficiencies identified in the retiree desirability assessment required by subsection (4)(f) of this section. The written commitment and long-range plan shall be forwarded to the Department of Tourism of the Commerce Cabinet.
- (9) Upon being certified as a Kentucky certified retirement community, the Commerce Cabinet shall provide the following assistance to the community:
 - (a) Assistance in the training of local staff and volunteers;
 - (b) Ongoing oversight and guidance in marketing, plus updating on national retirement trends;
 - (c) Inclusion in the state's national advertising and public relations campaigns and travel show promotions, including a prominent feature on the cabinet's Internet Web site;
 - (d) Eligibility for state financial assistance for brochures, support material, and advertising; and
 - (e) An annual evaluation and progress assessment on maintaining and improving the community's desirability as a home for retirees.
- (10) The Commerce Cabinet shall promulgate administrative regulations to implement the provisions of this section.

Section 4. KRS 194A.085 is amended to read as follows:

- (1) The Governor's Office of Wellness and Physical Activity is hereby established to implement a health, wellness, and fitness program for Kentucky and to promote a healthy lifestyle for all citizens of the Commonwealth. The office shall be headed by an executive director, who shall be appointed by the Governor in accordance with KRS ~~12.040~~~~11.040~~ and shall serve at the pleasure of and under the direction of the Governor.
- (2) The office's duties, rights, and responsibilities shall include but not be limited to the following:
 - (a) Create a strategic plan to design Kentucky's wellness efforts;
 - (b) Implement and operate the Governor's Challenge Program;
 - (c) Provide assistance to the Governor's Council on Wellness and Physical Activity in accomplishing its mission and charge;
 - (d) Identify and assess the most common challenges, existing resources, and services within the state and make

recommendations to the Governor, state Legislature, or other governing bodies regarding the demand and effectiveness of present services and improvements that should be addressed;

- (e) Develop, implement, and coordinate all physical activity and wellness related programs for residents of the Commonwealth;
 - (f) Develop a comprehensive statewide strategy that coordinates state and local efforts to promote wellness and physical activity;
 - (g) Coordinate the efforts of the Governor's Council on Wellness and Physical Activity with the efforts of the Education Cabinet, the Cabinet for Health and Family Services, and the Personnel Cabinet;
 - (h) Design information campaigns to raise public awareness and promote citizen engagement regarding the critical nature of wellness in the state and to increase the will to make quality resources and services more widely available; and
 - (i) Promulgate any administrative regulations necessary to carry out the provisions of this chapter.
- (3) The executive director may, at the request of the Governor or any cabinet secretary, serve as a designee on boards, commissions, task forces, or other committees addressing issues relating to wellness and physical activity.
 - (4) The Finance and Administration Cabinet, the Governor's Office for Policy and Management, the Education Cabinet, and the Personnel Cabinet shall take all steps necessary to effectuate the provisions of this section.

Section 5. KRS 194A.135 is amended to read as follows:

- (1) The Kentucky Council on Developmental Disabilities is created within the cabinet.
- (2) The Kentucky Council on Developmental Disabilities is established to comply with the requirements of the Developmental Disabilities Act of 1984 and any subsequent amendment to that act.
- (3) The members of the Kentucky Council on Developmental Disabilities shall be appointed by the Governor to serve as advocates for persons with developmental disabilities. The council shall be composed of twenty-six (26) members.
 - (a) Ten (10) members shall be representatives of: the principal state agencies administering funds provided under the Rehabilitation Act of 1973 as amended; the state agency that administers funds provided under the Individuals with Disabilities Education Act (IDEA); the state agency that administers funds provided under the Older Americans Act of 1965 as amended; the single state agency designated by the Governor for administration of Title XIX of the Social Security Act for persons with developmental disabilities; higher education training facilities, each university-affiliated program or satellite center in the Commonwealth; and the protection and advocacy system established under Public Law 101-496. These members shall represent the following:
 - 1. Office of Vocational Rehabilitation;
 - 2. Office for the Blind;
 - 3. Division of Exceptional Children, within the Department of Education;
 - 4. Department for Aging and Independent Living~~[Division of Aging Services]~~;
 - 5. Department for Medicaid Services;
 - 6. Department of Public Advocacy, Protection and Advocacy Division;
 - 7. University-affiliated programs;
 - 8. Local and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities;
 - 9. Department for Mental Health and Mental Retardation Services; and
 - 10. Department for Public Health, Division of Adult and Child Health Improvement.
 - (b) At least sixty percent (60%) of the members of the council shall be composed of persons with developmental disabilities or the parents or guardians of persons, or immediate relatives or guardians of persons with mentally impairing developmental disabilities, who are not managing employees or persons with ownership or controlling interest in any other entity that receives funds or provides services under the Developmental Disabilities Act of 1984 as amended and who are not employees of a state agency that receives funds or provides services under this section. Of these members, five (5) members shall be persons with developmental disabilities, and five (5) members shall be parents or guardians of children with developmental disabilities or immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves. Six (6) members shall be a combination of individuals in these two (2) groups, and at least one (1) of these members shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability or an individual with a developmental disability who resides in an institution or who previously resided in an institution.
 - (c) Members not representing principal state agencies shall be appointed for a term of three (3) years. Members shall serve no more than two (2) consecutive three (3) year terms. Members shall serve until their successors are appointed or until they are removed for cause.

- (d) The council shall elect its own chair, adopt bylaws, and operate in accordance with its bylaws. Members of the council who are not state employees shall be reimbursed for necessary and actual expenses. The cabinet shall provide personnel adequate to insure that the council has the capacity to fulfill its responsibilities. The council shall be headed by an executive director. If the executive director position becomes vacant, the council shall be responsible for the recruitment and hiring of a new executive director.
- (4) The Kentucky Council on Developmental Disabilities shall:
- (a) Develop, in consultation with the cabinet, and implement the state plan as required by Part B of the Developmental Disabilities Act of 1984, as amended, with a goal of development of a coordinated consumer and family centered focus and direction, including the specification of priority services required by that plan;
 - (b) Monitor, review, and evaluate, not less often than annually, the implementation and effectiveness of the state plan in meeting the plan's objectives;
 - (c) To the maximum extent feasible, review and comment on all state plans that relate to persons with developmental disabilities;
 - (d) Submit to the secretary of the cabinet, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Secretary of the United States Department of Health and Human Services any periodic reports on its activities as required by the United States Department of Health and Human Services and keep records and afford access as the cabinet finds necessary to verify the reports;
 - (e) Serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that promote systematic change and capacity building;
 - (f) Examine, not less than once every five (5) years, the provision of and need for federal and state priority areas to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and their families; and
 - (g) Prepare, approve, and implement a budget that includes amounts paid to the state under the Developmental Disabilities Act of 1984, as amended, to fund all programs, projects, and activities under that Act.
- (5) The Kentucky Council on Developmental Disabilities shall appoint a subcommittee, which shall include members of the Kentucky Commission on Autism Spectrum Disorders, to monitor the implementation of the state plan as developed by the commission beginning October 1, 2006. The subcommittee shall prepare, and the council shall submit, the report as required under subsection (10) of Section 6 of this Act ~~KRS 194A.622(10)~~.
- Section 6. KRS 194A.622 is amended to read as follows:
- (1) There is hereby created the Kentucky Commission on Autism Spectrum Disorders, which shall consist of the following twenty-two (22) members who shall be initially appointed by July 1, 2005:
- (a) The secretary of the Cabinet for Health and Family Services or his or her designee;
 - (b) The commissioner of the Department for Medicaid Services or his or her designee;
 - (c) The director of the Kentucky Early Intervention System, Department for Public Health, or his or her designee;
 - (d) The commissioner of the Department for Mental Health and Mental Retardation Services or his or her designee;
 - (e) The ~~commissioner~~~~director~~ of the Department for Aging and Independent Living~~Division of Aging Services~~ or his or her designee;
 - (f) The chair of the Council on Postsecondary Education or his or her designee;
 - (g) The director of the Division of Exceptional Children Services or his or her designee;
 - (h) The commissioner of the Department of Vocational Rehabilitation or his or her designee;
 - (i) The executive director of the Office of Insurance or his or her designee;
 - (j) Two (2) nonvoting ex officio members from the House of Representatives, one (1) representing the majority party and one (1) representing the minority party, who shall be appointed by and serve at the pleasure of the Speaker of the House;
 - (k) Two (2) nonvoting ex officio members from the Senate, one (1) representing the majority party and one (1) representing the minority party, who shall be appointed by and serve at the pleasure of the President of the Senate;
 - (l) Four (4) professional ASD treatment providers, including at least one (1) mental health provider, one (1) physical health provider, and one (1) complex needs consultant from a special education cooperative, to be appointed by the Governor; and
 - (m) Five (5) parents, including three (3) who, at the time of their appointment to the commission, have a child with an ASD who is under eighteen (18) years of age and two (2) who, at the time of their appointment to the commission, have a child with an ASD who is eighteen (18) years of age or older, to be appointed by the Governor.
- (2) In making appointments to the commission, the Governor shall ensure broad representation of Kentucky's citizens who are concerned with the health and quality of life of individuals with an ASD, may appoint individuals who are also members of the Kentucky Council on Developmental Disabilities, and shall consider candidates recommended by the Autism Spectrum

Disorders Advisory Consortium of Kentucky.

- (3) Members shall serve without compensation but shall be reimbursed for their actual expenses incurred in the performance of commission duties in accordance with KRS 45.101 and administrative regulations promulgated thereunder. Members of the commission shall serve until the commission ceases to exist, a successor has been appointed, or until removed for good cause.
- (4) The Cabinet for Health and Family Services shall provide staff and administrative support for the commission.
- (5) The chair of the commission shall be designated by the Governor and may be a member in addition to those listed in subsection (1) of this section. The chair of the commission shall establish procedures for the commission's internal procedures.
- (6) The commission shall meet at least three (3) times per year. The commission shall also meet as often as necessary to accomplish its purpose upon the call of the chair, the request of four (4) or more members, or the request of the Governor.
- (7) The commission shall develop a comprehensive state plan for creating an integrated system of training, treatments, and services for individuals of all ages with an ASD. The commission shall utilize relevant data and research and consult with appropriate professionals, agencies, institutions, and organizations representing the private and public sectors, including the Kentucky Autism Training Center, to develop the state plan. The state plan shall include the following:
 - (a) An assessment of the diverse needs for services and supports for individuals with an ASD;
 - (b) Identification of state, federal, private, and any other appropriate funding sources;
 - (c) Development of a comprehensive training plan, which shall include the Kentucky Autism Training Center, to meet training needs;
 - (d) An analysis of standards for provider training and qualifications, best practice standards for services, and the need for additional service providers;
 - (e) An evaluation of health benefit plans and insurance coverage for the treatment of ASD;
 - (f) A plan for the identification of individuals of all ages with an ASD and for the creation of a statewide ASD registry;
 - (g) An analysis of program and service eligibility criteria;
 - (h) An assessment of the need for coordinated, enhanced, and targeted special education and treatment programs for children with an ASD; and
 - (i) A timeline for implementing and monitoring the recommendations of the plan statewide. The timeline shall include input from the following:
 - 1. The Cabinet for Health and Family Services;
 - 2. The Department for Medicaid Services;
 - 3. The Department for Public Health;
 - 4. The Department for Mental Health and Mental Retardation Services;
 - 5. The Kentucky Early Intervention System;
 - 6. The Division of Exceptional Children Services;
 - 7. The Department of Vocational Rehabilitation;
 - 8. The Office of Insurance;
 - 9. The Department of Education;
 - 10. The Council on Postsecondary Education; and
 - 11. Other appropriate agencies, professionals, institutions, and organizations representing the public and private sectors, including the Kentucky Autism Training Center.
- (8) Based upon the comprehensive state plan for an integrated system of training, treatment, and services for individuals of all ages with an ASD, the commission shall make recommendations regarding legislation, administrative regulations, and policies to the Governor and the General Assembly on the following:
 - (a) Needs for services and supports for individuals who have an ASD;
 - (b) Funding needs and sources, including state, federal, private, and any other appropriate funding sources;
 - (c) Training needs and a plan to implement a comprehensive training system, which shall include the Kentucky Autism Training Center;
 - (d) Standards for provider training and qualifications, best practice standards for services, and the need for additional providers;
 - (e) Goals for developing health benefit plans that provide insurance coverage for the treatment of ASD;
 - (f) A plan for the identification of individuals of all ages with an ASD and for the creation of a statewide ASD registry;

- (g) Consistent program and service eligibility criteria;
 - (h) The need for coordinated, enhanced, and targeted special education and treatment programs for individuals with an ASD; and
 - (i) Strategies and timelines for establishing an accountable, cost-efficient, and cooperative system of services that integrates and builds upon existing public and private agencies, programs, and resources.
- (9) The commission shall submit the comprehensive state plan and recommendations to the Governor, the Kentucky Council on Developmental Disabilities, and the Legislative Research Commission by October 1, 2006, at which time the commission shall cease to exist unless reauthorized by the General Assembly.
- (10) The Kentucky Council on Developmental Disabilities shall appoint a subcommittee, which shall include members of the commission, to monitor the implementation of the state plan as developed by the commission beginning October 1, 2006. The subcommittee shall prepare, and the council shall submit, a report to the Governor and Legislative Research Commission that assesses progress in the implementation of the state plan and that makes recommendations on the need for modifications to the state plan as developed by the Kentucky Commission on Autism Spectrum Disorders. The subcommittee shall prepare, and the council shall submit, the report as it deems appropriate, but no less than biennially, until October 1, 2015.

Section 7. KRS 194A.700 is amended to read as follows:

As used in KRS 194A.700 to 194A.729:

- (1) "Activities of daily living" means normal daily activities, including bathing, dressing, grooming, transferring, toileting, and eating;
- (2) "Assistance with self-administration of medication" means:
 - (a) Reminding the client to take medications;
 - (b) Reading the medication's label;
 - (c) Confirming that medication is being taken by the client for whom it is prescribed;
 - (d) Opening the dosage packaging or medication container, but not removing or handling the actual medication;
 - (e) Storing the medication in a manner that is accessible to the client; and
 - (f) Making available the means of communicating with the client's physician and pharmacy for prescriptions by telephone, facsimile, or other electronic device;
- (3) "Assisted-living community" means a series of living units on the same site, operated as one (1) business entity, and certified under Section 9 of this Act ~~[KRS 194A.707]~~ to provide services for five (5) or more adult persons not related within the third degree of consanguinity to the owner or manager;
- (4) "Client" means an adult person who has entered into a lease agreement with an assisted-living community;
- (5) "Danger" means physical harm or threat of physical harm to one's self or others;
- (6) "Health services" has the same meaning as in KRS 216B.015;
- (7) "Instrumental activities of daily living" means activities to support independent living including, but not limited to, housekeeping, shopping, laundry, chores, transportation, and clerical assistance;
- (8) "Living unit" means a portion of an assisted-living community occupied as the living quarters of a client under a lease agreement;
- (9) "Mobile nonambulatory" means unable to walk without assistance, but able to move from place to place with the use of a device including, but not limited to, a walker, crutches, or wheelchair; and
- (10) "~~Department~~~~[Division]~~" means the Department for Aging and Independent Living ~~[Division of Aging Services]~~.

Section 8. KRS 194A.705 is amended to read as follows:

- (1) The assisted-living community shall provide each client with the following services according to the lease agreement:
 - (a) Assistance with activities of daily living and instrumental activities of daily living;
 - (b) Three (3) meals and snacks made available each day;
 - (c) Scheduled daily social activities that address the general preferences of clients; and
 - (d) Assistance with self-administration of medication.
- (2) Clients of an assisted-living community may arrange for additional services under direct contract or arrangement with an outside agent, professional, provider, or other individual designated by the client if permitted by the policies of the assisted-living community.
- (3) Upon entering into a lease agreement, an assisted-living community shall inform the client in writing about policies relating to the contracting or arranging for additional services.
- (4) Each assisted-living community shall assist each client upon a move-out notice to find appropriate living arrangements. Each assisted-living community shall share information provided from the department ~~[division]~~ regarding options for

alternative living arrangements at the time a move-out notice is given to the client.

Section 9. KRS 194A.707 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall establish by the promulgation of administrative regulation under KRS Chapter 13A, an initial and annual certification review process for assisted-living communities that shall include an on-site visit. This administrative regulation shall establish procedures related to applying for, reviewing, and approving, denying, or revoking certification, as well as the conduct of hearings upon appeals as governed by KRS Chapter 13B.
- (2) No assisted-living community shall operate unless its owner or manager has:
 - (a) Filed a current application for the assisted-living community to be certified by the department{division}; or
 - (b) Received certification of the assisted-living community from the department{division}.
- (3) No business shall market its services as an assisted-living community unless its owner or manager has:
 - (a) Filed a current application for the assisted-living community to be certified by the department{division}; or
 - (b) Received certification of the assisted-living community from the department{division}.
- (4) The department{division} shall determine the feasibility of recognizing accreditation by other organizations in lieu of certification from the department{division}.
- (5) Individuals designated by the department{division} to conduct certification reviews shall have the skills, training, experience, and ongoing education to perform certification reviews.
- (6) Upon conducting a certification review, the department{division} shall assess an assisted-living community certification fee in the amount of twenty dollars (\$20) per living unit that in the aggregate for each assisted-living community is no less than three hundred dollars (\$300) and no more than one thousand six hundred dollars (\$1,600). The department{division} shall submit to the Legislative Research Commission, by June 30 of each year, a breakdown of fees assessed and costs incurred for conducting certification reviews.
- (7) Notwithstanding any provision of law to the contrary, the department{division} may request any additional information from an assisted-living community or conduct additional on-site visits to ensure compliance with the provisions of KRS 194A.700 to 194A.729.

Section 10. KRS 194A.709 is amended to read as follows:

- (1) The department{division} shall report to the Division of Health Care Facilities and Services any alleged or actual cases of health services being delivered by the staff of an assisted-living community.
- (2) An assisted-living community shall have written policies on reporting and recordkeeping of alleged or actual cases of abuse, neglect, or exploitation of an adult under KRS 209.030.
- (3) Any assisted-living community staff member who has reasonable cause to suspect that a client has suffered abuse, neglect, or exploitation shall report the abuse, neglect, or exploitation under KRS 209.030.

Section 11. KRS 194A.715 is amended to read as follows:

- (1) An assisted-living community shall provide any interested person with a:
 - (a) Consumer publication, as approved by the department{division}, that contains a thorough description of Kentucky laws and regulations governing assisted-living communities;
 - (b) Standard consumer checklist provided by the department{division}; and
 - (c) Description of any special programming, staffing, or training if the assisted-living community markets itself as providing special programming, staffing, or training on behalf of clients with particular needs or conditions.
- (2) An assisted-living community may refer a request for information required in subsection (1)(a) of this section to the department{division}.

Section 12. KRS 194A.723 is amended to read as follows:

- (1) Any assisted-living community that provides services without filing a current application with the department{division} or receiving certification by the department{division} may be fined up to five hundred dollars (\$500) per day.
- (2) Any business that markets its services as an assisted-living community without filing a current application with the department{division} or receiving certification by the department{division} may be fined up to five hundred dollars (\$500) per day.

Section 13. KRS 194A.729 is amended to read as follows:

If a person or business seeks financing for an assisted-living community project, the department{division} shall provide written correspondence to the lender, upon request, to denote whether the architectural drawings and lease agreement conditionally comply with the provisions of KRS 194A.700 to 194A.729. The department{division} may charge a fee of no more than two hundred fifty dollars (\$250) for the written correspondence to the lender.

Section 14. KRS 205.179 is amended to read as follows:

The Cabinet for Health and Family Services shall conduct an annual review of all addresses or locations at which four (4) or more persons reside who receive state supplementation of federal supplemental security income benefits to determine if the address or

location is a boarding home that has not registered pursuant to KRS 216B.305. The results of the review shall be reported to the Department for Aging and Independent Living~~[Division of Aging Services]~~ and action shall be taken to ensure the registration of all unregistered boarding homes that are identified.

Section 15. KRS 205.470 is amended to read as follows:

- (1) As used in this section, "aging caregiver" means an individual age sixty (60) or older who provides care for an individual with mental retardation or other developmental disability.
- (2) If state, federal, or other funds are available, the Kentucky Department for Mental Health and Mental Retardation Services shall, in cooperation with the Department for Aging and Independent Living~~[Division of Aging Services]~~ and the Department for Medicaid Services, establish a centralized resource and referral center designed as a one-stop, seamless system to provide aging caregivers with information and assistance with choices and planning for long-term supports for individuals with mental retardation or developmental disability.
- (3) The center created in subsection (2) of this section shall provide but not be limited to the following services:
 - (a) Comprehensive information on available programs and services, including but not limited to:
 1. Residential services;
 2. Employment training;
 3. Supported employment;
 4. Behavioral support;
 5. Respite services;
 6. Adult day health or adult day social services;
 7. Support coordination;
 8. Home or environmental modifications;
 9. Community living services, including an attendant, and assistance with homemaking, shopping, and personal care;
 10. Support groups in the community;
 11. Psychiatric services;
 12. Consumer-directed options;
 13. Attorneys or legal services to assist with will preparation; and
 14. The impact of inheritance on government benefits and options, including establishing a special needs trust;
 - (b) Printed material and Internet-based information related to:
 1. Options for future planning;
 2. Financial and estate planning;
 3. Wills and trusts; and
 4. Advance directives and funeral and burial arrangements; and
 - (c) Referral to community resources.
- (4) The center created in subsection (2) of this section shall operate a toll-free number at least during regular business hours and shall publish information required in paragraph (a) of subsection (3) of this section and a description of services provided by the center on a cabinet Web site.
- (5) The center created in subsection (2) of this section shall make the information listed in subsection (3) of this section available to the support broker and any representative of an individual who is participating in a Medicaid consumer-directed option.
- (6) The center shall use electronic information technology to track services provided and to follow-up with individuals served and provide additional information or referrals as needed.
- (7) The department may contract with a private entity to provide the services required under subsections (2) and (3) of this section.
- (8) The cabinet may provide services identified in subsection (3) of this section to individuals of any age who are caregivers of individuals with mental retardation or developmental disability.
- (9) Prior to January 1, 2008, the department shall submit a report to the Interim Joint Committee on Health and Welfare that includes but is not limited to the following information:
 - (a) The number of individuals who contacted the center;
 - (b) A description of the categories of questions asked by individuals calling the center; and
 - (c) A summary of the services provided, including the community resources to which individuals were referred.

Section 16. KRS 209.005 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall create an Elder Abuse Committee to develop a model protocol on elder abuse and neglect in the Commonwealth, that shall be comprised of various agency representatives that include, but are not limited to:
 - (a) The Department for Community Based Services;
 - (b) The Department for Public Health;
 - (c) The Department for Mental Health and Mental Retardation;
 - (d) The Department for Aging and Independent Living~~[Division of Aging Services]~~;
 - (e) The Division of Health Care Facilities and Services;
 - (f) The Office of the Ombudsman;
 - (g) Area Agencies on Aging;
 - (h) Local and state law enforcement official; and
 - (i) Prosecutors.
- (2) The committee shall address issues of prevention, intervention, investigation, and agency coordination of services on a state and local level through interaction with local groups or entities that either directly or indirectly provide services to the elder population, including, but not limited to:
 - (a) Senior citizen centers;
 - (b) Local governmental human service groups;
 - (c) The Sanders-Brown Center on Aging at the University of Kentucky;
 - (d) Long Term Care Ombudsmen; and
 - (e) Other organizations or associations dedicated to serving elder citizens and their families in the Commonwealth.
- (3) The committee shall:
 - (a) Recommend a model protocol for the joint multidisciplinary investigation of reports of suspected abuse, neglect, or exploitation of the elderly;
 - (b) Recommend practices to assure timely reporting of referrals of abuse, neglect, or exploitation required under KRS 209.030(12);
 - (c) Explore the need for a comprehensive statewide resource directory of services for the elderly;
 - (d) Enhance existing public awareness campaigns for elder abuse and neglect; and
 - (e) Provide forums for the exchange of information to educate the elder population and their families on the rights of elders.
- (4) The committee shall produce an annual report of their activities, products, and recommendations for public policy to the Governor and the Legislative Research Commission.

Section 17. KRS 209.500 is amended to read as follows:

The Kentucky Senior Games Program is hereby created within the Department for Aging and Independent Living~~[Division of Aging Services]~~ of the Cabinet for Health and Family Services. The program shall develop a year-round recreation, fitness, and health promotion program for Kentuckians fifty-five (55) years of age or older which shall provide a network of local competition and participation that culminates in a senior games state final.

Section 18. KRS 210.031 is amended to read as follows:

- (1) The cabinet shall establish an advisory committee of sixteen (16) members to advise the Department for Mental Health and Mental Retardation Services of the need for particular services for persons who are deaf or hard-of-hearing.
 - (a) At least eight (8) members shall be deaf or hard-of-hearing and shall be appointed by the secretary. Four (4) deaf or hard-of-hearing members, representing one (1) of each of the following organizations, shall be appointed from a list of at least two (2) nominees submitted from each of the following organizations:
 1. The Kentucky Association of the Deaf;
 2. The A.G. Bell Association;
 3. The Kentucky School for the Deaf Alumni Association; and
 4. Self Help for the Hard of Hearing.

The remaining four (4) deaf or hard-of-hearing members shall be appointed by the secretary from a list of at least eight (8) nominees submitted by the Kentucky Commission on the Deaf and Hard of Hearing.
 - (b) One (1) member shall be a family member of a deaf or hard-of-hearing consumer of mental health services and shall be appointed by the secretary from a list of nominees accepted from any source.
 - (c) The head of each of the following entities shall appoint one (1) member to the advisory committee:
 1. The Cabinet for Health and Family Services, Department for Mental Health and Mental Retardation

Services;

2. The Education Cabinet, Office of Vocational Rehabilitation;
 3. The Cabinet for Health and Family Services, Department for Aging and Independent Living~~[Division of Aging Services]~~;
 4. The Education Cabinet, Commission on the Deaf and Hard of Hearing;
 5. The Kentucky Registry of Interpreters for the Deaf; and
 6. A Kentucky School for the Deaf staff person involved in education.
- (d) The remaining member shall be a representative of a regional mental health/mental retardation board, appointed by the commissioner of the Department for Mental Health and Mental Retardation Services from a list composed of two (2) names submitted by each regional mental health/mental retardation board.
- (2) Of the members defined in subsection (1)(a) and (b) of this section, three (3) shall be appointed for a one (1) year term, three (3) shall be appointed for a two (2) year term, and three (3) shall be appointed for a three (3) year term; thereafter, they shall be appointed for three (3) year terms. The members defined under subsection (1)(c) and (d) of this section shall serve with no fixed term of office.
- (3) The members defined under subsection (1)(a) and (b) of this section shall serve without compensation but shall be reimbursed for actual and necessary expenses; the members defined under subsection (1)(c) and (d) shall serve without compensation or reimbursement of any kind.
- (4) The Department for Mental Health and Mental Retardation Services shall make available personnel to serve as staff to the advisory committee.
- (5) The advisory committee shall meet quarterly at a location determined by the committee chair.
- (6) (a) The advisory committee shall prepare a biennial report which:
1. Describes the accommodations and the mental health, mental retardation, development disability, and substance abuse services made accessible to deaf and hard-of-hearing persons;
 2. Reports the number of deaf or hard-of-hearing persons served;
 3. Identifies additional service needs for the deaf and hard-of-hearing; and
 4. Identifies a plan to address unmet service needs.
- (b) The report shall be submitted to the secretary, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Interim Joint Committee on Health and Welfare by July 1 of every odd-numbered year.

Section 19. KRS 210.502 is amended to read as follows:

- (1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. The commission shall consist of:
- (a) The secretary of the Cabinet for Health and Family Services;
 - (b) The secretary of the Justice Cabinet;
 - (c) The commissioner of the Department for Mental Health and Mental Retardation Services;
 - (d) The commissioner of the Department for Medicaid Services;
 - (e) The commissioner of the Department of Corrections;
 - (f) The commissioner of the Department of Juvenile Justice;
 - (g) The commissioner of the Department of Education;
 - (h) The executive director of the Office of Vocational Rehabilitation;
 - (i) The director of the Protection and Advocacy Division of the Department of Public Advocacy;
 - (j) The director of the Division of Family Resource and Youth Services Centers;
 - (k) The commissioner~~[director]~~ of the Department for Aging and Independent Living~~[Division of Aging Services]~~ of the Cabinet for Health and Family Services;
 - (l) The executive director of the Kentucky Agency for Substance Abuse Policy;
 - (m) The executive director of the Criminal Justice Council;
 - (n) The director of the Administrative Office of the Courts;
 - (o) The chief executive officer of the Kentucky Housing Corporation;
 - (p) The executive director of the Office of Transportation Delivery of the Transportation Cabinet;
 - (q) The commissioner of the Department of Public Health;
 - (r) Three (3) members of the House of Representatives who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Speaker of the House;

- (s) Three (3) members of the Senate who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Senate President;
 - (t) A chairperson and one (1) alternate who is a chairperson of a regional planning council appointed by the secretary of the Cabinet for Health and Family Services from a list of five (5) chairpersons submitted by the Kentucky Association of Regional Mental Health/Mental Retardation Programs;
 - (u) A consumer and one (1) alternate who is a consumer of mental health or substance abuse services, who is over age eighteen (18), appointed by the secretary of the Cabinet for Health and Family Services from a list of up to three (3) consumers submitted by any consumer advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506; and
 - (v) An adult family member and one (1) alternate who is an adult family member of a consumer of mental health or substance abuse services appointed by the secretary of the Cabinet for Health and Family Services from a list of up to three (3) persons submitted by any family advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506.
- (2) The secretary of the Cabinet for Health and Family Services and one (1) member of the General Assembly appointed to the commission shall serve as co-chairs of the commission.
 - (3) Members designated in subsection (1)(a) to (s) of this section shall serve during their terms of office.
 - (4) Members and alternates designated in subsection (1)(t) to (v) of this section shall serve a term of two (2) years and may be reappointed for one (1) additional term. These members may be reimbursed for travel expenses in accordance with administrative regulations governing reimbursement for travel for state employees.

Section 20. KRS 216.541 is amended to read as follows:

- (1) Willful interference, as defined in KRS 216.535, with representatives of the Office of the Long-Term-Care Ombudsman in the lawful performance of official duties, as set forth in the Older Americans Act, 42 U.S.C. secs. 3001 et seq., shall be unlawful.
- (2) Retaliation and reprisals by a long-term-care facility or other entity against any employee or resident for having filed a complaint or having provided information to the long-term care ombudsman shall be unlawful.
- (3) A violation of subsection (1) or (2) of this section shall result in a fine of one hundred dollars (\$100) to five hundred dollars (\$500) for each violation. Each day the violation continues shall constitute a separate violation. The manner in which appeals are presented for violations of this section shall be in accordance with administrative regulations prescribed by the secretary for determining the rights of the parties. All fines collected pursuant to this section shall be used for programs administered by the Department of Aging and Independent Living~~Division of Aging Services~~.
- (4) The Cabinet for Health and Family Services shall authorize the acquisition of liability insurance for the protection of representatives of the Long-Term-Care Ombudsman Program who are not employed by the state, to ensure compliance with the federal mandate that no representative of the office shall be liable under state law for the good faith performance of official duties.

Section 21. KRS 216.583 is amended to read as follows:

The Long-Term Care Coordinating Council shall be composed of the following members from within the cabinet: the commissioner of the Department for Public Health; the commissioner of the Department for Mental Health and Mental Retardation Services; the inspector general; the director of the Division of Health Care Facilities and Services; the commissioner~~director~~ of the Department for Aging and Independent Living~~Division of Aging Services~~; the commissioner of the Department for Medicaid Services; the general counsel; and the long-term care ombudsman.

Section 22. KRS 216.787 is amended to read as follows:

- (1) No agency providing services to senior citizens which are funded by the Department for Community Based Services of the Cabinet for Health and Family Services or the Department for Aging and Independent Living~~Division of Aging Services~~ of the Cabinet for Health and Family Services shall employ persons in a position which involves providing direct services to a senior citizen if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or the commission of a sex crime.
- (2) Operators of service provider agencies may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor.
- (3) Each service provider agency providing direct services to senior citizens as specified under KRS 216.785 to 216.793 shall request all conviction information from the Justice Cabinet for any applicant for employment prior to employing the applicant.

Section 23. KRS 216.793 is amended to read as follows:

- (1) Each application form provided by the employer, or each application form provided by a facility either contracted or operated by the Department for Mental Health and Mental Retardation Services of the Cabinet for Health and Family Services, to the applicant for initial employment in an assisted-living community nursing facility, or nursing pool providing staff to a nursing facility, or in a position funded by the Department for Community Based Services of the Cabinet for Health and Family Services or the Department for Aging and Independent Living~~Division of Aging Services~~

~~Services, Department for Human Support Services}~~ of the Cabinet for Health and Family Services and which involves providing direct services to senior citizens shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

- (2) Any request for criminal records of an applicant as provided under subsection (1) of this section shall be on a form or through a process approved by the Justice Cabinet or the Administrative Office of the Courts. The Justice Cabinet or the Administrative Office of the Courts may charge a fee to be paid by the applicant or state agency in an amount no greater than the actual cost of processing the request.

Section 24. KRS 216B.332 is amended to read as follows:

- (1) To be eligible for a certificate of compliance, a continuing care retirement community shall certify in writing to the cabinet and shall disclose in writing to each of its residents that:
 - (a) None of the health facilities or health services operated by the continuing care retirement community shall apply for or become certified for participation in the Medicaid program; and
 - (b) No claim for Medicaid reimbursement shall be submitted for any person for any health service provided by the continuing care retirement community.
- (2) A continuing care retirement community may establish one (1) bed at the nursing home level of care for every four (4) living units or personal care beds operated by the continuing care retirement community collectively. All residents in nursing home beds shall be assessed using the Health Care Financing Administration or Centers for Medicare and Medicaid Services approved long-term care resident assessment instrument.
- (3) Admissions to continuing care retirement community nursing home beds shall be exclusively limited to on-campus residents. A resident shall not be admitted to a continuing care retirement community nursing home bed prior to ninety (90) days of residency in the continuing care retirement community unless the resident experiences a significant change in health status documented by a physician. No resident admitted to a nursing home bed shall be transferred or discharged without thirty (30) days prior written notice to the resident or his or her guardian.
- (4) A continuing care retirement community shall assist each resident upon a move-out notice to find appropriate living arrangements. Each continuing care retirement community shall share information on alternative living arrangements provided by the Department for Aging and Independent Living~~[Division of Aging Services]~~ at the time a move-out notice is given to a resident. The written agreement executed by the resident and the continuing care retirement community shall contain provisions for assisting any resident who has received a move-out notice to find appropriate living arrangements, prior to the actual move-out date.

Section 25. KRS 11.550 is repealed, reenacted as a new section of KRS Chapter 194A, and amended to read as follows:

- (1) The Telehealth Board is created and placed for administrative purposes under the cabinet~~Commonwealth Office of Technology~~. This ten (10) member board shall consist of the:
 - (a) Chancellor, or a designee, of the medical school at the University of Kentucky;
 - (b) Chancellor, or a designee, of the medical school at the University of Louisville;
 - (c) Commissioner, or a designee, of the Department for Public Health;
 - (d) Executive director, or a designee, of the Commonwealth Office of Technology;
 - (e) Chief information officer, or a designee, of the Cabinet for Health and Family Services; and
 - (f) Five (5) members at large, appointed by the Governor, who are health professionals or third parties as those terms are defined in KRS 205.510. To ensure representation of both groups, no more than three (3) health professionals or two (2) third parties shall be members of the board at the same time. These members shall serve a term of four (4) years, may serve no more than two (2) consecutive terms, and shall be reimbursed for their costs associated with attending board meetings.
- (2) The members shall elect a chair and hold bimonthly meetings or as often as necessary for the conduct of the board's business.
- (3) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:
 - (a) Establish telehealth training centers at the University of Kentucky, University of Louisville, the pediatric-affiliated hospitals at the University of Kentucky and the University of Louisville, and one (1) each in western Kentucky and eastern Kentucky, with the sites to be determined by the board;
 - (b) Develop a telehealth network, to coordinate with the training centers, of no more than twenty-five (25) rural sites, to be established based on the availability of funding and in accordance with criteria set by the board. In addition to these rural sites, the board may identify, for participation in the telehealth network, ten (10) local health departments, five (5) of which shall be administered by the University of Kentucky and five (5) of which shall be administered by the University of Louisville, and any other site that is operating as a telemedicine or telehealth site and that demonstrates its capability to follow the board's protocols and standards;
 - (c) Establish protocols and standards to be followed by the training centers and rural sites; and

- (d) Maintain the central link for the network with the Kentucky information highway.
- (4) The board shall, following consultation with the Commonwealth Office of Technology, recommend the processes and procedures for the switching and running of the telehealth network.
- (5) The University of Kentucky and the University of Louisville shall report semiannually to the Interim Joint Committee on Health and Welfare on the following areas as specified by the board through an administrative regulation promulgated in accordance with KRS Chapter 13A.
 - (a) Data on utilization, performance, and quality of care;
 - (b) Quality assurance measures, including monitoring systems;
 - (c) The economic impact on and benefits to participating local communities; and
 - (d) Other matters related to telehealth at the discretion of the board.
- (6) The board shall receive and dispense funds appropriated for its use by the General Assembly or obtained through any other gift or grant.

Section 26. KRS 205.559 is amended to read as follows:

- (1) The Cabinet for Health and Family Services and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall provide Medicaid reimbursement for a telehealth consultation that is provided by a Medicaid-participating practitioner who is licensed in Kentucky and that is provided in the telehealth network established in subsection (3)(b) of Section 25 of this Act ~~KRS 11.550(3)(b)}~~.
- (2)
 - (a) The cabinet shall establish reimbursement rates for telehealth consultations. A request for reimbursement shall not be denied solely because an in-person consultation between a Medicaid-participating practitioner and a patient did not occur.
 - (b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.
- (3) A health-care facility that receives reimbursement under this section for consultations provided by a Medicaid-participating provider who practices in that facility and a health professional who obtains a consultation under this section shall establish quality-of-care protocols and patient confidentiality guidelines to ensure that telehealth consultations meet all requirements and patient care standards as required by law.
- (4) The cabinet shall not require a telehealth consultation if an in-person consultation with a Medicaid-participating provider is reasonably available where the patient resides, works, or attends school or if the patient prefers an in-person consultation.
- (5) The cabinet shall request any waivers of federal laws or regulations that may be necessary to implement this section.
- (6)
 - (a) The cabinet and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall study the impact of this section on the health care delivery system in Kentucky and shall, upon implementation, issue a quarterly report to the Legislative Research Commission. This report shall include an analysis of:
 - 1. The economic impact of this section on the Medicaid budget, including any costs or savings as a result of decreased transportation expenditures and office or emergency room visits;
 - 2. The quality of care as a result of telehealth consultations rendered under this section; and
 - 3. Any other issues deemed relevant by the cabinet.
 - (b) In addition to the analysis required under paragraph (a) of this subsection, the cabinet report shall compare telehealth reimbursement and delivery among all regional managed care partnerships or other entities under contract with the cabinet for the administration or provision of the Medicaid program.
- (7) The cabinet shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms, records required, and authorization procedures to be followed in conjunction with this section.

Section 27. KRS 216.265 is amended to read as follows:

- (1) The Kentucky e-Health Network Board is created and is attached to the Cabinet for Health and Family Services for administrative and technical support purposes.
- (2) The board shall consist of the following voting members:
 - (a) President, or a designee, of the University of Kentucky, who shall serve as co-chair of the board;
 - (b) President, or a designee, of the University of Louisville, who shall serve as co-chair of the board;
 - (c) Commissioner, or a designee, of the Department for Public Health;
 - (d) Commissioner, or a designee, of the Department for Medicaid Services;
 - (e) Executive director, or a designee, of the Commonwealth Office of Technology; and
 - (f) Nine (9) at-large members appointed by the Governor as follows:
 - 1. One (1) member engaged in the business of large-scale e-strategy and computer information technology;

2. One (1) member engaged in the business of health insurance who is employed by a company that has its headquarters in Kentucky;
 3. Two (2) members from a list of four (4) individuals recommended by the Kentucky Hospital Association, one (1) representing rural hospitals, and one (1) representing urban hospitals;
 4. Two (2) physicians actively engaged in the practice of medicine in the Commonwealth from a list of four (4) physicians recommended by the Kentucky Medical Association, or self-nominated;
 5. One (1) member from a company with at least one thousand (1,000) employees selected from a list of four (4) individuals submitted by the Associated Industries of Kentucky;
 6. One (1) member with experience as a physician practice manager; and
 7. One (1) member at large.
- (3) The board shall consist of the following ex officio members who may vote, but shall not be counted toward a quorum:
- (a) Commissioner, or a designee, of the Department of Commercialization and Innovation;
 - (b) President, or a designee, of the Council on Postsecondary Education;
 - (c) Secretary, or a designee, of the Cabinet for Health and Family Services;
 - (d) Executive director, or a designee, of the Office of Insurance;
 - (e) Two (2) members of the Senate who are members of the Interim Joint Committee on Health and Welfare or the Interim Joint Committee on Banking and Insurance, appointed by the President of the Senate; and
 - (f) Two (2) members of the House of Representatives who are members of the Interim Joint Committee on Health and Welfare or the Interim Joint Committee on Banking and Insurance, appointed by the Speaker of the House.
- (4) Members of the board shall serve a term of four (4) years and may serve two (2) consecutive terms.
- (5) At the end of a term, a member of the board shall continue to serve until a successor is appointed. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed. A member of the board who serves two (2) consecutive full four (4) year terms shall not be reappointed for four (4) years after completion of those terms. Members designated in subsection (2)(a) to (e) of this section and members designated in subsection (3) of this section shall serve on the board only while holding their respective titles.
- (6) A majority of the full membership of the board shall constitute a quorum.
- (7) The board may employ staff or contract with consultants necessary for the performance of the duties of the board, subject to the appropriation of funds.
- (8) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.
- (9) Members of the board and all committees, except the advisory group created in KRS 216.267(2), shall be entitled to reimbursement for actual and necessary expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursements. The board shall meet at least monthly.
- (10) The board may appoint committees or subcommittees with the charge of investigating and making recommendations to the board on specific aspects of the Ke-HN, including but not limited to evidence-based clinical decision support, security of protected information, electronic data interchange, and clinical practice software packages, including the feasibility of developing a software purchasing alliance to decrease the cost of software and tax incentives to encourage members of the network to purchase software deemed by the board to meet the standards of KRS 216.267. The board may appoint the following committees:
- (a) Clinical Decision Support Committee;
 - (b) Privacy and Security of Protected Health Information Committee;
 - (c) Electronic Data Interchange Committee; and
 - (d) Clinical Software Review Committee.
- (11) The members of committees or subcommittees appointed by the board do not need to be members of the board. The chairs of committees or subcommittees shall be appointed by the board. The frequency of committee or subcommittee meetings shall be established by the board.
- (12) The Clinical Decision Support Committee membership shall include at least the following members:
- (a) One (1) physician with expertise in health informatics;
 - (b) Two (2) physicians actively engaged in the practice of medicine in this Commonwealth from a list of four (4) physicians recommended by the Kentucky Medical Association, or self-nominated;
 - (c) One (1) representative of a rural hospital and one (1) representative of an urban hospital;
 - (d) One (1) pharmacist;
 - (e) One (1) representative engaged in the business of health-care information technology;

- (f) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice; and
 - (g) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated.
- (13) The Privacy and Security of Protected Health Information Committee shall include at least the following members:
- (a) One (1) physician actively engaged in the practice of medicine in this Commonwealth;
 - (b) Two (2) members with expertise in HIPAA regulations;
 - (c) Two (2) members engaged in the business of large-scale e-strategy and computer information technology;
 - (d) One (1) member who serves as a computer information officer within the health-care industry;
 - (e) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice;
 - (f) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated; and
 - (g) One (1) representative of a hospital.
- (14) The Electronic Data Interchange Committee shall include at least the following members:
- (a) Two (2) members engaged in the business of large-scale e-strategy and computer information technology;
 - (b) Two (2) members engaged in the business of health insurance who are recommended by the Kentucky Association of Health Plans, Incorporated;
 - (c) Chief information officer, or a designee, of the Office of Technology within the Cabinet for Health and Family Services;
 - (d) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice; and
 - (e) One (1) representative of a hospital.
- (15) The Clinical Software Review Committee shall include at least the following members:
- (a) One (1) member from a company that develops computer software for physician practices;
 - (b) One (1) member engaged in the business of large-scale e-strategy and computer information technology;
 - (c) Three (3) physicians, with one (1) having experience in electronic information technology;
 - (d) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice;
 - (e) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated or employed by a company which has its headquarters in Kentucky; and
 - (f) One (1) representative of a hospital.
- (16) The Governor of the Commonwealth of Kentucky may reorganize the Kentucky e-Health Network Board to include the Kentucky Telehealth Board and to reorganize the Telehealth Board under the Cabinet for Health and Family Services. If the Governor deems it appropriate, the reorganization shall create a new Telehealth Committee of the Ke-HN board with the membership and responsibilities as described under Section 25 of this Act~~[KRS 11.550]~~ and shall be subject to confirmation by the General Assembly under the requirements of KRS 12.028.

Section 28. KRS 304.17A-138 is amended to read as follows:

- (1) (a) A health benefit plan shall not exclude a service from coverage solely because the service is provided through telehealth and not provided through a face-to-face consultation if the consultation is provided through the telehealth network established under Section 25 of this Act~~[KRS 11.550]~~. A health benefit plan may provide coverage for a consultation at a site not within the telehealth network at the discretion of the insurer.
- (b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.
- (2) Benefits for a service provided through telehealth required by this section may be made subject to a deductible, copayment, or coinsurance requirement. A deductible, copayment, or coinsurance applicable to a particular service provided through telehealth shall not exceed the deductible, copayment, or coinsurance required by the health benefit plan for the same service provided through a face-to-face consultation.
- (3) Payment made under this section may be consistent with any provider network arrangements that have been established for the health benefit plan.
- (4) The office shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms and records required to be maintained in conjunction with this section.

Section 29. KRS 342.315 is amended to read as follows:

- (1) The executive director shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.
- (2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the executive director. Except as otherwise provided in KRS 342.316, the clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.
- (3) The executive director or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the executive director, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the executive director within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the executive director for those services.
- (4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the examination. Upon notice from the executive director that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.
- (5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.
- (6) Not less often than annually the designee of the secretary of the Cabinet for Health and Family Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.
- (7) The General Assembly finds that good public policy mandates the realization of the potential advantages, both economic and effectual, of the use of telemedicine and telehealth. The executive director may, to the extent that he finds it feasible and appropriate, require the use of telemedicine and telehealth practices, as authorized under Section 25 of this Act [KRS 41-550], in the independent medical evaluation process required by this chapter.

Section 30. The General Assembly hereby confirms Executive Order 2006-693, dated June 20, 2006, relating to the transfer of the Telehealth Board, for administrative purposes, from the Commonwealth Office of Technology within the Finance and Administration Cabinet to the Cabinet for Health and Family Services, to the extent it is not otherwise confirmed by this Act.

Section 31. The General Assembly hereby confirms Executive Order 2006-1195, dated September 19, 2006, which abolishes the Division of Policy Development, the Division of East Service Regions, and the Division of West Service Regions and creates the Division of Staff Resource Development and the Division of Service Regions within the Department for Community Based Services, Cabinet for Health and Family Services. All personnel, records, files, equipment, and funds heretofore assigned to the Division of Policy Development are transferred to the Department for Community Based Services and those heretofore assigned to the Division of East Service Regions and the Division of West Service Regions are transferred to the Division of Service Regions. The Division of Staff Resource Development will oversee human resource management of the Department for Community Based Services employees, research efforts, and agency records.

Section 32. The General Assembly hereby confirms Executive Order 2006-1550, dated December 18, 2006, to the extent it is not otherwise confirmed by this Act, relating to creating and establishing the Governor's Office of Wellness and Physical Activity as a separate office with its own funding stream, creating the Division of Health Improvement and Prevention and the Division of Health Awareness and Promotion within the Governor's Office of Wellness and Physical Activity, abolishing the Governor's Office of Wellness and Physical Activity within the Office of the Secretary, creating the Department for Aging and Independent Living, creating the Division of Quality Living and the Division of Operations and Support within the Department for Aging and Independent Living, abolishing the Division of Aging Services within the Department for Human Support Services, creating the Division of Prevention and Quality Improvement and the Division of Women's Physical and Mental Health within the Department for Public Health, and abolishing the Division of Women's Physical and Mental Health within the Department for Human Support Services.

Section 33. Notwithstanding KRS 12.028, the General Assembly confirms the Governor's Executive Orders 2006-693, dated June 20, 2006; 2006-1195, dated September 19, 2006; and 2006-1550, dated December 18, 2006, to the extent these orders are not otherwise confirmed or superseded by this Act.

The House Committee Substitute to **SB 79** is as follows:

SB 79, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

- (1) Office of the Secretary. Within the Office of the Secretary, there shall be an Office of Legislative and Public Affairs, an Office of Legal Services, and an Office of Inspector General~~[- and the Governor's Office of Wellness and Physical Activity].~~
 - (a) The Office of Legislative and Public Affairs shall be responsible for the development and implementation of the major legislative and policy initiatives of the cabinet, and shall include oversight of administrative hearings, legislative affairs, and communications with internal and external audiences of the cabinet. The Office of Legislative and Public Affairs shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.
 - (b) The Office of Legal Services shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of Legal Services shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney, giving legal advice and opinions concerning the operation of all programs in the cabinet. The Office of Legal Services shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.
 - (c) The Office of Inspector General shall be responsible for:
 1. The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;
 2. Licensing and regulatory functions as the secretary may delegate;
 3. Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.165 to 311.235, 311.241, 311.243, 311.245, and 311.247; and
 4. The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The Office of Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary~~[-~~
 - ~~(d) The Governor's Office of Wellness and Physical Activity shall be responsible for establishing and implementing a health, wellness, and fitness program for Kentucky and to promote a healthy lifestyle for all citizens of the Commonwealth as defined in KRS 194A.085];~~
- (2) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under with KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (3) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. *This shall include, but not be limited to, oversight of the Division of Women's Physical and Mental Health.* The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (4) Department for Mental Health and Mental Retardation Services. The Department for Mental Health and Mental

Retardation Services shall develop and administer programs for the prevention of mental illness, mental retardation, brain injury, developmental disabilities, and substance abuse disorders and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, or who have mental retardation, brain injury, developmental disability, or a substance abuse disorder. The Department for Mental Health and Mental Retardation Services shall be headed by a commissioner for mental health and mental retardation who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for mental health and mental retardation shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for mental health and mental retardation shall exercise authority over the department under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

- (5) Commission for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of children with disabilities and, to the extent that funds are available, shall provide the services and facilities for children with disabilities as are deemed appropriate by the commission. The commission shall be composed of seven (7) members appointed by the Governor to serve a term of office of four (4) years. The commission may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Commission for Children with Special Health Care Needs shall be performed through the office of the executive director of the commission. The executive director shall be appointed by the Governor under KRS 12.040, and the commission may at any time recommend the removal of the executive director upon filing with the Governor a full written statement of its reasons for removal. The executive director shall report directly to the Commission for Children with Special Health Care Needs and serve as the commission's secretary;
- (6) Office of Health Policy. The Office of Health Policy shall lead efforts to coordinate health care policy, including Medicaid, mental health and mental retardation services, public health, certificate of need, health insurance, and the state employee health insurance program. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office. The Office of Health Policy shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor pursuant to KRS 12.050;
- (7) Department for Human Support Services. The Department for Human Support Services shall streamline the various responsibilities associated with the human services programs for which the cabinet is responsible. This shall include, but not be limited to, oversight of the ~~Division of Aging Services, the~~ Division of Child Abuse and Domestic Violence Services, ~~the Division of Women's Physical and Mental Health,~~ the Division of Family Resource and Youth Services Centers, and the Kentucky Commission on Community Volunteerism and Services. The Department for Human Support Services shall be headed by a commissioner for human support services who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for human support services shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for human support services shall exercise authority over the department under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (8) Office of the Ombudsman. The Office of the Ombudsman shall provide professional support in the evaluation of programs, including but not limited to quality improvement and information analysis and reporting, including contract monitoring, program monitoring, and the development of quality service delivery, and a review and resolution of citizen complaints about programs or services of the cabinet when those complaints are unable to be resolved through normal administrative remedies. The Office of the Ombudsman shall place an emphasis on research and best practice and program accountability and shall monitor federal compliance. The Office of the Ombudsman shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050;
- (9) Office of Technology. The Office of Technology shall develop and maintain technology, technology infrastructure, and information management systems in support of all units of the cabinet. The Office of Technology shall be headed by a chief information officer who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The chief information officer shall exercise authority over the Office of Technology under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;
- (10) Office of Human Resource Management. The Office of Human Resource Management shall coordinate, oversee, and execute all personnel, training, and management functions of the cabinet. The office shall focus on the oversight, development, and implementation of quality personnel services; curriculum development and delivery of instruction to staff; the administration, management, and oversight of training operations; health, safety, and compliance training; and equal employment opportunity compliance functions. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (11) Office of Fiscal Services. The Office of Fiscal Services shall coordinate, oversee, and execute the accounting, treasury, and financial reporting functions of the cabinet. The office shall be headed by a chief financial officer appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;
- (12) Office of Contract Oversight. The Office of Contract Oversight shall coordinate, oversee, and execute the contracting and procurement processes of the cabinet and shall maintain these processes in compliance with all applicable laws, rules,

regulations, and procedures. The office shall ensure that the cabinet executes its contracting and procurement processes within the highest ethical standards and with the utmost integrity. The office shall oversee existing contracts to assure that the cabinet receives those services for which it has contracted or receives funds in payment for services that it has provided by contract, and shall have responsibility for determining that the cabinet maximizes the value of dollars spent by the cabinet for commodities and services. The office shall be headed by an executive director appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;

- (13) Department for Community Based Services. The Department for Community Based Services shall administer and be responsible for child and adult protection, foster care and adoption, permanency, and services to enhance family self-sufficiency, including child care, social services, public assistance, and family and child support. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050; and
- (14) Department for Disability Determination Services. The Department for Disability Determination Services shall serve as the state unit as required by Title II and Title XVI of the Social Security Act, and shall have responsibility for determining eligibility for disability for those citizens of the Commonwealth who file applications for disability with the Social Security Administration. The department shall also make determinations for citizens of the Commonwealth who make application for the Kentucky Transitional Assistance Program and determine medical exemptions for participants in the Kentucky Works Program. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.
- (15) Department for Aging and Independent Living. The Department for Aging and Independent Living shall serve as the state unit as designated by the Administration on Aging Services under the Older Americans Act and shall have responsibility for administration of the federal community support services, in-home services, meals, family and caregiver support services, elder rights and legal assistance, senior community services employment program, the state health insurance assistance program, state home and community based services including home care, Alzheimer's respite services and the personal care attendant program, certifications of adult day care and assisted living facilities, the state Council on Alzheimer's Disease and other related disorders, and the Institute on Aging. The department shall also administer the Long Term Care Ombudsman program and the Medicaid Home and Community Based waivers Consumer Directed Option (CDO) program. The department shall serve as the information and assistance center for aging and disability services and administer multiple federal grants and other state initiatives. The department shall be headed by a commissioner appointed by the secretary with the approval of the Governor in accordance with KRS 12.050.
- (16) The Governor's Office of Wellness and Physical Activity shall be responsible for establishing and implementing a health, wellness, and fitness program for Kentucky and to promote a healthy lifestyle for all citizens of the Commonwealth as defined in KRS 194A.085.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- 1. The Governor.
- 2. Lieutenant Governor.
- 3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- 4. Department of Law.
 - (a) Attorney General.
- 5. Department of the Treasury.
 - (a) Treasurer.
- 6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.

7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

- (a) Department of State Police.
- (b) Department of Criminal Justice Training.
- (c) Department of Corrections.
- (d) Department of Juvenile Justice.
- (e) Office of the Secretary.
- (f) Offices of the Deputy Secretaries.
- (g) Office of General Counsel.
- (h) Division of Kentucky State Medical Examiners Office.
- (i) Parole Board.
- (j) Kentucky State Corrections Commission.
- (k) Commission on Correction and Community Service.

2. Education Cabinet:

- (a) Office of the Secretary.
- (b) Office of Legal Services.
 - 1. Client Assistance Program.
- (c) Office of Communication.
- (d) Office of Legislative and Intergovernmental Affairs.
- (e) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - 3. Division of Technology Services.
- (f) Board of Directors for the Center for School Safety.
- (g) Council on Postsecondary Education.
 - 1. Foundation for Adult Education.
- (h) Department of Education.
 - 1. Kentucky Board of Education.
- (i) Department for Libraries and Archives.
- (j) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Career and Technical Education.
 - 4. Office of Employment and Training.
- (k) Foundation for Workforce Development.
- (l) Kentucky Office for the Blind State Rehabilitation Council.
- (m) Kentucky Technical Education Personnel Board.
- (n) Kentucky Workforce Investment Board.
- (o) Statewide Council for Vocational Rehabilitation.
- (p) Statewide Independent Living Council.
- (q) Unemployment Insurance Commission.
- (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.

- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
- 3. Environmental and Public Protection Cabinet:
 - (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of Communications and Public Outreach.
 - 3. Office of Regulatory Affairs.
 - 4. Office of Legal Services.
 - 5. Office of Administrative and Information Services.
 - 6. Office of Administrative Hearings.
 - 7. Office of Inspector General.
 - 8. Mine Safety Review Commission.
 - 9. Workers' Compensation Board.
 - 10. Kentucky State Nature Preserves Commission.
 - 11. Kentucky Environmental Quality Commission.
 - 12. Kentucky Occupational Safety and Health Review Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division of Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Services.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Office of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.
 - 5. Division of Abandoned Mine Lands.
 - 6. Division of Oil and Gas Conservation.
 - 7. Office of Mine Safety and Licensing.
 - 8. Division of Forestry.
 - 9. Division of Conservation.
 - (d) Department of Public Protection.
 - 1. Office of the Commissioner.
 - 2. Division of Administrative Services.
 - 3. Crime Victims Compensation Board.
 - 4. Board of Claims.
 - 5. Board of Tax Appeals.
 - 6. Kentucky Boxing and Wrestling Authority.
 - 7. Kentucky Horse Racing Authority.
 - 8. Kentucky Public Service Commission.
 - 9. Office of Alcoholic Beverage Control.
 - 10. Office of Charitable Gaming.
 - 11. Office of Financial Institutions.
 - 12. Office of Housing, Buildings and Construction.
 - 13. Office of Insurance.

- (e) Department of Labor.
 - 1. Office of the Commissioner.
 - 2. Office of Occupational Safety and Health.
 - 3. Office of Labor Management Relations and Mediation.
 - 4. Office of Workplace Standards.
 - 5. Office of Workers' Claims.
 - 6. Workers' Compensation Funding Commission.
 - 7. Kentucky Labor Management Advisory Council.
 - 8. Occupational Safety and Health Standards Board.
 - 9. Prevailing Wage Review Board.
 - 10. Kentucky Employees Insurance Association.
 - 11. Apprenticeship and Training Council.
 - 12. State Labor Relations Board.
 - 13. Workers' Compensation Advisory Council.
 - 14. Workers' Compensation Nominating Commission.
 - 15. Employers' Mutual Insurance Authority.
 - 16. Division of Administrative Services.
- 4. Transportation Cabinet:
 - (a) Department of Highways.
 - 1. Office of Program Planning and Management.
 - 2. Office of Project Development.
 - 3. Office of Construction and Operations.
 - 4. Office of Intermodal Programs.
 - 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Aviation.
 - (e) Department of Intergovernmental Programs.
 - 1. Office of Transportation Enhancement Programs.
 - 2. Office of Rural and Secondary Roads.
 - (f) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of Public Affairs.
 - 3. Office of Transportation Delivery.
 - 4. Office for Business and Occupational Development.
 - 5. Office of Budget and Fiscal Management.
 - 6. Office of Legal Services.
 - 7. Office of Inspector General.
 - 8. Office of the Transportation Operations Center.
 - 9. Office of Personnel Management.
- 5. Cabinet for Economic Development:
 - (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
 - (g) Office of Research and Information Technology.

- (h) Department of Commercialization and Innovation.
 - (i) Office of Legal Services.
 - (j) Commission on Small Business Advocacy.
6. Cabinet for Health and Family Services:
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission for Children with Special Health Care Needs.
 - (e) Office of Health Policy.
 - (f) Office of the Secretary.
 - (g) Office of Legal Services.
 - (h) Office of Inspector General.
 - (i) Office of Legislative and Public Affairs.
 - (j) Department for Community Based Services.
 - (k) Department for Disability Determination Services.
 - (l) Office of the Ombudsman.
 - (m) Department for Human Support Services.
 - (n) Kentucky Commission on Community Volunteerism and Service.
 - (o) Office of Fiscal Services.
 - (p) Office of Human Resource Management.
 - (q) Office of Technology.
 - (r) Office of Contract Oversight.
 - (s) Governor's Office of Wellness and Physical Activity.
 - (t) *Department for Aging and Independent Living.*
7. Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Department for Facilities and Support Services.
 - (f) Department of Revenue.
 - (g) Commonwealth Office of Technology.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Savings Bond Authority.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) County Officials Compensation Board.
 - (l) Kentucky Employees Retirement Systems.
 - (m) Commonwealth Credit Union.
 - (n) State Investment Commission.
 - (o) Kentucky Housing Corporation.
 - (p) Kentucky Local Correctional Facilities Construction Authority.
 - (q) Kentucky Turnpike Authority.
 - (r) Historic Properties Advisory Commission.
 - (s) Kentucky Tobacco Settlement Trust Corporation.
 - (t) State Board for Proprietary Education.
 - (u) Kentucky Higher Education Assistance Authority.
 - (v) Kentucky River Authority.
 - (w) Kentucky Teachers' Retirement System Board of Trustees.
8. Commerce Cabinet:

- (a) Department of Tourism.
 - (1) Division of Tourism Services.
 - (2) Division of Marketing and Advertising.
 - (3) Division of Parks Marketing.
- (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Personnel and Payroll.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Project Administration.
 - (6) Division of Customer Services.
 - (7) Division of Recreation.
 - (8) Division of Golf Courses.
 - (9) Division of Food Services.
 - (10) Division of Rangers.
 - (11) Division of Eastern Parks.
 - (12) Division of Southern Parks.
 - (13) Division of Western Parks.
- (c) Department of Fish and Wildlife Resources.
 - (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.
 - (3) Division of Engineering.
 - (4) Division of Fisheries.
 - (5) Division of Information and Education.
 - (6) Division of Wildlife.
 - (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
 - (1) Division of Expositions and Admission.
 - (2) Division of Kentucky Fair and Exposition Center Operations.
 - (3) Division of Commonwealth Convention Center.
 - (4) Division of Public Relations and Media.
 - (5) Division of Administrative Services.
 - (6) Division of Personnel Management and Staff Development.
 - (7) Division of Sales.
 - (8) Division of Security and Traffic Control.
- (f) Office of the Secretary.
- (g) Office of Finance and Administration.
- (h) Office of Legal Affairs.
- (i) Office of Intergovernmental Affairs.
- (j) Office of Human Resources.
- (k) Office of Public Affairs and Constituent Services.
- (l) Office of Information Technology.
- (m) Office of the Kentucky Sports Authority.
 - (1) Kentucky Sports Authority Board.

- (n) Office of Creative Services.
 - (o) Office of Capital Plaza Operations.
 - (p) Office of Energy Policy.
 - (1) Energy Policy Advisory Council.
 - (q) Office of Arts and Cultural Heritage.
 - (r) Kentucky African-American Heritage Commission.
 - (s) Kentucky Foundation for the Arts.
 - (t) Kentucky Humanities Council.
 - (u) Kentucky Heritage Council.
 - (v) Kentucky Arts Council.
 - (w) Kentucky Historical Society.
 - (1) Division of Museums.
 - (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
 - (x) Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
 - (y) Kentucky Artisans Center at Berea.
 - (z) Martin Luther King Commission.
 - (aa) Northern Kentucky Convention Center.
 - (ab) Eastern Kentucky Exposition Center.
9. Personnel Cabinet:
- (a) Office of the Secretary.
 - (b) Department for Personnel Administration.
 - (c) Office for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Office of Government Training.
 - (h) Department for Employee Insurance.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Department for Local Government.
- 3. Kentucky Commission on Human Rights.
- 4. Kentucky Commission on Women.
- 5. Department of Veterans' Affairs.
- 6. Kentucky Commission on Military Affairs.
- 7. Office of Minority Empowerment.
- 8. Governor's Council on Wellness and Physical Activity.

Section 3. KRS 148.527 is amended to read as follows:

- (1) The Department of Tourism of the Commerce Cabinet shall, after appropriate research has been conducted, establish and maintain a Kentucky Certified Retirement Community Program whereby retirees and those planning to retire are encouraged to make their homes in Kentucky communities that have met certain criteria to be certified by the Commerce Cabinet as a Kentucky certified retirement community. In support of this program, the Department of Tourism shall identify certain issues of interest to retirees or potential retirees in order to inform them of the benefits of living in Kentucky. Issues of interest to retirees may include, but are not limited to:
 - (a) Kentucky's state and local tax structure;
 - (b) Housing opportunities and cost;
 - (c) Climate;
 - (d) Personal safety;

- (e) Working opportunities;
 - (f) Health care services and other services along the continuum of services including, but not limited to, home and community based services;
 - (g) Transportation;
 - (h) Continuing education;
 - (i) Leisure living;
 - (j) Recreation;
 - (k) The performing arts;
 - (l) Festivals and events;
 - (m) Sports at all levels; and
 - (n) Other services and facilities that are necessary to enable persons to age in the community and in the least restrictive environment.
- (2) The mission of the Kentucky Certified Retirement Community Program shall be to:
- (a) Promote the state as a retirement destination to retirees and those persons and families who are planning retirement both in and outside of Kentucky;
 - (b) Assist Kentucky communities in their efforts to market themselves as retirement locations and to develop communities that retirees would find attractive for a retirement lifestyle;
 - (c) Assist in the development of retirement communities and lifecare communities for economic development purposes and as a means of providing a potential workforce and enriching Kentucky communities; and
 - (d) Encourage tourism to Kentucky in the form of mature market travel to Kentucky in reference to retirement desirability for the future, and for the visitation of those who have chosen to retire in Kentucky.
- (3) The Commerce Cabinet shall coordinate the development and planning of the Kentucky Certified Retirement Community Program with the Cabinet for Economic Development, the Department for Aging and Independent Living [~~Division of Aging Services~~] in the Cabinet for Health and Family Services, the Kentucky Commission on Military Affairs, the Department of Veterans' Affairs, and other state and local groups interested in participating in and promoting the program.
- (4) To obtain certification as a Kentucky certified retirement community, the following requirements shall be met:
- (a) Official community support. A resolution by the governing authority endorsing the local retirement recruitment effort is required;
 - (b) Designation of a sponsor. The program shall have an official sponsoring organization that shall appoint an individual who will be accountable to the community and to the state;
 - (c) Funding. The sponsoring organization must commit a minimum of ten thousand dollars (\$10,000) per year for the local program;
 - (d) Health services. There shall be a hospital and emergency medical services that are readily accessible to the community;
 - (e) Available housing. The community shall maintain information on both resale housing and rental housing to ensure that the quantity is sufficient to meet the needs of potential new retiree residents;
 - (f) Retiree desirability assessment. The community shall conduct a retiree desirability assessment that shall focus on a number of factors including, but not limited to, medical services, adult education opportunities, shopping, recreation, cultural opportunities, safety, aging services, and a continuum of care including home and community based services, housing for the elderly, assisted living, personal care, and nursing care facilities;
 - (g) Establishment of subcommittees. Each locality shall have a general retiree attraction committee and a minimum of four (4) subcommittees as follows:
 - 1. Community inventory/assessment subcommittee. This subcommittee shall conduct an unbiased inventory and assessment of whether the community can offer the basics that retirees demand and develop a professional portfolio containing brief biographies of professionals in the community;
 - 2. Community relations/fundraising subcommittee. This subcommittee shall locate retirees living in the community, act as salespersons for the program, raise funds necessary to run the program, recruit subcommittee members, organize special events, and promote and coordinate the program with local entities;
 - 3. Marketing and promotion subcommittee. This subcommittee shall establish a community image, evaluate target markets, develop and distribute promotional material, and coordinate advertising and public relations campaigns; and
 - 4. Ambassadors subcommittee. This subcommittee shall be the first contact with prospective retirees and provide tour guides when prospects visit the community. The subcommittee shall respond to inquiries, log

contacts made, provide tours, invite prospects to special community events, and maintain continual contact with prospects until the time that the prospect makes a retirement location decision;

- (h) Community profile. The sponsor shall develop a community profile similar to that used by many chambers of commerce. It will include factors such as crime statistics, tax information, recreational opportunities, and housing availability; and
 - (i) Written marketing plan. The retiree attraction committee shall submit a marketing plan that shall detail the mission, the target market, the competition, an analysis of the community's strengths, weaknesses, opportunities and threats, and the strategies the program will employ to attain its goals.
- (5) During the certification process, a representative of the retirement attraction committee shall attend state training meetings.
 - (6) The retiree attraction committee shall work to gain the support of churches, clubs, businesses, and the local media, as this support is necessary for the success of the program.
 - (7) Within ninety (90) days of certification, the locality shall submit a complete retiree attraction package to the Department of Tourism.
 - (8) Before certification is awarded, the retiree attraction committee shall submit a written three (3) year commitment to the program and a long-term plan outlining steps the community will undertake to maintain its desirability as a destination for retirees. The long-range plan shall outline plans to correct any facility and service deficiencies identified in the retiree desirability assessment required by subsection (4)(f) of this section. The written commitment and long-range plan shall be forwarded to the Department of Tourism of the Commerce Cabinet.
 - (9) Upon being certified as a Kentucky certified retirement community, the Commerce Cabinet shall provide the following assistance to the community:
 - (a) Assistance in the training of local staff and volunteers;
 - (b) Ongoing oversight and guidance in marketing, plus updating on national retirement trends;
 - (c) Inclusion in the state's national advertising and public relations campaigns and travel show promotions, including a prominent feature on the cabinet's Internet Web site;
 - (d) Eligibility for state financial assistance for brochures, support material, and advertising; and
 - (e) An annual evaluation and progress assessment on maintaining and improving the community's desirability as a home for retirees.
 - (10) The Commerce Cabinet shall promulgate administrative regulations to implement the provisions of this section.
- Section 4. KRS 194A.085 is amended to read as follows:

- (1) The Governor's Office of Wellness and Physical Activity is hereby established to implement a health, wellness, and fitness program for Kentucky and to promote a healthy lifestyle for all citizens of the Commonwealth. The office shall be headed by an executive director, who shall be appointed by the Governor in accordance with KRS ~~12.040~~~~11.040~~ and shall serve at the pleasure of and under the direction of the Governor.
- (2) The office's duties, rights, and responsibilities shall include but not be limited to the following:
 - (a) Create a strategic plan to design Kentucky's wellness efforts;
 - (b) Implement and operate the Governor's Challenge Program;
 - (c) Provide assistance to the Governor's Council on Wellness and Physical Activity in accomplishing its mission and charge;
 - (d) Identify and assess the most common challenges, existing resources, and services within the state and make recommendations to the Governor, state Legislature, or other governing bodies regarding the demand and effectiveness of present services and improvements that should be addressed;
 - (e) Develop, implement, and coordinate all physical activity and wellness related programs for residents of the Commonwealth;
 - (f) Develop a comprehensive statewide strategy that coordinates state and local efforts to promote wellness and physical activity;
 - (g) Coordinate the efforts of the Governor's Council on Wellness and Physical Activity with the efforts of the Education Cabinet, the Cabinet for Health and Family Services, and the Personnel Cabinet;
 - (h) Design information campaigns to raise public awareness and promote citizen engagement regarding the critical nature of wellness in the state and to increase the will to make quality resources and services more widely available; and
 - (i) Promulgate any administrative regulations necessary to carry out the provisions of this chapter.
- (3) The executive director may, at the request of the Governor or any cabinet secretary, serve as a designee on boards, commissions, task forces, or other committees addressing issues relating to wellness and physical activity.
- (4) The Finance and Administration Cabinet, the Governor's Office for Policy and Management, the Education Cabinet, and

the Personnel Cabinet shall take all steps necessary to effectuate the provisions of this section.

Section 5. KRS 194A.135 is amended to read as follows:

- (1) The Kentucky Council on Developmental Disabilities is created within the cabinet.
- (2) The Kentucky Council on Developmental Disabilities is established to comply with the requirements of the Developmental Disabilities Act of 1984 and any subsequent amendment to that act.
- (3) The members of the Kentucky Council on Developmental Disabilities shall be appointed by the Governor to serve as advocates for persons with developmental disabilities. The council shall be composed of twenty-six (26) members.
 - (a) Ten (10) members shall be representatives of: the principal state agencies administering funds provided under the Rehabilitation Act of 1973 as amended; the state agency that administers funds provided under the Individuals with Disabilities Education Act (IDEA); the state agency that administers funds provided under the Older Americans Act of 1965 as amended; the single state agency designated by the Governor for administration of Title XIX of the Social Security Act for persons with developmental disabilities; higher education training facilities, each university-affiliated program or satellite center in the Commonwealth; and the protection and advocacy system established under Public Law 101-496. These members shall represent the following:
 1. Office of Vocational Rehabilitation;
 2. Office for the Blind;
 3. Division of Exceptional Children, within the Department of Education;
 4. ~~Department for Aging and Independent Living~~ [Division of Aging Services];
 5. Department for Medicaid Services;
 6. Department of Public Advocacy, Protection and Advocacy Division;
 7. University-affiliated programs;
 8. Local and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities;
 9. Department for Mental Health and Mental Retardation Services; and
 10. Department for Public Health, Division of Adult and Child Health Improvement.
 - (b) At least sixty percent (60%) of the members of the council shall be composed of persons with developmental disabilities or the parents or guardians of persons, or immediate relatives or guardians of persons with mentally impairing developmental disabilities, who are not managing employees or persons with ownership or controlling interest in any other entity that receives funds or provides services under the Developmental Disabilities Act of 1984 as amended and who are not employees of a state agency that receives funds or provides services under this section. Of these members, five (5) members shall be persons with developmental disabilities, and five (5) members shall be parents or guardians of children with developmental disabilities or immediate relatives or guardians of adults with mentally impairing developmental disabilities who cannot advocate for themselves. Six (6) members shall be a combination of individuals in these two (2) groups, and at least one (1) of these members shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability or an individual with a developmental disability who resides in an institution or who previously resided in an institution.
 - (c) Members not representing principal state agencies shall be appointed for a term of three (3) years. Members shall serve no more than two (2) consecutive three (3) year terms. Members shall serve until their successors are appointed or until they are removed for cause.
 - (d) The council shall elect its own chair, adopt bylaws, and operate in accordance with its bylaws. Members of the council who are not state employees shall be reimbursed for necessary and actual expenses. The cabinet shall provide personnel adequate to insure that the council has the capacity to fulfill its responsibilities. The council shall be headed by an executive director. If the executive director position becomes vacant, the council shall be responsible for the recruitment and hiring of a new executive director.
- (4) The Kentucky Council on Developmental Disabilities shall:
 - (a) Develop, in consultation with the cabinet, and implement the state plan as required by Part B of the Developmental Disabilities Act of 1984, as amended, with a goal of development of a coordinated consumer and family centered focus and direction, including the specification of priority services required by that plan;
 - (b) Monitor, review, and evaluate, not less often than annually, the implementation and effectiveness of the state plan in meeting the plan's objectives;
 - (c) To the maximum extent feasible, review and comment on all state plans that relate to persons with developmental disabilities;
 - (d) Submit to the secretary of the cabinet, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Secretary of the United States Department of Health and Human Services any periodic reports on its activities as required by the United States Department of Health and Human Services and

keep records and afford access as the cabinet finds necessary to verify the reports;

- (e) Serve as an advocate for individuals with developmental disabilities and conduct programs, projects, and activities that promote systematic change and capacity building;
 - (f) Examine, not less than once every five (5) years, the provision of and need for federal and state priority areas to address, on a statewide and comprehensive basis, urgent needs for services, supports, and other assistance for individuals with developmental disabilities and their families; and
 - (g) Prepare, approve, and implement a budget that includes amounts paid to the state under the Developmental Disabilities Act of 1984, as amended, to fund all programs, projects, and activities under that Act.
- (5) The Kentucky Council on Developmental Disabilities shall appoint a subcommittee, which shall include members of the Kentucky Commission on Autism Spectrum Disorders, to monitor the implementation of the state plan as developed by the commission beginning October 1, 2006. The subcommittee shall prepare, and the council shall submit, the report as required under subsection (10) of Section 6 of this Act ~~KRS 194A.622(10)}~~.

Section 6. KRS 194A.622 is amended to read as follows:

- (1) There is hereby created the Kentucky Commission on Autism Spectrum Disorders, which shall consist of the following twenty-two (22) members who shall be initially appointed by July 1, 2005:
- (a) The secretary of the Cabinet for Health and Family Services or his or her designee;
 - (b) The commissioner of the Department for Medicaid Services or his or her designee;
 - (c) The director of the Kentucky Early Intervention System, Department for Public Health, or his or her designee;
 - (d) The commissioner of the Department for Mental Health and Mental Retardation Services or his or her designee;
 - (e) The ~~commissioner~~~~director~~ of the Department for Aging and Independent Living~~Division of Aging Services~~ or his or her designee;
 - (f) The chair of the Council on Postsecondary Education or his or her designee;
 - (g) The director of the Division of Exceptional Children Services or his or her designee;
 - (h) The commissioner of the Department of Vocational Rehabilitation or his or her designee;
 - (i) The executive director of the Office of Insurance or his or her designee;
 - (j) Two (2) nonvoting ex officio members from the House of Representatives, one (1) representing the majority party and one (1) representing the minority party, who shall be appointed by and serve at the pleasure of the Speaker of the House;
 - (k) Two (2) nonvoting ex officio members from the Senate, one (1) representing the majority party and one (1) representing the minority party, who shall be appointed by and serve at the pleasure of the President of the Senate;
 - (l) Four (4) professional ASD treatment providers, including at least one (1) mental health provider, one (1) physical health provider, and one (1) complex needs consultant from a special education cooperative, to be appointed by the Governor; and
 - (m) Five (5) parents, including three (3) who, at the time of their appointment to the commission, have a child with an ASD who is under eighteen (18) years of age and two (2) who, at the time of their appointment to the commission, have a child with an ASD who is eighteen (18) years of age or older, to be appointed by the Governor.
- (2) In making appointments to the commission, the Governor shall ensure broad representation of Kentucky's citizens who are concerned with the health and quality of life of individuals with an ASD, may appoint individuals who are also members of the Kentucky Council on Developmental Disabilities, and shall consider candidates recommended by the Autism Spectrum Disorders Advisory Consortium of Kentucky.
- (3) Members shall serve without compensation but shall be reimbursed for their actual expenses incurred in the performance of commission duties in accordance with KRS 45.101 and administrative regulations promulgated thereunder. Members of the commission shall serve until the commission ceases to exist, a successor has been appointed, or until removed for good cause.
- (4) The Cabinet for Health and Family Services shall provide staff and administrative support for the commission.
- (5) The chair of the commission shall be designated by the Governor and may be a member in addition to those listed in subsection (1) of this section. The chair of the commission shall establish procedures for the commission's internal procedures.
- (6) The commission shall meet at least three (3) times per year. The commission shall also meet as often as necessary to accomplish its purpose upon the call of the chair, the request of four (4) or more members, or the request of the Governor.
- (7) The commission shall develop a comprehensive state plan for creating an integrated system of training, treatments, and services for individuals of all ages with an ASD. The commission shall utilize relevant data and research and consult with appropriate professionals, agencies, institutions, and organizations representing the private and public sectors, including the Kentucky Autism Training Center, to develop the state plan. The state plan shall include the following:
- (a) An assessment of the diverse needs for services and supports for individuals with an ASD;

- (b) Identification of state, federal, private, and any other appropriate funding sources;
 - (c) Development of a comprehensive training plan, which shall include the Kentucky Autism Training Center, to meet training needs;
 - (d) An analysis of standards for provider training and qualifications, best practice standards for services, and the need for additional service providers;
 - (e) An evaluation of health benefit plans and insurance coverage for the treatment of ASD;
 - (f) A plan for the identification of individuals of all ages with an ASD and for the creation of a statewide ASD registry;
 - (g) An analysis of program and service eligibility criteria;
 - (h) An assessment of the need for coordinated, enhanced, and targeted special education and treatment programs for children with an ASD; and
 - (i) A timeline for implementing and monitoring the recommendations of the plan statewide. The timeline shall include input from the following:
 - 1. The Cabinet for Health and Family Services;
 - 2. The Department for Medicaid Services;
 - 3. The Department for Public Health;
 - 4. The Department for Mental Health and Mental Retardation Services;
 - 5. The Kentucky Early Intervention System;
 - 6. The Division of Exceptional Children Services;
 - 7. The Department of Vocational Rehabilitation;
 - 8. The Office of Insurance;
 - 9. The Department of Education;
 - 10. The Council on Postsecondary Education; and
 - 11. Other appropriate agencies, professionals, institutions, and organizations representing the public and private sectors, including the Kentucky Autism Training Center.
- (8) Based upon the comprehensive state plan for an integrated system of training, treatment, and services for individuals of all ages with an ASD, the commission shall make recommendations regarding legislation, administrative regulations, and policies to the Governor and the General Assembly on the following:
- (a) Needs for services and supports for individuals who have an ASD;
 - (b) Funding needs and sources, including state, federal, private, and any other appropriate funding sources;
 - (c) Training needs and a plan to implement a comprehensive training system, which shall include the Kentucky Autism Training Center;
 - (d) Standards for provider training and qualifications, best practice standards for services, and the need for additional providers;
 - (e) Goals for developing health benefit plans that provide insurance coverage for the treatment of ASD;
 - (f) A plan for the identification of individuals of all ages with an ASD and for the creation of a statewide ASD registry;
 - (g) Consistent program and service eligibility criteria;
 - (h) The need for coordinated, enhanced, and targeted special education and treatment programs for individuals with an ASD; and
 - (i) Strategies and timelines for establishing an accountable, cost-efficient, and cooperative system of services that integrates and builds upon existing public and private agencies, programs, and resources.
- (9) The commission shall submit the comprehensive state plan and recommendations to the Governor, the Kentucky Council on Developmental Disabilities, and the Legislative Research Commission by October 1, 2006, at which time the commission shall cease to exist unless reauthorized by the General Assembly.
- (10) The Kentucky Council on Developmental Disabilities shall appoint a subcommittee, which shall include members of the commission, to monitor the implementation of the state plan as developed by the commission beginning October 1, 2006. The subcommittee shall prepare, and the council shall submit, a report to the Governor and Legislative Research Commission that assesses progress in the implementation of the state plan and that makes recommendations on the need for modifications to the state plan as developed by the Kentucky Commission on Autism Spectrum Disorders. The subcommittee shall prepare, and the council shall submit, the report as it deems appropriate, but no less than biennially, until October 1, 2015.

Section 7. KRS 194A.700 is amended to read as follows:

As used in KRS 194A.700 to 194A.729:

- (1) "Activities of daily living" means normal daily activities, including bathing, dressing, grooming, transferring, toileting, and eating;
- (2) "Assistance with self-administration of medication" means:
 - (a) Reminding the client to take medications;
 - (b) Reading the medication's label;
 - (c) Confirming that medication is being taken by the client for whom it is prescribed;
 - (d) Opening the dosage packaging or medication container, but not removing or handling the actual medication;
 - (e) Storing the medication in a manner that is accessible to the client; and
 - (f) Making available the means of communicating with the client's physician and pharmacy for prescriptions by telephone, facsimile, or other electronic device;
- (3) "Assisted-living community" means a series of living units on the same site, operated as one (1) business entity, and certified under Section 9 of this Act~~KRS 194A.707~~ to provide services for five (5) or more adult persons not related within the third degree of consanguinity to the owner or manager;
- (4) "Client" means an adult person who has entered into a lease agreement with an assisted-living community;
- (5) "Danger" means physical harm or threat of physical harm to one's self or others;
- (6) "Health services" has the same meaning as in KRS 216B.015;
- (7) "Instrumental activities of daily living" means activities to support independent living including, but not limited to, housekeeping, shopping, laundry, chores, transportation, and clerical assistance;
- (8) "Living unit" means a portion of an assisted-living community occupied as the living quarters of a client under a lease agreement;
- (9) "Mobile nonambulatory" means unable to walk without assistance, but able to move from place to place with the use of a device including, but not limited to, a walker, crutches, or wheelchair; and
- (10) "~~Department~~~~[Division]~~" means the Department for Aging and Independent Living~~[Division of Aging Services]~~.

Section 8. KRS 194A.705 is amended to read as follows:

- (1) The assisted-living community shall provide each client with the following services according to the lease agreement:
 - (a) Assistance with activities of daily living and instrumental activities of daily living;
 - (b) Three (3) meals and snacks made available each day;
 - (c) Scheduled daily social activities that address the general preferences of clients; and
 - (d) Assistance with self-administration of medication.
- (2) Clients of an assisted-living community may arrange for additional services under direct contract or arrangement with an outside agent, professional, provider, or other individual designated by the client if permitted by the policies of the assisted-living community.
- (3) Upon entering into a lease agreement, an assisted-living community shall inform the client in writing about policies relating to the contracting or arranging for additional services.
- (4) Each assisted-living community shall assist each client upon a move-out notice to find appropriate living arrangements. Each assisted-living community shall share information provided from the ~~department~~~~[division]~~ regarding options for alternative living arrangements at the time a move-out notice is given to the client.

Section 9. KRS 194A.707 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall establish by the promulgation of administrative regulation under KRS Chapter 13A, an initial and annual certification review process for assisted-living communities that shall include an on-site visit. This administrative regulation shall establish procedures related to applying for, reviewing, and approving, denying, or revoking certification, as well as the conduct of hearings upon appeals as governed by KRS Chapter 13B.
- (2) No assisted-living community shall operate unless its owner or manager has:
 - (a) Filed a current application for the assisted-living community to be certified by the ~~department~~~~[division]~~; or
 - (b) Received certification of the assisted-living community from the ~~department~~~~[division]~~.
- (3) No business shall market its services as an assisted-living community unless its owner or manager has:
 - (a) Filed a current application for the assisted-living community to be certified by the ~~department~~~~[division]~~; or
 - (b) Received certification of the assisted-living community from the ~~department~~~~[division]~~.
- (4) The ~~department~~~~[division]~~ shall determine the feasibility of recognizing accreditation by other organizations in lieu of certification from the ~~department~~~~[division]~~.
- (5) Individuals designated by the ~~department~~~~[division]~~ to conduct certification reviews shall have the skills, training,

experience, and ongoing education to perform certification reviews.

- (6) Upon conducting a certification review, the department~~[division]~~ shall assess an assisted-living community certification fee in the amount of twenty dollars (\$20) per living unit that in the aggregate for each assisted-living community is no less than three hundred dollars (\$300) and no more than one thousand six hundred dollars (\$1,600). The department~~[division]~~ shall submit to the Legislative Research Commission, by June 30 of each year, a breakdown of fees assessed and costs incurred for conducting certification reviews.
- (7) Notwithstanding any provision of law to the contrary, the department~~[division]~~ may request any additional information from an assisted-living community or conduct additional on-site visits to ensure compliance with the provisions of KRS 194A.700 to 194A.729.

Section 10. KRS 194A.709 is amended to read as follows:

- (1) The department~~[division]~~ shall report to the Division of Health Care Facilities and Services any alleged or actual cases of health services being delivered by the staff of an assisted-living community.
- (2) An assisted-living community shall have written policies on reporting and recordkeeping of alleged or actual cases of abuse, neglect, or exploitation of an adult under KRS 209.030.
- (3) Any assisted-living community staff member who has reasonable cause to suspect that a client has suffered abuse, neglect, or exploitation shall report the abuse, neglect, or exploitation under KRS 209.030.

Section 11. KRS 194A.715 is amended to read as follows:

- (1) An assisted-living community shall provide any interested person with a:
 - (a) Consumer publication, as approved by the department~~[division]~~, that contains a thorough description of Kentucky laws and regulations governing assisted-living communities;
 - (b) Standard consumer checklist provided by the department~~[division]~~; and
 - (c) Description of any special programming, staffing, or training if the assisted-living community markets itself as providing special programming, staffing, or training on behalf of clients with particular needs or conditions.
- (2) An assisted-living community may refer a request for information required in subsection (1)(a) of this section to the department~~[division]~~.

Section 12. KRS 194A.723 is amended to read as follows:

- (1) Any assisted-living community that provides services without filing a current application with the department~~[division]~~ or receiving certification by the department~~[division]~~ may be fined up to five hundred dollars (\$500) per day.
- (2) Any business that markets its services as an assisted-living community without filing a current application with the department~~[division]~~ or receiving certification by the department~~[division]~~ may be fined up to five hundred dollars (\$500) per day.

Section 13. KRS 194A.729 is amended to read as follows:

If a person or business seeks financing for an assisted-living community project, the department~~[division]~~ shall provide written correspondence to the lender, upon request, to denote whether the architectural drawings and lease agreement conditionally comply with the provisions of KRS 194A.700 to 194A.729. The department~~[division]~~ may charge a fee of no more than two hundred fifty dollars (\$250) for the written correspondence to the lender.

Section 14. KRS 205.179 is amended to read as follows:

The Cabinet for Health and Family Services shall conduct an annual review of all addresses or locations at which four (4) or more persons reside who receive state supplementation of federal supplemental security income benefits to determine if the address or location is a boarding home that has not registered pursuant to KRS 216B.305. The results of the review shall be reported to the Department for Aging and Independent Living~~[Division of Aging Services]~~ and action shall be taken to ensure the registration of all unregistered boarding homes that are identified.

Section 15. KRS 205.470 is amended to read as follows:

- (1) As used in this section, "aging caregiver" means an individual age sixty (60) or older who provides care for an individual with mental retardation or other developmental disability.
- (2) If state, federal, or other funds are available, the Kentucky Department for Mental Health and Mental Retardation Services shall, in cooperation with the Department for Aging and Independent Living~~[Division of Aging Services]~~ and the Department for Medicaid Services, establish a centralized resource and referral center designed as a one-stop, seamless system to provide aging caregivers with information and assistance with choices and planning for long-term supports for individuals with mental retardation or developmental disability.
- (3) The center created in subsection (2) of this section shall provide but not be limited to the following services:
 - (a) Comprehensive information on available programs and services, including but not limited to:
 1. Residential services;
 2. Employment training;

3. Supported employment;
 4. Behavioral support;
 5. Respite services;
 6. Adult day health or adult day social services;
 7. Support coordination;
 8. Home or environmental modifications;
 9. Community living services, including an attendant, and assistance with homemaking, shopping, and personal care;
 10. Support groups in the community;
 11. Psychiatric services;
 12. Consumer-directed options;
 13. Attorneys or legal services to assist with will preparation; and
 14. The impact of inheritance on government benefits and options, including establishing a special needs trust;
- (b) Printed material and Internet-based information related to:
1. Options for future planning;
 2. Financial and estate planning;
 3. Wills and trusts; and
 4. Advance directives and funeral and burial arrangements; and
- (c) Referral to community resources.
- (4) The center created in subsection (2) of this section shall operate a toll-free number at least during regular business hours and shall publish information required in paragraph (a) of subsection (3) of this section and a description of services provided by the center on a cabinet Web site.
- (5) The center created in subsection (2) of this section shall make the information listed in subsection (3) of this section available to the support broker and any representative of an individual who is participating in a Medicaid consumer-directed option.
- (6) The center shall use electronic information technology to track services provided and to follow-up with individuals served and provide additional information or referrals as needed.
- (7) The department may contract with a private entity to provide the services required under subsections (2) and (3) of this section.
- (8) The cabinet may provide services identified in subsection (3) of this section to individuals of any age who are caregivers of individuals with mental retardation or developmental disability.
- (9) Prior to January 1, 2008, the department shall submit a report to the Interim Joint Committee on Health and Welfare that includes but is not limited to the following information:
- (a) The number of individuals who contacted the center;
 - (b) A description of the categories of questions asked by individuals calling the center; and
 - (c) A summary of the services provided, including the community resources to which individuals were referred.
- Section 16. KRS 209.005 is amended to read as follows:
- (1) The Cabinet for Health and Family Services shall create an Elder Abuse Committee to develop a model protocol on elder abuse and neglect in the Commonwealth, that shall be comprised of various agency representatives that include, but are not limited to:
- (a) The Department for Community Based Services;
 - (b) The Department for Public Health;
 - (c) The Department for Mental Health and Mental Retardation;
 - (d) ~~The Department for Aging and Independent Living~~[Division of Aging Services];
 - (e) The Division of Health Care Facilities and Services;
 - (f) The Office of the Ombudsman;
 - (g) Area Agencies on Aging;
 - (h) Local and state law enforcement official; and
 - (i) Prosecutors.
- (2) The committee shall address issues of prevention, intervention, investigation, and agency coordination of services on a state and local level through interaction with local groups or entities that either directly or indirectly provide services to the

elder population, including, but not limited to:

- (a) Senior citizen centers;
- (b) Local governmental human service groups;
- (c) The Sanders-Brown Center on Aging at the University of Kentucky;
- (d) Long Term Care Ombudsmen; and
- (e) Other organizations or associations dedicated to serving elder citizens and their families in the Commonwealth.

(3) The committee shall:

- (a) Recommend a model protocol for the joint multidisciplinary investigation of reports of suspected abuse, neglect, or exploitation of the elderly;
- (b) Recommend practices to assure timely reporting of referrals of abuse, neglect, or exploitation required under KRS 209.030(12);
- (c) Explore the need for a comprehensive statewide resource directory of services for the elderly;
- (d) Enhance existing public awareness campaigns for elder abuse and neglect; and
- (e) Provide forums for the exchange of information to educate the elder population and their families on the rights of elders.

(4) The committee shall produce an annual report of their activities, products, and recommendations for public policy to the Governor and the Legislative Research Commission.

Section 17. KRS 209.500 is amended to read as follows:

The Kentucky Senior Games Program is hereby created within the Department for Aging and Independent Living~~[Division of Aging Services]~~ of the Cabinet for Health and Family Services. The program shall develop a year-round recreation, fitness, and health promotion program for Kentuckians fifty-five (55) years of age or older which shall provide a network of local competition and participation that culminates in a senior games state final.

Section 18. KRS 210.031 is amended to read as follows:

(1) The cabinet shall establish an advisory committee of sixteen (16) members to advise the Department for Mental Health and Mental Retardation Services of the need for particular services for persons who are deaf or hard-of-hearing.

- (a) At least eight (8) members shall be deaf or hard-of-hearing and shall be appointed by the secretary. Four (4) deaf or hard-of-hearing members, representing one (1) of each of the following organizations, shall be appointed from a list of at least two (2) nominees submitted from each of the following organizations:

- 1. The Kentucky Association of the Deaf;
- 2. The A.G. Bell Association;
- 3. The Kentucky School for the Deaf Alumni Association; and
- 4. Self Help for the Hard of Hearing.

The remaining four (4) deaf or hard-of-hearing members shall be appointed by the secretary from a list of at least eight (8) nominees submitted by the Kentucky Commission on the Deaf and Hard of Hearing.

- (b) One (1) member shall be a family member of a deaf or hard-of-hearing consumer of mental health services and shall be appointed by the secretary from a list of nominees accepted from any source.

- (c) The head of each of the following entities shall appoint one (1) member to the advisory committee:

- 1. The Cabinet for Health and Family Services, Department for Mental Health and Mental Retardation Services;
- 2. The Education Cabinet, Office of Vocational Rehabilitation;
- 3. The Cabinet for Health and Family Services, Department for Aging and Independent Living~~[Division of Aging Services]~~;
- 4. The Education Cabinet, Commission on the Deaf and Hard of Hearing;
- 5. The Kentucky Registry of Interpreters for the Deaf; and
- 6. A Kentucky School for the Deaf staff person involved in education.

- (d) The remaining member shall be a representative of a regional mental health/mental retardation board, appointed by the commissioner of the Department for Mental Health and Mental Retardation Services from a list composed of two (2) names submitted by each regional mental health/mental retardation board.

(2) Of the members defined in subsection (1)(a) and (b) of this section, three (3) shall be appointed for a one (1) year term, three (3) shall be appointed for a two (2) year term, and three (3) shall be appointed for a three (3) year term; thereafter, they shall be appointed for three (3) year terms. The members defined under subsection (1)(c) and (d) of this section shall serve with no fixed term of office.

(3) The members defined under subsection (1)(a) and (b) of this section shall serve without compensation but shall be

reimbursed for actual and necessary expenses; the members defined under subsection (1)(c) and (d) shall serve without compensation or reimbursement of any kind.

- (4) The Department for Mental Health and Mental Retardation Services shall make available personnel to serve as staff to the advisory committee.
- (5) The advisory committee shall meet quarterly at a location determined by the committee chair.
- (6) (a) The advisory committee shall prepare a biennial report which:
 - 1. Describes the accommodations and the mental health, mental retardation, development disability, and substance abuse services made accessible to deaf and hard-of-hearing persons;
 - 2. Reports the number of deaf or hard-of-hearing persons served;
 - 3. Identifies additional service needs for the deaf and hard-of-hearing; and
 - 4. Identifies a plan to address unmet service needs.
- (b) The report shall be submitted to the secretary, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Interim Joint Committee on Health and Welfare by July 1 of every odd-numbered year.

Section 19. KRS 210.502 is amended to read as follows:

- (1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. The commission shall consist of:
 - (a) The secretary of the Cabinet for Health and Family Services;
 - (b) The secretary of the Justice Cabinet;
 - (c) The commissioner of the Department for Mental Health and Mental Retardation Services;
 - (d) The commissioner of the Department for Medicaid Services;
 - (e) The commissioner of the Department of Corrections;
 - (f) The commissioner of the Department of Juvenile Justice;
 - (g) The commissioner of the Department of Education;
 - (h) The executive director of the Office of Vocational Rehabilitation;
 - (i) The director of the Protection and Advocacy Division of the Department of Public Advocacy;
 - (j) The director of the Division of Family Resource and Youth Services Centers;
 - (k) The ~~commissioner~~[director] of the Department for Aging and Independent Living[~~Division of Aging Services~~] of the Cabinet for Health and Family Services;
 - (l) The executive director of the Kentucky Agency for Substance Abuse Policy;
 - (m) The executive director of the Criminal Justice Council;
 - (n) The director of the Administrative Office of the Courts;
 - (o) The chief executive officer of the Kentucky Housing Corporation;
 - (p) The executive director of the Office of Transportation Delivery of the Transportation Cabinet;
 - (q) The commissioner of the Department of Public Health;
 - (r) Three (3) members of the House of Representatives who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Speaker of the House;
 - (s) Three (3) members of the Senate who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Senate President;
 - (t) A chairperson and one (1) alternate who is a chairperson of a regional planning council appointed by the secretary of the Cabinet for Health and Family Services from a list of five (5) chairpersons submitted by the Kentucky Association of Regional Mental Health/Mental Retardation Programs;
 - (u) A consumer and one (1) alternate who is a consumer of mental health or substance abuse services, who is over age eighteen (18), appointed by the secretary of the Cabinet for Health and Family Services from a list of up to three (3) consumers submitted by any consumer advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506; and
 - (v) An adult family member and one (1) alternate who is an adult family member of a consumer of mental health or substance abuse services appointed by the secretary of the Cabinet for Health and Family Services from a list of up to three (3) persons submitted by any family advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506.
- (2) The secretary of the Cabinet for Health and Family Services and one (1) member of the General Assembly appointed to the commission shall serve as co-chairs of the commission.

- (3) Members designated in subsection (1)(a) to (s) of this section shall serve during their terms of office.
- (4) Members and alternates designated in subsection (1)(t) to (v) of this section shall serve a term of two (2) years and may be reappointed for one (1) additional term. These members may be reimbursed for travel expenses in accordance with administrative regulations governing reimbursement for travel for state employees.

Section 20. KRS 216.541 is amended to read as follows:

- (1) Willful interference, as defined in KRS 216.535, with representatives of the Office of the Long-Term-Care Ombudsman in the lawful performance of official duties, as set forth in the Older Americans Act, 42 U.S.C. secs. 3001 et seq., shall be unlawful.
- (2) Retaliation and reprisals by a long-term-care facility or other entity against any employee or resident for having filed a complaint or having provided information to the long-term care ombudsman shall be unlawful.
- (3) A violation of subsection (1) or (2) of this section shall result in a fine of one hundred dollars (\$100) to five hundred dollars (\$500) for each violation. Each day the violation continues shall constitute a separate violation. The manner in which appeals are presented for violations of this section shall be in accordance with administrative regulations prescribed by the secretary for determining the rights of the parties. All fines collected pursuant to this section shall be used for programs administered by the Department of Aging and Independent Living~~Division of Aging Services~~.
- (4) The Cabinet for Health and Family Services shall authorize the acquisition of liability insurance for the protection of representatives of the Long-Term-Care Ombudsman Program who are not employed by the state, to ensure compliance with the federal mandate that no representative of the office shall be liable under state law for the good faith performance of official duties.

Section 21. KRS 216.583 is amended to read as follows:

The Long-Term Care Coordinating Council shall be composed of the following members from within the cabinet: the commissioner of the Department for Public Health; the commissioner of the Department for Mental Health and Mental Retardation Services; the inspector general; the director of the Division of Health Care Facilities and Services; the ~~commissioner~~~~director~~ of the Department for Aging and Independent Living~~Division of Aging Services~~; the commissioner of the Department for Medicaid Services; the general counsel; and the long-term care ombudsman.

Section 22. KRS 216.787 is amended to read as follows:

- (1) No agency providing services to senior citizens which are funded by the Department for Community Based Services of the Cabinet for Health and Family Services or the Department for Aging and Independent Living~~Division of Aging Services~~ of the Cabinet for Health and Family Services shall employ persons in a position which involves providing direct services to a senior citizen if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or the commission of a sex crime.
- (2) Operators of service provider agencies may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor.
- (3) Each service provider agency providing direct services to senior citizens as specified under KRS 216.785 to 216.793 shall request all conviction information from the Justice Cabinet for any applicant for employment prior to employing the applicant.

Section 23. KRS 216.793 is amended to read as follows:

- (1) Each application form provided by the employer, or each application form provided by a facility either contracted or operated by the Department for Mental Health and Mental Retardation Services of the Cabinet for Health and Family Services, to the applicant for initial employment in an assisted-living community nursing facility, or nursing pool providing staff to a nursing facility, or in a position funded by the Department for Community Based Services of the Cabinet for Health and Family Services or the Department for Aging and Independent Living~~Division of Aging Services, Department for Human Support Services~~ of the Cabinet for Health and Family Services and which involves providing direct services to senior citizens shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."
- (2) Any request for criminal records of an applicant as provided under subsection (1) of this section shall be on a form or through a process approved by the Justice Cabinet or the Administrative Office of the Courts. The Justice Cabinet or the Administrative Office of the Courts may charge a fee to be paid by the applicant or state agency in an amount no greater than the actual cost of processing the request.

Section 24. KRS 216B.332 is amended to read as follows:

- (1) To be eligible for a certificate of compliance, a continuing care retirement community shall certify in writing to the cabinet and shall disclose in writing to each of its residents that:
 - (a) None of the health facilities or health services operated by the continuing care retirement community shall apply for or become certified for participation in the Medicaid program; and
 - (b) No claim for Medicaid reimbursement shall be submitted for any person for any health service provided by the continuing care retirement community.

- (2) A continuing care retirement community may establish one (1) bed at the nursing home level of care for every four (4) living units or personal care beds operated by the continuing care retirement community collectively. All residents in nursing home beds shall be assessed using the Health Care Financing Administration or Centers for Medicare and Medicaid Services approved long-term care resident assessment instrument.
- (3) Admissions to continuing care retirement community nursing home beds shall be exclusively limited to on-campus residents. A resident shall not be admitted to a continuing care retirement community nursing home bed prior to ninety (90) days of residency in the continuing care retirement community unless the resident experiences a significant change in health status documented by a physician. No resident admitted to a nursing home bed shall be transferred or discharged without thirty (30) days prior written notice to the resident or his or her guardian.
- (4) A continuing care retirement community shall assist each resident upon a move-out notice to find appropriate living arrangements. Each continuing care retirement community shall share information on alternative living arrangements provided by the Department for Aging and Independent Living~~[Division of Aging Services]~~ at the time a move-out notice is given to a resident. The written agreement executed by the resident and the continuing care retirement community shall contain provisions for assisting any resident who has received a move-out notice to find appropriate living arrangements, prior to the actual move-out date.

Section 25. KRS 11.550 is repealed, reenacted as a new section of KRS Chapter 194A, and amended to read as follows:

- (1) The Telehealth Board is created and placed for administrative purposes under the cabinet~~[Commonwealth Office of Technology]~~. This ten (10) member board shall consist of the:
 - (a) Chancellor, or a designee, of the medical school at the University of Kentucky;
 - (b) Chancellor, or a designee, of the medical school at the University of Louisville;
 - (c) Commissioner, or a designee, of the Department for Public Health;
 - (d) Executive director, or a designee, of the Commonwealth Office of Technology;
 - (e) Chief information officer, or a designee, of the Cabinet for Health and Family Services; and
 - (f) Five (5) members at large, appointed by the Governor, who are health professionals or third parties as those terms are defined in KRS 205.510. To ensure representation of both groups, no more than three (3) health professionals or two (2) third parties shall be members of the board at the same time. These members shall serve a term of four (4) years, may serve no more than two (2) consecutive terms, and shall be reimbursed for their costs associated with attending board meetings.
- (2) The members shall elect a chair and hold bimonthly meetings or as often as necessary for the conduct of the board's business.
- (3) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to:
 - (a) Establish telehealth training centers at the University of Kentucky, University of Louisville, the pediatric-affiliated hospitals at the University of Kentucky and the University of Louisville, and one (1) each in western Kentucky and eastern Kentucky, with the sites to be determined by the board;
 - (b) Develop a telehealth network, to coordinate with the training centers, of no more than twenty-five (25) rural sites, to be established based on the availability of funding and in accordance with criteria set by the board. In addition to these rural sites, the board may identify, for participation in the telehealth network, ten (10) local health departments, five (5) of which shall be administered by the University of Kentucky and five (5) of which shall be administered by the University of Louisville, and any other site that is operating as a telemedicine or telehealth site and that demonstrates its capability to follow the board's protocols and standards;
 - (c) Establish protocols and standards to be followed by the training centers and rural sites; and
 - (d) Maintain the central link for the network with the Kentucky information highway.
- (4) The board shall, following consultation with the Commonwealth Office of Technology, recommend the processes and procedures for the switching and running of the telehealth network.
- (5) The University of Kentucky and the University of Louisville shall report semiannually to the Interim Joint Committee on Health and Welfare on the following areas as specified by the board through an administrative regulation promulgated in accordance with KRS Chapter 13A.
 - (a) Data on utilization, performance, and quality of care;
 - (b) Quality assurance measures, including monitoring systems;
 - (c) The economic impact on and benefits to participating local communities; and
 - (d) Other matters related to telehealth at the discretion of the board.
- (6) The board shall receive and dispense funds appropriated for its use by the General Assembly or obtained through any other gift or grant.

Section 26. KRS 205.559 is amended to read as follows:

- (1) The Cabinet for Health and Family Services and any regional managed care partnership or other entity under contract with

the cabinet for the administration or provision of the Medicaid program shall provide Medicaid reimbursement for a telehealth consultation that is provided by a Medicaid-participating practitioner who is licensed in Kentucky and that is provided in the telehealth network established in subsection (3)(b) of Section 25 of this Act~~[KRS 11.550(3)(b)]~~.

- (2) (a) The cabinet shall establish reimbursement rates for telehealth consultations. A request for reimbursement shall not be denied solely because an in-person consultation between a Medicaid-participating practitioner and a patient did not occur.
- (b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.
- (3) A health-care facility that receives reimbursement under this section for consultations provided by a Medicaid-participating provider who practices in that facility and a health professional who obtains a consultation under this section shall establish quality-of-care protocols and patient confidentiality guidelines to ensure that telehealth consultations meet all requirements and patient care standards as required by law.
- (4) The cabinet shall not require a telehealth consultation if an in-person consultation with a Medicaid-participating provider is reasonably available where the patient resides, works, or attends school or if the patient prefers an in-person consultation.
- (5) The cabinet shall request any waivers of federal laws or regulations that may be necessary to implement this section.
- (6) (a) The cabinet and any regional managed care partnership or other entity under contract with the cabinet for the administration or provision of the Medicaid program shall study the impact of this section on the health care delivery system in Kentucky and shall, upon implementation, issue a quarterly report to the Legislative Research Commission. This report shall include an analysis of:
 1. The economic impact of this section on the Medicaid budget, including any costs or savings as a result of decreased transportation expenditures and office or emergency room visits;
 2. The quality of care as a result of telehealth consultations rendered under this section; and
 3. Any other issues deemed relevant by the cabinet.
- (b) In addition to the analysis required under paragraph (a) of this subsection, the cabinet report shall compare telehealth reimbursement and delivery among all regional managed care partnerships or other entities under contract with the cabinet for the administration or provision of the Medicaid program.
- (7) The cabinet shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms, records required, and authorization procedures to be followed in conjunction with this section.

Section 27. KRS 216.265 is amended to read as follows:

- (1) The Kentucky e-Health Network Board is created and is attached to the Cabinet for Health and Family Services for administrative and technical support purposes.
- (2) The board shall consist of the following voting members:
 - (a) President, or a designee, of the University of Kentucky, who shall serve as co-chair of the board;
 - (b) President, or a designee, of the University of Louisville, who shall serve as co-chair of the board;
 - (c) Commissioner, or a designee, of the Department for Public Health;
 - (d) Commissioner, or a designee, of the Department for Medicaid Services;
 - (e) Executive director, or a designee, of the Commonwealth Office of Technology; and
 - (f) Nine (9) at-large members appointed by the Governor as follows:
 1. One (1) member engaged in the business of large-scale e-strategy and computer information technology;
 2. One (1) member engaged in the business of health insurance who is employed by a company that has its headquarters in Kentucky;
 3. Two (2) members from a list of four (4) individuals recommended by the Kentucky Hospital Association, one (1) representing rural hospitals, and one (1) representing urban hospitals;
 4. Two (2) physicians actively engaged in the practice of medicine in the Commonwealth from a list of four (4) physicians recommended by the Kentucky Medical Association, or self-nominated;
 5. One (1) member from a company with at least one thousand (1,000) employees selected from a list of four (4) individuals submitted by the Associated Industries of Kentucky;
 6. One (1) member with experience as a physician practice manager; and
 7. One (1) member at large.
- (3) The board shall consist of the following ex officio members who may vote, but shall not be counted toward a quorum:
 - (a) Commissioner, or a designee, of the Department of Commercialization and Innovation;
 - (b) President, or a designee, of the Council on Postsecondary Education;

- (c) Secretary, or a designee, of the Cabinet for Health and Family Services;
 - (d) Executive director, or a designee, of the Office of Insurance;
 - (e) Two (2) members of the Senate who are members of the Interim Joint Committee on Health and Welfare or the Interim Joint Committee on Banking and Insurance, appointed by the President of the Senate; and
 - (f) Two (2) members of the House of Representatives who are members of the Interim Joint Committee on Health and Welfare or the Interim Joint Committee on Banking and Insurance, appointed by the Speaker of the House.
- (4) Members of the board shall serve a term of four (4) years and may serve two (2) consecutive terms.
- (5) At the end of a term, a member of the board shall continue to serve until a successor is appointed. A member who is appointed after a term has begun shall serve the rest of the term and until a successor is appointed. A member of the board who serves two (2) consecutive full four (4) year terms shall not be reappointed for four (4) years after completion of those terms. Members designated in subsection (2)(a) to (e) of this section and members designated in subsection (3) of this section shall serve on the board only while holding their respective titles.
- (6) A majority of the full membership of the board shall constitute a quorum.
- (7) The board may employ staff or contract with consultants necessary for the performance of the duties of the board, subject to the appropriation of funds.
- (8) No member of the board shall be subject to any personal liability or accountability for any loss sustained or damage suffered on account of any action or inaction of the board.
- (9) Members of the board and all committees, except the advisory group created in KRS 216.267(2), shall be entitled to reimbursement for actual and necessary expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursements. The board shall meet at least monthly.
- (10) The board may appoint committees or subcommittees with the charge of investigating and making recommendations to the board on specific aspects of the Ke-HN, including but not limited to evidence-based clinical decision support, security of protected information, electronic data interchange, and clinical practice software packages, including the feasibility of developing a software purchasing alliance to decrease the cost of software and tax incentives to encourage members of the network to purchase software deemed by the board to meet the standards of KRS 216.267. The board may appoint the following committees:
- (a) Clinical Decision Support Committee;
 - (b) Privacy and Security of Protected Health Information Committee;
 - (c) Electronic Data Interchange Committee; and
 - (d) Clinical Software Review Committee.
- (11) The members of committees or subcommittees appointed by the board do not need to be members of the board. The chairs of committees or subcommittees shall be appointed by the board. The frequency of committee or subcommittee meetings shall be established by the board.
- (12) The Clinical Decision Support Committee membership shall include at least the following members:
- (a) One (1) physician with expertise in health informatics;
 - (b) Two (2) physicians actively engaged in the practice of medicine in this Commonwealth from a list of four (4) physicians recommended by the Kentucky Medical Association, or self-nominated;
 - (c) One (1) representative of a rural hospital and one (1) representative of an urban hospital;
 - (d) One (1) pharmacist;
 - (e) One (1) representative engaged in the business of health-care information technology;
 - (f) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice; and
 - (g) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated.
- (13) The Privacy and Security of Protected Health Information Committee shall include at least the following members:
- (a) One (1) physician actively engaged in the practice of medicine in this Commonwealth;
 - (b) Two (2) members with expertise in HIPAA regulations;
 - (c) Two (2) members engaged in the business of large-scale e-strategy and computer information technology;
 - (d) One (1) member who serves as a computer information officer within the health-care industry;
 - (e) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice;
 - (f) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated; and

- (g) One (1) representative of a hospital.
- (14) The Electronic Data Interchange Committee shall include at least the following members:
 - (a) Two (2) members engaged in the business of large-scale e-strategy and computer information technology;
 - (b) Two (2) members engaged in the business of health insurance who are recommended by the Kentucky Association of Health Plans, Incorporated;
 - (c) Chief information officer, or a designee, of the Office of Technology within the Cabinet for Health and Family Services;
 - (d) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice; and
 - (e) One (1) representative of a hospital.
- (15) The Clinical Software Review Committee shall include at least the following members:
 - (a) One (1) member from a company that develops computer software for physician practices;
 - (b) One (1) member engaged in the business of large-scale e-strategy and computer information technology;
 - (c) Three (3) physicians, with one (1) having experience in electronic information technology;
 - (d) Two (2) members with experience as physician practice managers, one (1) from a single-physician practice and one (1) from a multiphysician practice;
 - (e) One (1) member engaged in the business of health insurance who is recommended by the Kentucky Association of Health Plans, Incorporated or employed by a company which has its headquarters in Kentucky; and
 - (f) One (1) representative of a hospital.
- (16) The Governor of the Commonwealth of Kentucky may reorganize the Kentucky e-Health Network Board to include the Kentucky Telehealth Board and to reorganize the Telehealth Board under the Cabinet for Health and Family Services. If the Governor deems it appropriate, the reorganization shall create a new Telehealth Committee of the Ke-HN board with the membership and responsibilities as described under Section 25 of this Act [KRS 11.550] and shall be subject to confirmation by the General Assembly under the requirements of KRS 12.028.

Section 28. KRS 304.17A-138 is amended to read as follows:

- (1)
 - (a) A health benefit plan shall not exclude a service from coverage solely because the service is provided through telehealth and not provided through a face-to-face consultation if the consultation is provided through the telehealth network established under Section 25 of this Act [KRS 11.550]. A health benefit plan may provide coverage for a consultation at a site not within the telehealth network at the discretion of the insurer.
 - (b) A telehealth consultation shall not be reimbursable under this section if it is provided through the use of an audio-only telephone, facsimile machine, or electronic mail.
- (2) Benefits for a service provided through telehealth required by this section may be made subject to a deductible, copayment, or coinsurance requirement. A deductible, copayment, or coinsurance applicable to a particular service provided through telehealth shall not exceed the deductible, copayment, or coinsurance required by the health benefit plan for the same service provided through a face-to-face consultation.
- (3) Payment made under this section may be consistent with any provider network arrangements that have been established for the health benefit plan.
- (4) The office shall promulgate an administrative regulation in accordance with KRS Chapter 13A to designate the claim forms and records required to be maintained in conjunction with this section.

Section 29. KRS 342.315 is amended to read as follows:

- (1) The executive director shall contract with the University of Kentucky and the University of Louisville medical schools to evaluate workers who have had injuries or become affected by occupational diseases covered by this chapter. Referral for evaluation may be made to one (1) of the medical schools whenever a medical question is at issue.
- (2) The physicians and institutions performing evaluations pursuant to this section shall render reports encompassing their findings and opinions in the form prescribed by the executive director. Except as otherwise provided in KRS 342.316, the clinical findings and opinions of the designated evaluator shall be afforded presumptive weight by administrative law judges and the burden to overcome such findings and opinions shall fall on the opponent of that evidence. When administrative law judges reject the clinical findings and opinions of the designated evaluator, they shall specifically state in the order the reasons for rejecting that evidence.
- (3) The executive director or an administrative law judge may, upon the application of any party or upon his own motion, direct appointment by the executive director, pursuant to subsection (1) of this section, of a medical evaluator to make any necessary medical examination of the employee. Such medical evaluator shall file with the executive director within fifteen (15) days after such examination a written report. The medical evaluator appointed may charge a reasonable fee not exceeding fees established by the executive director for those services.
- (4) Within thirty (30) days of the receipt of a statement for the evaluation, the employer or carrier shall pay the cost of the

examination. Upon notice from the executive director that an evaluation has been scheduled, the insurance carrier shall forward within seven (7) days to the employee the expenses of travel necessary to attend the evaluation at a rate equal to that paid to state employees for travel by private automobile while conducting state business.

- (5) Upon claims in which it is finally determined that the injured worker was not the employee at the time of injury of an employer covered by this chapter, the special fund shall reimburse the carrier for any evaluation performed pursuant to this section for which the carrier has been erroneously compelled to make payment.
- (6) Not less often than annually the designee of the secretary of the Cabinet for Health and Family Services shall assess the performance of the medical schools and render findings as to whether evaluations conducted under this section are being rendered in a timely manner, whether examinations are conducted in accordance with medically recognized techniques, whether impairment ratings are in conformity with standards prescribed by the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, and whether coal workers' pneumoconiosis examinations are conducted in accordance with the standards prescribed in this chapter.
- (7) The General Assembly finds that good public policy mandates the realization of the potential advantages, both economic and effectual, of the use of telemedicine and telehealth. The executive director may, to the extent that he finds it feasible and appropriate, require the use of telemedicine and telehealth practices, as authorized under Section 25 of this Act [KRS 41-550], in the independent medical evaluation process required by this chapter.

Section 30. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 31. Notwithstanding KRS 12.028, the General Assembly confirms the Governor's Executive Orders 2006-693, dated June 20, 2006; 2006-1195, dated September 19, 2006; and 2006-1550, dated December 18, 2006, to the extent these orders are not otherwise confirmed or superseded by this Act.

SB 85, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

- (1) There is hereby established a Utility Savings Council created for the purpose of evaluating energy costs throughout state government. The council shall study the energy use and utility procurement practices of all state agencies and make recommendations, such as energy savings performance contracting and improved energy management, that will produce cost savings.
- (2) The Utility Savings Council shall be attached to the Governor's Office of Energy Policy for administrative purposes. The council shall be composed of the following members or their designees:
 - (a) The Executive Director of the Governor's Office of Energy Policy;
 - (b) The Secretary of Finance and Administration Cabinet;
 - (c) The Secretary of the Commerce Cabinet;
 - (d) The Secretary of the Transportation Cabinet;
 - (e) The Secretary of the Environmental and Public Protection Cabinet;
 - (f) The Secretary of the Education Cabinet;
 - (g) The Secretary of Health and Family Services Cabinet;
 - (h) The Chairman of the Public Service Commission; and
 - (i) The Secretary of the Cabinet for General Government.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

- I. Cabinet for General Government - Departments headed by elected officers:
 1. The Governor.
 2. Lieutenant Governor.
 3. Department of State.

- (a) Secretary of State.
- (b) Board of Elections.
- (c) Registry of Election Finance.
- 4. Department of Law.
 - (a) Attorney General.
- 5. Department of the Treasury.
 - (a) Treasurer.
- 6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- 7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

- 1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
- 2. Education Cabinet:
 - (a) Office of the Secretary.
 - (b) Office of Legal Services.
 - 1. Client Assistance Program.
 - (c) Office of Communication.
 - (d) Office of Legislative and Intergovernmental Affairs.
 - (e) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - 3. Division of Technology Services.
 - (f) Board of Directors for the Center for School Safety.
 - (g) Council on Postsecondary Education.
 - 1. Foundation for Adult Education.
 - (h) Department of Education.
 - 1. Kentucky Board of Education.
 - (i) Department for Libraries and Archives.
 - (j) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Career and Technical Education.
 - 4. Office of Employment and Training.
 - (k) Foundation for Workforce Development.
 - (l) Kentucky Office for the Blind State Rehabilitation Council.
 - (m) Kentucky Technical Education Personnel Board.

- (n) Kentucky Workforce Investment Board.
 - (o) Statewide Council for Vocational Rehabilitation.
 - (p) Statewide Independent Living Council.
 - (q) Unemployment Insurance Commission.
 - (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
 - (s) Kentucky Commission on the Deaf and Hard of Hearing.
 - (t) Kentucky Educational Television.
 - (u) Kentucky Environmental Education Council.
3. Environmental and Public Protection Cabinet:
- (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of Communications and Public Outreach.
 - 3. Office of Regulatory Affairs.
 - 4. Office of Legal Services.
 - 5. Office of Administrative and Information Services.
 - 6. Office of Administrative Hearings.
 - 7. Office of Inspector General.
 - 8. Mine Safety Review Commission.
 - 9. Workers' Compensation Board.
 - 10. Kentucky State Nature Preserves Commission.
 - 11. Kentucky Environmental Quality Commission.
 - 12. Kentucky Occupational Safety and Health Review Commission.
 - (b) Department for Environmental Protection.
 - 1. Office of the Commissioner.
 - 2. Division of Air Quality.
 - 3. Division of Water.
 - 4. Division of Environmental Services.
 - 5. Division of Waste Management.
 - 6. Division of Enforcement.
 - 7. Division of Compliance Assistance.
 - (c) Department for Natural Resources.
 - 1. Office of the Commissioner.
 - 2. Office of Technical and Administrative Support.
 - 3. Division of Mine Permits.
 - 4. Division of Mine Reclamation and Enforcement.
 - 5. Division of Abandoned Mine Lands.
 - 6. Division of Oil and Gas Conservation.
 - 7. Office of Mine Safety and Licensing.
 - 8. Division of Forestry.
 - 9. Division of Conservation.
 - (d) Department of Public Protection.
 - 1. Office of the Commissioner.
 - 2. Division of Administrative Services.
 - 3. Crime Victims Compensation Board.

4. Board of Claims.
5. Board of Tax Appeals.
6. Kentucky Boxing and Wrestling Authority.
7. Kentucky Horse Racing Authority.
8. Kentucky Public Service Commission.
9. Office of Alcoholic Beverage Control.
10. Office of Charitable Gaming.
11. Office of Financial Institutions.
12. Office of Housing, Buildings and Construction.
13. Office of Insurance.
- (e) Department of Labor.
 1. Office of the Commissioner.
 2. Office of Occupational Safety and Health.
 3. Office of Labor Management Relations and Mediation.
 4. Office of Workplace Standards.
 5. Office of Workers' Claims.
 6. Workers' Compensation Funding Commission.
 7. Kentucky Labor Management Advisory Council.
 8. Occupational Safety and Health Standards Board.
 9. Prevailing Wage Review Board.
 10. Kentucky Employees Insurance Association.
 11. Apprenticeship and Training Council.
 12. State Labor Relations Board.
 13. Workers' Compensation Advisory Council.
 14. Workers' Compensation Nominating Commission.
 15. Employers' Mutual Insurance Authority.
 16. Division of Administrative Services.
4. Transportation Cabinet:
 - (a) Department of Highways.
 1. Office of Program Planning and Management.
 2. Office of Project Development.
 3. Office of Construction and Operations.
 4. Office of Intermodal Programs.
 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Aviation.
 - (e) Department of Intergovernmental Programs.
 1. Office of Transportation Enhancement Programs.
 2. Office of Rural and Secondary Roads.
 - (f) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of Public Affairs.
 3. Office of Transportation Delivery.
 4. Office for Business and Occupational Development.
 5. Office of Budget and Fiscal Management.
 6. Office of Legal Services.
 7. Office of Inspector General.

8. Office of the Transportation Operations Center.
9. Office of Personnel Management.
5. Cabinet for Economic Development:
 - (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
 - (g) Office of Research and Information Technology.
 - (h) Department of Commercialization and Innovation.
 - (i) Office of Legal Services.
 - (j) Commission on Small Business Advocacy.
6. Cabinet for Health and Family Services:
 - (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission for Children with Special Health Care Needs.
 - (e) Office of Health Policy.
 - (f) Office of the Secretary.
 - (g) Office of Legal Services.
 - (h) Office of Inspector General.
 - (i) Office of Legislative and Public Affairs.
 - (j) Department for Community Based Services.
 - (k) Department for Disability Determination Services.
 - (l) Office of the Ombudsman.
 - (m) Department for Human Support Services.
 - (n) Kentucky Commission on Community Volunteerism and Service.
 - (o) Office of Fiscal Services.
 - (p) Office of Human Resource Management.
 - (q) Office of Technology.
 - (r) Office of Contract Oversight.
 - (s) Governor's Office of Wellness and Physical Activity.
7. Finance and Administration Cabinet:
 - (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Department for Facilities and Support Services.
 - (f) Department of Revenue.
 - (g) Commonwealth Office of Technology.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Savings Bond Authority.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) County Officials Compensation Board.
 - (l) Kentucky Employees Retirement Systems.
 - (m) Commonwealth Credit Union.
 - (n) State Investment Commission.

2007 Regular Session

- (o) Kentucky Housing Corporation.
 - (p) Kentucky Local Correctional Facilities Construction Authority.
 - (q) Kentucky Turnpike Authority.
 - (r) Historic Properties Advisory Commission.
 - (s) Kentucky Tobacco Settlement Trust Corporation.
 - (t) State Board for Proprietary Education.
 - (u) Kentucky Higher Education Assistance Authority.
 - (v) Kentucky River Authority.
 - (w) Kentucky Teachers' Retirement System Board of Trustees.
8. Commerce Cabinet:
- (a) Department of Tourism.
 - (1) Division of Tourism Services.
 - (2) Division of Marketing and Advertising.
 - (3) Division of Parks Marketing.
 - (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Personnel and Payroll.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Project Administration.
 - (6) Division of Customer Services.
 - (7) Division of Recreation.
 - (8) Division of Golf Courses.
 - (9) Division of Food Services.
 - (10) Division of Rangers.
 - (11) Division of Eastern Parks.
 - (12) Division of Southern Parks.
 - (13) Division of Western Parks.
 - (c) Department of Fish and Wildlife Resources.
 - (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.
 - (3) Division of Engineering.
 - (4) Division of Fisheries.
 - (5) Division of Information and Education.
 - (6) Division of Wildlife.
 - (7) Division of Public Affairs.
 - (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
 - (e) Kentucky State Fair Board.
 - (1) Division of Expositions and Admission.
 - (2) Division of Kentucky Fair and Exposition Center Operations.
 - (3) Division of Commonwealth Convention Center.
 - (4) Division of Public Relations and Media.
 - (5) Division of Administrative Services.
 - (6) Division of Personnel Management and Staff Development.
 - (7) Division of Sales.

- (8) Division of Security and Traffic Control.
 - (f) Office of the Secretary.
 - (g) Office of Finance and Administration.
 - (h) Office of Legal Affairs.
 - (i) Office of Intergovernmental Affairs.
 - (j) Office of Human Resources.
 - (k) Office of Public Affairs and Constituent Services.
 - (l) Office of Information Technology.
 - (m) Office of the Kentucky Sports Authority.
 - (1) Kentucky Sports Authority Board.
 - (n) Office of Creative Services.
 - (o) Office of Capital Plaza Operations.
 - (p) ~~{Office of Energy Policy.~~
 - ~~(1) — Energy Policy Advisory Council.~~
 - ~~(q)}~~ Office of Arts and Cultural Heritage.
 - ~~(r)}~~~~(s)}~~ Kentucky African-American Heritage Commission.
 - ~~(t)}~~~~(u)}~~ Kentucky Foundation for the Arts.
 - ~~(v)}~~~~(w)}~~ Kentucky Humanities Council.
 - ~~(x)}~~~~(y)}~~ Kentucky Heritage Council.
 - ~~(z)}~~~~(aa)}~~ Kentucky Arts Council.
 - ~~(ab)}~~~~(ac)}~~ Kentucky Historical Society.
 - (1) Division of Museums.
 - (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
 - ~~(ad)}~~~~(ae)}~~ Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
 - ~~(af)}~~~~(ag)}~~ Kentucky Artisans Center at Berea.
 - ~~(ah)}~~~~(ai)}~~ Martin Luther King Commission.
 - ~~(aj)}~~~~(ak)}~~ Northern Kentucky Convention Center.
 - ~~(al)}~~~~(am)}~~ Eastern Kentucky Exposition Center.
9. Personnel Cabinet:
- (a) Office of the Secretary.
 - (b) Department for Personnel Administration.
 - (c) Office for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Office of Government Training.
 - (h) Department for Employee Insurance.
- III. Other departments headed by appointed officers:
- 1. Department of Military Affairs.
 - 2. Department for Local Government.
 - 3. Kentucky Commission on Human Rights.
 - 4. Kentucky Commission on Women.
 - 5. Department of Veterans' Affairs.
 - 6. Kentucky Commission on Military Affairs.
 - 7. Office of Minority Empowerment.

8. Governor's Council on Wellness and Physical Activity.

Section 3. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

- (1) Department of Military Affairs;
- (2) Department for Local Government;
- (3) Kentucky Commission on Human Rights;
- (4) Kentucky Commission on Women;
- (5) Kentucky Commission on Military Affairs;
- (6) Governor's Scholars Program;
- (7) Agricultural Development Board;
- (8) Kentucky Agency for Substance Abuse Policy;
- (9) Kentucky Agricultural Finance Corporation;
- (10) Office of Minority Empowerment;
- (11) Office of Homeland Security; ~~and~~
- (12) Governor's Council on Wellness and Physical Activity; and
- (13) Governor's Office of Energy Policy.
 - (a) Utility Savings Council.

Section 4. KRS 56.776 is amended to read as follows:

The Finance and Administration Cabinet, with the assistance of the Governor's Office of Energy Policy within the Office of the Governor ~~Commerce Cabinet~~, shall institute an energy audit training program to identify energy saving techniques for state-owned building maintenance staff. Additional programs shall be developed to educate state employees and other building occupants on energy awareness and practices to reduce energy use in state-owned buildings. Local government employees may be included in training and educational programs.

Section 5. KRS 56.790 is amended to read as follows:

- (1) The Energy Policy Advisory Council is hereby established for the purpose of assisting and advising the Governor's Office of Energy Policy. Membership shall consist of:
 - (a) Fifteen (15) members of the public, appointed by the Governor and representing various energy interests within the Commonwealth; and
 - (b) The executive director of the Governor's Office of Energy Policy who shall serve as a nonvoting member and as chairman of the council.
- (2)
 - (a) Each appointed member shall serve for a term of four (4) years.
 - (b) Any member may be removed from his appointment by the Governor for cause.
 - (c) Appointed members shall be reimbursed for travel costs incurred in attending meetings, which shall be paid from the funds of the Governor's Office of Energy Policy, and in compliance with the ~~Commerce Cabinet's~~ procedures for travel and reimbursement of the Office of the Governor.
- (3)
 - (a) The chairman shall set the agenda, place, and time of meetings which shall be held a minimum of two (2) times a year and shall be held in accordance with the provisions of the Open Meetings Act, KRS 61.805 to 61.850.
 - (b) A quorum for all council meetings shall consist of eight (8) of the appointed members.

Section 6. KRS 132.020 is amended to read as follows:

- (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes at the rate of:
 - (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100) of value of all real property directed to be assessed for taxation;
 - (b) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, upon the prior approval of the Kentucky Economic Development Finance Authority, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;
 - (c) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all qualifying voluntary environmental remediation property, provided the bona fide prospective purchaser has obtained a covenant not to sue from the Environmental and Public Protection Cabinet under KRS 224.01-526 for all known releases located on the property. This rate shall apply for a period of three (3) years following the issuance of the covenant not to sue, after which the regular tax rate shall apply;
 - (d) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all tobacco directed to be

assessed for taxation;

- (e) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of unmanufactured agricultural products;
 - (f) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations;
 - (g) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all livestock and domestic fowl;
 - (h) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;
 - (i) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all machinery actually engaged in manufacturing;
 - (j) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna;
 - (k) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all property which has been certified as a pollution control facility as defined in KRS 224.01-300;
 - (l) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390;
 - (m) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043;
 - (n) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods held for sale in the regular course of business, which includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business;
 - (o) Ten cents (\$0.10) per one hundred dollars (\$100) of assessed value on the operating property of railroads or railway companies that operate solely within the Commonwealth;
 - (p) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value on aircraft not used in the business of transporting persons or property for compensation or hire;
 - (q) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes; and
 - (r) Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in KRS 132.030, 132.200, 136.300, and 136.320, providing a different tax rate for particular property.
- (2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%), excluding:
- (a) The assessment of new property as defined in KRS 132.010(8);
 - (b) The assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
 - (c) The assessment from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1)(b) of this section. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.
- (3) By July 1 each year, the department shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (2) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the department shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the department, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the department, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.
- (4) If the tax rate set by the department as provided in subsection (2) of this section produces more than a four percent (4%) increase in real property tax revenues, excluding:

2007 Regular Session

- (a) The revenue resulting from new property as defined in KRS 132.010(8);
- (b) The revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
- (c) The revenue from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1) of this section;

the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

- (5) The provisions of subsection (2) of this section notwithstanding, the assessed value of unmined coal certified by the department after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (2) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars (\$400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Governor's Office of Energy Policy for the purpose of public education of coal-related issues.

Section 7. KRS 143.090 is amended to read as follows:

- (1) The Transportation Cabinet shall certify to the commissioner of the Department of Revenue by October 1 of each fiscal year the amount required for lease rental payments to the Kentucky Turnpike Authority for resource recovery road projects.
- (2) The Governor's Office of Energy Policy shall certify to the commissioner of the Department of Revenue by October 1 of each year the amount of the annual lease rental payments required to be made for any energy research developmental or demonstration project undertaken by the Governor's Office of Energy Policy. The amount so certified shall in no case exceed three million dollars (\$3,000,000) in any one (1) year.
- (3) Upon receiving the certifications provided for in subsections (1) and (2) of this section, the commissioner of the Department of Revenue shall cause the certified amounts to be deposited from the proceeds of the tax levied by KRS 143.020 to the credit of the transportation fund and the Governor's Office of Energy Policy, respectively, unless otherwise provided by the General Assembly in a budget bill, as follows:
 - (a) An amount equal to the amount certified by the Transportation Cabinet shall be deposited to the transportation fund (road fund); and
 - (b) An amount equal to the amount certified by the Governor's Office of Energy Policy shall be transferred by appropriate interfund transfer procedures to the Governor's Office of Energy Policy.
- (4) All tax levied by KRS 143.020 collected in excess of the amount required to be deposited to the transportation fund (road fund) or transferred to the Governor's Office of Energy Policy shall be deposited by the Department of Revenue to the credit of the general fund.
- (5) If the proceeds of the tax levied by KRS 143.020 are less than the amounts certified under subsections (1) and (2) of this section, the commissioner of revenue shall prorate the proceeds to the transportation fund and the Governor's Office of Energy Policy based upon the ratio of each certified amount to the total of the two (2) certified amounts.

Section 8. KRS 148.522 is amended to read as follows:

- (1) The Commerce Cabinet shall consist of the Office of the Secretary, the Office of Legal Affairs, the Office of Finance and Administration, the Office of Intergovernmental Affairs, the Office of Human Resources, the Office of Public Affairs and Constituent Services, the Office of Information Technology, ~~the Office of Energy Policy,~~ the Office of the Kentucky Sports Authority, the Office of Arts and Cultural Heritage, the Office of Creative Services, the Office of Capital Plaza Operations, the Department of Tourism, the Kentucky Department of Parks, the Tourism Development Finance Authority, and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet subject to the provisions of KRS Chapter 12.
- (2) The Commerce Cabinet shall encourage the development of the film industry in Kentucky and shall perform all film promotional functions.
- (3) The Office of Legal Affairs shall be headed by a general counsel appointed by the secretary pursuant to KRS 12.210, shall provide legal services for the cabinet, and shall be directly responsible to the secretary.
- (4) The Department of Tourism shall be headed by a commissioner appointed by the Governor pursuant to the provisions of KRS 12.040. The commissioner shall have the authority and responsibility for the promotion, development, and support services for the tourism industry within the Commonwealth.
- (5) The Divisions of Tourism Services, Marketing and Advertising, and Parks Marketing are created within the Department of Tourism. Each division shall be headed by a division director who shall be appointed by the commissioner of the department pursuant to the provisions of KRS 12.050.

Section 9. KRS 152.720 is amended to read as follows:

To ensure that Kentucky will lead the states in securing the energy independence of the United States and will consequently

benefit from economic growth and stabilization of the Commonwealth's coal industry and agriculture, the Governor's ~~[Kentucky]~~ Office of Energy Policy shall develop and implement a strategy for production of transportation fuels and synthetic natural gas from fossil energy resources and biomass resources. The strategy shall address:

- (1) Technologies available or in use for producing transportation fuels and synthetic natural gas from fossil energy resources and biomass resources and the relative advantages of these in terms of process efficiencies, environmental performance, and marketable products, including chemicals, industrial feedstocks, and electricity;
- (2) Research, demonstration, and commercial-scale construction and operation of one (1) or more technologies, and follow-up expansion;
- (3) The essential nature of efficient cooperation, coordination, and synergy between the efforts of the Governor's Office of Energy Policy and those of Kentucky's universities in order to maximize Kentucky's opportunities to tap federal funding streams and receive research grants and awards from federal and other sources funding the development of clean coal technology, coal-to-liquid-fuel conversion, synthetic natural gas, alternate transportation fuels, and biomass energy resources;
- (4) Federal funds for research, development, construction, and operation of alternate fuels or synthetic natural gas plants at laboratory, demonstration, and commercial scale;
- (5) Establishment of a major federal energy research laboratory in Kentucky;
- (6) Industry participation, both by single firms and by consortia, in research, development, construction, and operation of alternate transportation fuels or synthetic natural gas plants;
- (7) Establishment or expansion of Kentucky state government incentives for development, construction, or operation of alternate transportation fuels and synthetic natural gas production facilities, including but not limited to financial incentives, tax incentives, mandating or providing incentives for use of alternate transportation fuels and synthetic natural gas by state government, school districts, or utilities, authority to issue bonds, and acquisition and preliminary environmental assessment of industrial sites; and
- (8) Development of incentives to encourage energy conservation and renewable fuel and energy use and deployment including solar, wind, hydro, and other sources. State incentives should mirror those established at the federal level.

Section 10. KRS 152.725 is amended to read as follows:

On or before December 1, 2006, and every three (3) months thereafter, the Governor's ~~[Kentucky]~~ Office of Energy Policy shall report to the Governor and the Special Subcommittee on Energy its findings and any further legislative recommendations needed to implement the strategy defined in KRS 152.710 to 152.725.

Section 11. KRS 224.10-103 is amended to read as follows:

~~[(1)]~~ In addition to the powers and duties set out in this and other chapters of the Kentucky Revised Statutes that are vested in the cabinet and the secretary to protect and enhance the state's natural resources and environment, the cabinet and the secretary are also vested with the powers and duties previously vested in the Public Protection and Regulation Cabinet and the Labor Cabinet, and the secretaries of those cabinets, so long as those powers and duties are not contrary to or in conflict with the organization of the cabinet established by statute or by executive order of the Governor, as ratified by the General Assembly.

~~[(2)] The Office of Energy Policy shall be transferred to the Commerce Cabinet, Office of the Secretary. All personnel, functions, powers, and duties of the Office of Energy Policy shall be transferred to the Commerce Cabinet.~~

Section 12. KRS 224.46-850 is amended to read as follows:

- (1) It is the intent of the General Assembly that a regional integrated waste treatment and disposal demonstration facility contain an industrial park component. The approved site for a regional integrated waste treatment and disposal demonstration facility shall be of sufficient size to accommodate new industrial and commercial concerns that can utilize the energy by-products of the treatment technologies.
- (2) It shall be the responsibility of the Governor's Office of Energy Policy to establish a plan for and develop the industrial park component of a regional integrated waste treatment and disposal demonstration facility. The industrial park component, located on property contiguous with the treatment and disposal technologies, shall be designed so as to utilize energy generated from the waste treatment technologies.

Section 13. KRS 224.46-870 is amended to read as follows:

The Governor's Office of Energy Policy shall provide the cabinet with the information deemed necessary by the cabinet to project hazardous waste generation in the Commonwealth as required by KRS 224.10-100(24) and 224.46-830(2)(d).

Section 14. KRS 247.920 is amended to read as follows:

- (1) Application for an alcohol production exemption certificate shall be filed with the Department of Revenue in such manner and in such form as may be prescribed by regulations issued by the Department of Revenue and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of producing ethanol for fuel use and any additional information deemed necessary by the Department of Revenue for the proper administration of KRS 247.910 and this section. The Governor's Office of Energy Policy shall provide technical assistance and factual

information as requested in writing by the Department of Revenue. If the Department of Revenue finds that the facility qualifies as an alcohol production facility as defined by KRS 247.910, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.

- (2) Before issuing an alcohol production tax exemption certificate, the Department of Revenue shall give notice in writing by mail to the Governor's Office of Energy Policy, and shall afford to the applicant and to the Governor's Office of Energy Policy an opportunity for a hearing. On like notice and opportunity for a hearing, the Department of Revenue shall on its own initiative revoke the certificate when any of the following appears:
 - (a) The certificate was obtained by fraud or misrepresentation;
 - (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the alcohol production facilities; or
 - (c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of alcohol production for fuel use and is being used for a different purpose.
- (3) If the circumstances so require, the Department of Revenue, in lieu of revoking the certificate, may modify it.
- (4) On mailing of notice of the action of the Department of Revenue revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.
- (5) An alcohol production tax exemption certificate, when issued, shall be sent by certified mail to the applicant and the notice of issuance in the form of certified copies thereof shall be sent to the Governor's Office of Energy Policy. Notice of an order of the Department of Revenue denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder and shall be sent to the Governor's Office of Energy Policy. The applicant or holder and the Governor's Office of Energy Policy shall be deemed parties for the purpose of the review afforded by subsection (6) of this section.
- (6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of an alcohol production tax exemption certificate may appeal from the final ruling of the Department of Revenue to the Kentucky Board of Tax Appeals as provided in KRS 131.340.
- (7) In the event of the sale, lease, or other transfer of an alcohol production facility, not involving a different location or use, the holder of an alcohol production tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the certificate. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the Governor's Office of Energy Policy and the Department of Revenue.
- (8) In the event an alcohol production facility for which an exemption certificate is held ceases to be used for the primary purpose of alcohol production for fuel use or is used for a different purpose other than that for which the exemption certificate was granted, the holder of the certificate shall give written notice by certified mail of the change to the Governor's Office of Energy Policy and to the Department of Revenue.
- (9) The alcohol production facility exemption certificate, upon approval, shall exempt said facilities from taxes outlined in the provisions of KRS 247.910 and this section and included in KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any alcohol production facility previously exempted under the terms of KRS 247.910 and this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

Section 15. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 16. The General Assembly confirms Executive Order 2006-1299, dated October 12, 2006, and Executive Order 2006-692, dated June 20, 2006, to the extent that they are not otherwise confirmed or superseded by this Act.

The House Committee Substitute to SB 85 is as follows:

SB 85, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

- (1) There is hereby established a Utility Savings Council created for the purpose of evaluating energy costs throughout state government. The council shall study the energy use and utility procurement practices of all state agencies and make recommendations, such as energy savings performance contracting and improved energy management, that will produce cost savings.
- (2) The Utility Savings Council shall be attached to the Governor's Office of Energy Policy for administrative purposes.

The council shall be composed of the following members or their designees:

- (a) The Executive Director of the Governor's Office of Energy Policy;**
- (b) The Secretary of Finance and Administration Cabinet;**
- (c) The Secretary of the Commerce Cabinet;**
- (d) The Secretary of the Transportation Cabinet;**
- (e) The Secretary of the Environmental and Public Protection Cabinet;**
- (f) The Secretary of the Education Cabinet;**
- (g) The Secretary of Health and Family Services Cabinet;**
- (h) The Chairman of the Public Service Commission; and**
- (i) The Secretary of the Cabinet for General Government.**

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- 1. The Governor.
- 2. Lieutenant Governor.
- 3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- 4. Department of Law.
 - (a) Attorney General.
- 5. Department of the Treasury.
 - (a) Treasurer.
- 6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- 7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

- 1. Justice Cabinet:
 - (a) Department of State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Offices of the Deputy Secretaries.
 - (g) Office of General Counsel.
 - (h) Division of Kentucky State Medical Examiners Office.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Commission on Correction and Community Service.
- 2. Education Cabinet:
 - (a) Office of the Secretary.
 - (b) Office of Legal Services.

1. Client Assistance Program.
- (c) Office of Communication.
- (d) Office of Legislative and Intergovernmental Affairs.
- (e) Office of Budget and Administration.
 1. Division of Human Resources.
 2. Division of Administrative Services.
 3. Division of Technology Services.
- (f) Board of Directors for the Center for School Safety.
- (g) Council on Postsecondary Education.
 1. Foundation for Adult Education.
- (h) Department of Education.
 1. Kentucky Board of Education.
- (i) Department for Libraries and Archives.
- (j) Department of Workforce Investment.
 1. Office for the Blind.
 2. Office of Vocational Rehabilitation.
 3. Office of Career and Technical Education.
 4. Office of Employment and Training.
- (k) Foundation for Workforce Development.
- (l) Kentucky Office for the Blind State Rehabilitation Council.
- (m) Kentucky Technical Education Personnel Board.
- (n) Kentucky Workforce Investment Board.
- (o) Statewide Council for Vocational Rehabilitation.
- (p) Statewide Independent Living Council.
- (q) Unemployment Insurance Commission.
- (r) Education Professional Standards Board.
 1. Division of Educator Preparation.
 2. Division of Certification.
 3. Division of Professional Learning and Assessment.
 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.
3. Environmental and Public Protection Cabinet:
 - (a) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of Communications and Public Outreach.
 3. Office of Regulatory Affairs.
 4. Office of Legal Services.
 5. Office of Administrative and Information Services.
 6. Office of Administrative Hearings.
 7. Office of Inspector General.
 8. Mine Safety Review Commission.
 9. Workers' Compensation Board.
 10. Kentucky State Nature Preserves Commission.
 11. Kentucky Environmental Quality Commission.
 12. Kentucky Occupational Safety and Health Review Commission.
 - (b) Department for Environmental Protection.

1. Office of the Commissioner.
 2. Division of Air Quality.
 3. Division of Water.
 4. Division of Environmental Services.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
1. Office of the Commissioner.
 2. Office of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas Conservation.
 7. Office of Mine Safety and Licensing.
 8. Division of Forestry.
 9. Division of Conservation.
- (d) Department of Public Protection.
1. Office of the Commissioner.
 2. Division of Administrative Services.
 3. Crime Victims Compensation Board.
 4. Board of Claims.
 5. Board of Tax Appeals.
 6. Kentucky Boxing and Wrestling Authority.
 7. Kentucky Horse Racing Authority.
 8. Kentucky Public Service Commission.
 9. Office of Alcoholic Beverage Control.
 10. Office of Charitable Gaming.
 11. Office of Financial Institutions.
 12. Office of Housing, Buildings and Construction.
 13. Office of Insurance.
- (e) Department of Labor.
1. Office of the Commissioner.
 2. Office of Occupational Safety and Health.
 3. Office of Labor Management Relations and Mediation.
 4. Office of Workplace Standards.
 5. Office of Workers' Claims.
 6. Workers' Compensation Funding Commission.
 7. Kentucky Labor Management Advisory Council.
 8. Occupational Safety and Health Standards Board.
 9. Prevailing Wage Review Board.
 10. Kentucky Employees Insurance Association.
 11. Apprenticeship and Training Council.
 12. State Labor Relations Board.
 13. Workers' Compensation Advisory Council.
 14. Workers' Compensation Nominating Commission.
 15. Employers' Mutual Insurance Authority.
 16. Division of Administrative Services.

4. Transportation Cabinet:
 - (a) Department of Highways.
 1. Office of Program Planning and Management.
 2. Office of Project Development.
 3. Office of Construction and Operations.
 4. Office of Intermodal Programs.
 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Aviation.
 - (e) Department of Intergovernmental Programs.
 1. Office of Transportation Enhancement Programs.
 2. Office of Rural and Secondary Roads.
 - (f) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of Public Affairs.
 3. Office of Transportation Delivery.
 4. Office for Business and Occupational Development.
 5. Office of Budget and Fiscal Management.
 6. Office of Legal Services.
 7. Office of Inspector General.
 8. Office of the Transportation Operations Center.
 9. Office of Personnel Management.
5. Cabinet for Economic Development:
 - (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
 - (g) Office of Research and Information Technology.
 - (h) Department of Commercialization and Innovation.
 - (i) Office of Legal Services.
 - (j) Commission on Small Business Advocacy.
6. Cabinet for Health and Family Services:
 - (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission for Children with Special Health Care Needs.
 - (e) Office of Health Policy.
 - (f) Office of the Secretary.
 - (g) Office of Legal Services.
 - (h) Office of Inspector General.
 - (i) Office of Legislative and Public Affairs.
 - (j) Department for Community Based Services.
 - (k) Department for Disability Determination Services.
 - (l) Office of the Ombudsman.
 - (m) Department for Human Support Services.

- (n) Kentucky Commission on Community Volunteerism and Service.
 - (o) Office of Fiscal Services.
 - (p) Office of Human Resource Management.
 - (q) Office of Technology.
 - (r) Office of Contract Oversight.
 - (s) Governor's Office of Wellness and Physical Activity.
7. Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Department for Facilities and Support Services.
 - (f) Department of Revenue.
 - (g) Commonwealth Office of Technology.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Savings Bond Authority.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) County Officials Compensation Board.
 - (l) Kentucky Employees Retirement Systems.
 - (m) Commonwealth Credit Union.
 - (n) State Investment Commission.
 - (o) Kentucky Housing Corporation.
 - (p) Kentucky Local Correctional Facilities Construction Authority.
 - (q) Kentucky Turnpike Authority.
 - (r) Historic Properties Advisory Commission.
 - (s) Kentucky Tobacco Settlement Trust Corporation.
 - (t) State Board for Proprietary Education.
 - (u) Kentucky Higher Education Assistance Authority.
 - (v) Kentucky River Authority.
 - (w) Kentucky Teachers' Retirement System Board of Trustees.
8. Commerce Cabinet:
- (a) Department of Tourism.
 - (1) Division of Tourism Services.
 - (2) Division of Marketing and Advertising.
 - (3) Division of Parks Marketing.
 - (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Personnel and Payroll.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Project Administration.
 - (6) Division of Customer Services.
 - (7) Division of Recreation.
 - (8) Division of Golf Courses.
 - (9) Division of Food Services.
 - (10) Division of Rangers.
 - (11) Division of Eastern Parks.
 - (12) Division of Southern Parks.

- (13) Division of Western Parks.
- (c) Department of Fish and Wildlife Resources.
 - (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.
 - (3) Division of Engineering.
 - (4) Division of Fisheries.
 - (5) Division of Information and Education.
 - (6) Division of Wildlife.
 - (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
 - (1) Division of Expositions and Admission.
 - (2) Division of Kentucky Fair and Exposition Center Operations.
 - (3) Division of Commonwealth Convention Center.
 - (4) Division of Public Relations and Media.
 - (5) Division of Administrative Services.
 - (6) Division of Personnel Management and Staff Development.
 - (7) Division of Sales.
 - (8) Division of Security and Traffic Control.
- (f) Office of the Secretary.
- (g) Office of Finance and Administration.
- (h) Office of Legal Affairs.
- (i) Office of Intergovernmental Affairs.
- (j) Office of Human Resources.
- (k) Office of Public Affairs and Constituent Services.
- (l) Office of Information Technology.
- (m) Office of the Kentucky Sports Authority.
 - (1) Kentucky Sports Authority Board.
- (n) Office of Creative Services.
- (o) Office of Capital Plaza Operations.
- (p) ~~Office of Energy Policy.~~
 - ~~(1) —Energy Policy Advisory Council.~~
- ~~(q)}~~ Office of Arts and Cultural Heritage.
- ~~(q)}~~~~(+)}~~ Kentucky African-American Heritage Commission.
- ~~(r)}~~~~(+)}~~ Kentucky Foundation for the Arts.
- ~~(s)}~~~~(+)}~~ Kentucky Humanities Council.
- ~~(t)}~~~~(+)}~~ Kentucky Heritage Council.
- ~~(u)}~~~~(+)}~~ Kentucky Arts Council.
- ~~(v)}~~~~(+)}~~ Kentucky Historical Society.
 - (1) Division of Museums.
 - (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
- ~~(w)}~~~~(+)}~~ Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.

- ~~(x)~~~~(y)~~ Kentucky Artisans Center at Berea.
- ~~(v)~~~~(z)~~ Martin Luther King Commission.
- ~~(z)~~~~(aa)~~ Northern Kentucky Convention Center.
- ~~(aa)~~~~(ab)~~ Eastern Kentucky Exposition Center.

9. Personnel Cabinet:

- (a) Office of the Secretary.
- (b) Department for Personnel Administration.
- (c) Office for Employee Relations.
- (d) Kentucky Public Employees Deferred Compensation Authority.
- (e) Office of Administrative Services.
- (f) Office of Legal Services.
- (g) Office of Government Training.
- (h) Department for Employee Insurance.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Department for Local Government.
- 3. Kentucky Commission on Human Rights.
- 4. Kentucky Commission on Women.
- 5. Department of Veterans' Affairs.
- 6. Kentucky Commission on Military Affairs.
- 7. Office of Minority Empowerment.
- 8. Governor's Council on Wellness and Physical Activity.

Section 3. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

- (1) Department of Military Affairs;
- (2) Department for Local Government;
- (3) Kentucky Commission on Human Rights;
- (4) Kentucky Commission on Women;
- (5) Kentucky Commission on Military Affairs;
- (6) Governor's Scholars Program;
- (7) Agricultural Development Board;
- (8) Kentucky Agency for Substance Abuse Policy;
- (9) Kentucky Agricultural Finance Corporation;
- (10) Office of Minority Empowerment;
- (11) Office of Homeland Security;~~and~~
- (12) Governor's Council on Wellness and Physical Activity; and
- (13) Governor's Office of Energy Policy.

(a) Utility Savings Council.

Section 4. KRS 56.776 is amended to read as follows:

The Finance and Administration Cabinet, with the assistance of the Governor's Office of Energy Policy within the Office of the Governor~~Commerce Cabinet~~, shall institute an energy audit training program to identify energy saving techniques for state-owned building maintenance staff. Additional programs shall be developed to educate state employees and other building occupants on energy awareness and practices to reduce energy use in state-owned buildings. Local government employees may be included in training and educational programs.

Section 5. KRS 56.790 is amended to read as follows:

- (1) The Energy Policy Advisory Council is hereby established for the purpose of assisting and advising the Governor's Office of Energy Policy. Membership shall consist of:
 - (a) Fifteen (15) members of the public, appointed by the Governor and representing various energy interests within the Commonwealth; and
 - (b) The executive director of the Governor's Office of Energy Policy who shall serve as a nonvoting member and as

chairman of the council.

- (2) (a) Each appointed member shall serve for a term of four (4) years.
- (b) Any member may be removed from his appointment by the Governor for cause.
- (c) Appointed members shall be reimbursed for travel costs incurred in attending meetings, which shall be paid from the funds of the Governor's Office of Energy Policy, and in compliance with the ~~Commerce Cabinet's~~ procedures for travel and reimbursement of the Office of the Governor.
- (3) (a) The chairman shall set the agenda, place, and time of meetings which shall be held a minimum of two (2) times a year and shall be held in accordance with the provisions of the Open Meetings Act, KRS 61.805 to 61.850.
- (b) A quorum for all council meetings shall consist of eight (8) of the appointed members.

Section 6. KRS 132.020 is amended to read as follows:

- (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes at the rate of:
 - (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100) of value of all real property directed to be assessed for taxation;
 - (b) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, upon the prior approval of the Kentucky Economic Development Finance Authority, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;
 - (c) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all qualifying voluntary environmental remediation property, provided the bona fide prospective purchaser has obtained a covenant not to sue from the Environmental and Public Protection Cabinet under KRS 224.01-526 for all known releases located on the property. This rate shall apply for a period of three (3) years following the issuance of the covenant not to sue, after which the regular tax rate shall apply;
 - (d) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all tobacco directed to be assessed for taxation;
 - (e) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of unmanufactured agricultural products;
 - (f) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations;
 - (g) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all livestock and domestic fowl;
 - (h) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;
 - (i) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all machinery actually engaged in manufacturing;
 - (j) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna;
 - (k) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all property which has been certified as a pollution control facility as defined in KRS 224.01-300;
 - (l) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390;
 - (m) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043;
 - (n) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods held for sale in the regular course of business, which includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business;
 - (o) Ten cents (\$0.10) per one hundred dollars (\$100) of assessed value on the operating property of railroads or railway companies that operate solely within the Commonwealth;
 - (p) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value on aircraft not used in the business of transporting persons or property for compensation or hire;
 - (q) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value on federally documented vessels

not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes; and

- (r) Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in KRS 132.030, 132.200, 136.300, and 136.320, providing a different tax rate for particular property.
- (2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%), excluding:
 - (a) The assessment of new property as defined in KRS 132.010(8);
 - (b) The assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
 - (c) The assessment from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1)(b) of this section. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.
- (3) By July 1 each year, the department shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (2) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the department shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the department, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the department, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.
- (4) If the tax rate set by the department as provided in subsection (2) of this section produces more than a four percent (4%) increase in real property tax revenues, excluding:
 - (a) The revenue resulting from new property as defined in KRS 132.010(8);
 - (b) The revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
 - (c) The revenue from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1) of this section;

the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

- (5) The provisions of subsection (2) of this section notwithstanding, the assessed value of unmined coal certified by the department after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (2) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars (\$400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Governor's Office of Energy Policy for the purpose of public education of coal-related issues.

Section 7. KRS 143.090 is amended to read as follows:

- (1) The Transportation Cabinet shall certify to the commissioner of the Department of Revenue by October 1 of each fiscal year the amount required for lease rental payments to the Kentucky Turnpike Authority for resource recovery road projects.
- (2) The Governor's Office of Energy Policy shall certify to the commissioner of the Department of Revenue by October 1 of each year the amount of the annual lease rental payments required to be made for any energy research developmental or demonstration project undertaken by the Governor's Office of Energy Policy. The amount so certified shall in no case exceed three million dollars (\$3,000,000) in any one (1) year.
- (3) Upon receiving the certifications provided for in subsections (1) and (2) of this section, the commissioner of the Department of Revenue shall cause the certified amounts to be deposited from the proceeds of the tax levied by KRS 143.020 to the credit of the transportation fund and the Governor's Office of Energy Policy, respectively, unless otherwise provided by the General Assembly in a budget bill, as follows:
 - (a) An amount equal to the amount certified by the Transportation Cabinet shall be deposited to the transportation fund (road fund); and
 - (b) An amount equal to the amount certified by the Governor's Office of Energy Policy shall be transferred by appropriate interfund transfer procedures to the Governor's Office of Energy Policy.
- (4) All tax levied by KRS 143.020 collected in excess of the amount required to be deposited to the transportation fund (road fund) or transferred to the Governor's Office of Energy Policy shall be deposited by the Department of Revenue to the

credit of the general fund.

- (5) If the proceeds of the tax levied by KRS 143.020 are less than the amounts certified under subsections (1) and (2) of this section, the commissioner of revenue shall prorate the proceeds to the transportation fund and the Governor's Office of Energy Policy based upon the ratio of each certified amount to the total of the two (2) certified amounts.

Section 8. KRS 148.522 is amended to read as follows:

- (1) The Commerce Cabinet shall consist of the Office of the Secretary, the Office of Legal Affairs, the Office of Finance and Administration, the Office of Intergovernmental Affairs, the Office of Human Resources, the Office of Public Affairs and Constituent Services, the Office of Information Technology, ~~the Office of Energy Policy,~~ the Office of the Kentucky Sports Authority, the Office of Arts and Cultural Heritage, the Office of Creative Services, the Office of Capital Plaza Operations, the Department of Tourism, the Kentucky Department of Parks, the Tourism Development Finance Authority, and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet subject to the provisions of KRS Chapter 12.
- (2) The Commerce Cabinet shall encourage the development of the film industry in Kentucky and shall perform all film promotional functions.
- (3) The Office of Legal Affairs shall be headed by a general counsel appointed by the secretary pursuant to KRS 12.210, shall provide legal services for the cabinet, and shall be directly responsible to the secretary.
- (4) The Department of Tourism shall be headed by a commissioner appointed by the Governor pursuant to the provisions of KRS 12.040. The commissioner shall have the authority and responsibility for the promotion, development, and support services for the tourism industry within the Commonwealth.
- (5) The Divisions of Tourism Services, Marketing and Advertising, and Parks Marketing are created within the Department of Tourism. Each division shall be headed by a division director who shall be appointed by the commissioner of the department pursuant to the provisions of KRS 12.050.

Section 9. KRS 152.720 is amended to read as follows:

To ensure that Kentucky will lead the states in securing the energy independence of the United States and will consequently benefit from economic growth and stabilization of the Commonwealth's coal industry and agriculture, the Governor's ~~Kentucky's~~ Office of Energy Policy shall develop and implement a strategy for production of transportation fuels and synthetic natural gas from fossil energy resources and biomass resources. The strategy shall address:

- (1) Technologies available or in use for producing transportation fuels and synthetic natural gas from fossil energy resources and biomass resources and the relative advantages of these in terms of process efficiencies, environmental performance, and marketable products, including chemicals, industrial feedstocks, and electricity;
- (2) Research, demonstration, and commercial-scale construction and operation of one (1) or more technologies, and follow-up expansion;
- (3) The essential nature of efficient cooperation, coordination, and synergy between the efforts of the Governor's Office of Energy Policy and those of Kentucky's universities in order to maximize Kentucky's opportunities to tap federal funding streams and receive research grants and awards from federal and other sources funding the development of clean coal technology, coal-to-liquid-fuel conversion, synthetic natural gas, alternate transportation fuels, and biomass energy resources;
- (4) Federal funds for research, development, construction, and operation of alternate fuels or synthetic natural gas plants at laboratory, demonstration, and commercial scale;
- (5) Establishment of a major federal energy research laboratory in Kentucky;
- (6) Industry participation, both by single firms and by consortia, in research, development, construction, and operation of alternate transportation fuels or synthetic natural gas plants;
- (7) Establishment or expansion of Kentucky state government incentives for development, construction, or operation of alternate transportation fuels and synthetic natural gas production facilities, including but not limited to financial incentives, tax incentives, mandating or providing incentives for use of alternate transportation fuels and synthetic natural gas by state government, school districts, or utilities, authority to issue bonds, and acquisition and preliminary environmental assessment of industrial sites; and
- (8) Development of incentives to encourage energy conservation and renewable fuel and energy use and deployment including solar, wind, hydro, and other sources. State incentives should mirror those established at the federal level.

Section 10. KRS 152.725 is amended to read as follows:

On or before December 1, 2006, and every three (3) months thereafter, the Governor's ~~Kentucky's~~ Office of Energy Policy shall report to the Governor and the Special Subcommittee on Energy its findings and any further legislative recommendations needed to implement the strategy defined in KRS 152.710 to 152.725.

Section 11. KRS 224.10-103 is amended to read as follows:

~~{(4)}~~—In addition to the powers and duties set out in this and other chapters of the Kentucky Revised Statutes that are vested in the cabinet and the secretary to protect and enhance the state's natural resources and environment, the cabinet and the secretary are

also vested with the powers and duties previously vested in the Public Protection and Regulation Cabinet and the Labor Cabinet, and the secretaries of those cabinets, so long as those powers and duties are not contrary to or in conflict with the organization of the cabinet established by statute or by executive order of the Governor, as ratified by the General Assembly.

~~[(2) The Office of Energy Policy shall be transferred to the Commerce Cabinet, Office of the Secretary. All personnel, functions, powers, and duties of the Office of Energy Policy shall be transferred to the Commerce Cabinet.]~~

Section 12. KRS 224.46-850 is amended to read as follows:

- (1) It is the intent of the General Assembly that a regional integrated waste treatment and disposal demonstration facility contain an industrial park component. The approved site for a regional integrated waste treatment and disposal demonstration facility shall be of sufficient size to accommodate new industrial and commercial concerns that can utilize the energy by-products of the treatment technologies.
- (2) It shall be the responsibility of the Governor's Office of Energy Policy to establish a plan for and develop the industrial park component of a regional integrated waste treatment and disposal demonstration facility. The industrial park component, located on property contiguous with the treatment and disposal technologies, shall be designed so as to utilize energy generated from the waste treatment technologies.

Section 13. KRS 224.46-870 is amended to read as follows:

The Governor's Office of Energy Policy shall provide the cabinet with the information deemed necessary by the cabinet to project hazardous waste generation in the Commonwealth as required by KRS 224.10-100(24) and 224.46-830(2)(d).

Section 14. KRS 247.920 is amended to read as follows:

- (1) Application for an alcohol production exemption certificate shall be filed with the Department of Revenue in such manner and in such form as may be prescribed by regulations issued by the Department of Revenue and shall contain plans and specifications of the structure or structures including all materials incorporated and to be incorporated therein and a descriptive list of all equipment acquired or to be acquired by the applicant for the purpose of producing ethanol for fuel use and any additional information deemed necessary by the Department of Revenue for the proper administration of KRS 247.910 and this section. The Governor's Office of Energy Policy shall provide technical assistance and factual information as requested in writing by the Department of Revenue. If the Department of Revenue finds that the facility qualifies as an alcohol production facility as defined by KRS 247.910, it shall enter a finding and issue a certificate to that effect. The effective date of the certificate shall be the date of issuance of the certificate.
- (2) Before issuing an alcohol production tax exemption certificate, the Department of Revenue shall give notice in writing by mail to the Governor's Office of Energy Policy, and shall afford to the applicant and to the Governor's Office of Energy Policy an opportunity for a hearing. On like notice and opportunity for a hearing, the Department of Revenue shall on its own initiative revoke the certificate when any of the following appears:
 - (a) The certificate was obtained by fraud or misrepresentation;
 - (b) The holder of the certificate has failed substantially to proceed with the construction, reconstruction, installation, or acquisition of the alcohol production facilities; or
 - (c) The structure or equipment or both to which the certificate relates has ceased to be used for the primary purpose of alcohol production for fuel use and is being used for a different purpose.
- (3) If the circumstances so require, the Department of Revenue, in lieu of revoking the certificate, may modify it.
- (4) On mailing of notice of the action of the Department of Revenue revoking or modifying a certificate as provided in subsection (5) of this section, the certificate shall cease to be in force or shall remain in force only as modified as the case may require.
- (5) An alcohol production tax exemption certificate, when issued, shall be sent by certified mail to the applicant and the notice of issuance in the form of certified copies thereof shall be sent to the Governor's Office of Energy Policy. Notice of an order of the Department of Revenue denying, revoking, or modifying a certificate in the form of certified copies thereof shall be sent by certified mail to the applicant or the holder and shall be sent to the Governor's Office of Energy Policy. The applicant or holder and the Governor's Office of Energy Policy shall be deemed parties for the purpose of the review afforded by subsection (6) of this section.
- (6) Any party aggrieved by the issuance, refusal to issue, revocation, or modification of an alcohol production tax exemption certificate may appeal from the final ruling of the Department of Revenue to the Kentucky Board of Tax Appeals as provided in KRS 131.340.
- (7) In the event of the sale, lease, or other transfer of an alcohol production facility, not involving a different location or use, the holder of an alcohol production tax exemption certificate for the facility may transfer the certificate by written instrument to the person who, except for the transfer of the certificate, would be obligated to pay taxes on the facility. The transferee shall become the holder of the certificate and shall have all rights pertaining thereto, effective as of the date of transfer of the certificate. The transferee shall give written notice of the effective date of the transfer, together with a copy of the instrument of transfer to the Governor's Office of Energy Policy and the Department of Revenue.
- (8) In the event an alcohol production facility for which an exemption certificate is held ceases to be used for the primary purpose of alcohol production for fuel use or is used for a different purpose other than that for which the exemption

certificate was granted, the holder of the certificate shall give written notice by certified mail of the change to the Governor's Office of Energy Policy and to the Department of Revenue.

- (9) The alcohol production facility exemption certificate, upon approval, shall exempt said facilities from taxes outlined in the provisions of KRS 247.910 and this section and included in KRS Chapters 132, 136, 138, and 139. Each exemption certificate shall remain in force for a period of eight (8) years from the date of issuance and at the end of said period shall lapse. Any alcohol production facility previously exempted under the terms of KRS 247.910 and this section shall not be eligible for recertification upon completion of the eight (8) year certificate period.

Section 15. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 16. Notwithstanding the provisions of KRS 12.028, the General Assembly confirms Executive Order 2006-1299, dated October 12, 2006, and Executive Order 2006-692, dated June 20, 2006, to the extent that they are not otherwise confirmed or superseded by this Act.

SB 144, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.420 is amended to read as follows:

The Department of Kentucky State Police shall furnish adequate protection for the property and facilities of the General Assembly and the Legislative Research Commission, both during and between sessions of the General Assembly, and shall render such additional security services as may be required by the co-chairmen of the Legislative Research Commission.

Section 2. KRS 7.111 is amended to read as follows:

- (1) The Department of Kentucky State Police, Department of Corrections, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Administrative Office of the Courts shall provide access to their databases and the centralized criminal history record information system and the data contained therein to other criminal justice agencies, including criminal justice statistical analysis centers, and to the Legislative Research Commission. The right of access granted herein shall not include the right to add to, delete, or alter data without permission of the agency holding the data.
- (2) Criminal justice agencies and the Legislative Research Commission shall not make public information on an individual person's criminal history record where such record is protected by state or federal law or regulation.
- (3) The Legislative Research Commission shall have access to information which does not identify an individual person when determined by the director of the Legislative Research Commission to be necessary for a legislative purpose.
- (4) The Legislative Research Commission shall have access to individual persons' criminal history records subject to the following provisions:
 - (a) Access shall not include information on federal offenses or convictions;
 - (b) Access shall not include information on out-of-state convictions; and
 - (c) Requests for the release of the information shall be approved by the Legislative Research Commission by vote at a meeting of the Commission.

Section 3. KRS 11.065 is amended to read as follows:

- (1) The secretaries of the Justice and Public Safety Cabinet, the Education Cabinet, the Environmental and Public Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Cabinet for Health and Family Services, the Finance and Administration Cabinet, the Commerce Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.
- (2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.
- (3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 4. KRS 11.160 is amended to read as follows:

- (1) When a statute specifically requires Senate confirmation of an appointment by the Governor or by other appointing authority, the appointment shall be handled in the following manner:
 - (a) All names of persons nominated when the General Assembly is not in session shall be submitted for confirmation no later than the next regular session of the General Assembly. The Governor who makes the appointment, or other

appointing authority, shall deliver the name of the nominee to the clerk of the Senate upon appointment or no later than the fifteenth legislative day of the next regular session of the General Assembly. The Governor may submit a nominee for confirmation at any special session that occurs between the date of initial appointment and the next regular session of the General Assembly. If the Governor desires to submit the name of a nominee for confirmation at a special session of the General Assembly, he shall place confirmation of the nominee on the call for special session.

- (b) All names of persons nominated to positions during a regular session of the General Assembly shall be submitted for confirmation at that regular session.

The Governor who makes the appointment, or other appointing authority, shall submit the name of the nominee, together with such accompanying information as may expedite the consideration of the appointment to the clerk of the Senate not more than three (3) legislative days after making the appointment, unless the appointment is made during the last fifteen (15) legislative days, in which case the nominee's name and information shall be submitted not more than one (1) legislative day later.

- (c) For each nominee, the Governor who makes the appointment, or other appointing authority, shall deliver to the clerk of the Senate a letter of appointment. The letter of appointment shall be accompanied by a resume which contains at least the following information:

1. Complete employment history of the nominee;
2. Complete educational background of the nominee; and
3. Current and past employment by or financial relationships with the Commonwealth of Kentucky or any of its political subdivisions held by the nominee and any member of the nominee's immediate family.

- (d) When a statute requires an interim legislative committee to hold a public hearing on a particular appointment, the Governor who makes the appointment, or other appointing authority, shall deliver the letter of appointment and resume for each nominee to the Legislative Research Commission within seven (7) days after making the appointment.

- (e) The Legislative Research Commission may utilize the services of its staff or other appropriate persons or organizations to investigate the background of nominees and to verify the information provided. The Department of Kentucky State Police shall conduct and provide a criminal record history on a nominee if requested by the Legislative Research Commission.

- (f) During periods when the General Assembly is not in session, the Governor's or other appointing authority's power of appointment shall not be diminished, and nominees may assume the responsibilities of the position pending confirmation. During that period, they shall be considered for all purposes to have been appointed and to be lawful occupants of the post to which they have been nominated, except that they shall be subject to the confirmation process when the General Assembly is next in regular session or special session called for the purpose of confirming the nominees.

- (g) If the Governor who makes the appointment, or other appointing authority, fails to submit the name of the nominee or if the Senate declines to consider a nominee, the position shall become vacant as of sine die adjournment of the applicable special or regular session of the General Assembly at which the appointment was to be confirmed. If the Senate declines to confirm the nominee, the position shall become vacant upon the date the Senate declined to confirm.

- (h) Any person not confirmed by the Senate shall not be reappointed by the Governor, or other appointing authority, to the same position for which confirmation is required for a period of two (2) years from the date the Senate declined to confirm the nomination or the date of sine die adjournment if the Senate declined to consider the nomination.

- (2) When a statute specifically requires Senate and House of Representatives confirmation of an appointment by the Governor or by other appointing authority, the appointment shall be handled in the following manner:

- (a) All names of persons nominated when the General Assembly is not in session shall be submitted for confirmation no later than the next regular session of the General Assembly. The Governor who makes the appointment, or other appointing authority, shall deliver the name of the nominee to the clerk of the House of Representatives no later than the fifteenth legislative day of the next regular session of the General Assembly. The Governor may submit a nominee for confirmation at any special session that occurs between the date of initial appointment and the next regular session of the General Assembly. If the Governor desires to submit the name of a nominee for confirmation at a special session of the General Assembly, he shall place confirmation of the nominee on the call for special session.

- (b) All names of persons nominated to positions during a regular session of the General Assembly shall be submitted for confirmation at that regular session. The Governor who makes the appointment, or other appointing authority, shall submit the name of the nominee to the clerk of the House of Representatives not more than three (3) legislative days after making the appointment, unless the appointment is made during the last fifteen (15) legislative days, in which case the nominee's name and information shall be submitted not more than one (1) legislative day later.

- (c) For each nominee, the Governor who makes the appointment, or other appointing authority, shall deliver to the clerk of the House of Representatives a letter of appointment. The letter of appointment shall be accompanied by a resume which contains at least the following information:
 - 1. Complete employment history of the nominee;
 - 2. Complete educational background of the nominee; and
 - 3. Current and past employment by or financial relationships with the Commonwealth of Kentucky or any of its political subdivisions held by the nominee and any member of the nominee's immediate family.
- (d) When a statute requires an interim legislative committee to hold a public hearing on a particular appointment, the Governor who makes the appointment, or other appointing authority, shall deliver the letter of appointment and resume for each nominee to the Legislative Research Commission within seven (7) days after making the appointment.
- (e) The Legislative Research Commission may utilize the services of its staff or other appropriate persons or organizations to investigate the background of nominees and to verify the information provided. The Department of Kentucky State Police shall conduct and provide a criminal record history on a nominee if requested by the Legislative Research Commission.
- (f) The confirmation shall originate in the House of Representatives. If the House of Representatives does not confirm an appointment, the Senate shall not consider the appointment.
- (g) When both the Senate and the House of Representatives have confirmed an appointment, the Senate shall notify the House of Representatives of the final approval. The clerk of the House shall then notify the Governor, or other appointing authority, and the appointee in writing of the General Assembly's action.
- (h) During periods when the General Assembly is not in session, the Governor's or other appointing authority's power of appointment shall not be diminished, and nominees may assume the responsibilities of the position pending confirmation. During that period, they shall be considered for all purposes to have been appointed and to be lawful occupants of the post to which they have been nominated, except that they shall be subject to the confirmation process when the General Assembly is next in regular session or special session called for the purpose of confirming the nominees.
- (i) If the Governor who makes the appointment, or other appointing authority, fails to submit the name of the nominee or if the House of Representatives or the Senate declines to consider a nominee, the position shall become vacant as of sine die adjournment of the regular session of the General Assembly at which the appointment was to be confirmed. If the House of Representatives or the Senate declines to confirm the nominee, the position shall become vacant upon the date that a chamber of the General Assembly first declined to confirm.
- (j) Any person not confirmed by the House of Representatives or the Senate shall not be reappointed by the Governor, or other appointing authority, to the same position for which confirmation is required for a period of two (2) years from the date that a chamber of the General Assembly first declined to confirm the nomination, or the date of sine die adjournment if the House of Representatives or the Senate declined to consider the nomination.

Section 5. KRS 11.515 is amended to read as follows:

- (1) There is hereby established a Geographic Information Advisory Council to advise the executive director of the Commonwealth Office of Technology on issues relating to geographic information and geographic information systems.
- (2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.
- (3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.
- (4) The Geographic Information Advisory Council shall consist of twenty-four (24) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.
 - (a) The council shall consist of:
 - 1. The secretary of the Transportation Cabinet or his designee;
 - 2. The secretary of the Cabinet for Health and Family Services or his or her designee;
 - 3. The director of the Kentucky Geological Survey or his designee;
 - 4. The secretary of the Finance and Administration Cabinet or his designee;
 - 5. The executive director of the Commonwealth Office of Technology or her or his designee;
 - 6. The secretary of the Economic Development Cabinet or his designee;
 - 7. The commissioner of the Department for Local Government or his designee;

8. The secretary of the Justice *and Public Safety* Cabinet or his designee;
 9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
 10. The adjutant general of the Department of Military Affairs or his designee;
 11. The commissioner of the Department of Education or his designee;
 12. The secretary of the Environmental and Public Protection Cabinet or his designee;
 13. The Commissioner of the Department of Agriculture or his designee;
 14. The secretary of the Commerce Cabinet or his designee;
 15. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
 16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
 17. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
 18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
 19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
 20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;
 21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
 22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.
- (b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.
- (5) The chair shall be appointed by the Governor. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.
- (6) A member of the council shall not:
- (a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;
 - (b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;
 - (c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;
 - (d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;
 - (e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or
 - (f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.
- (7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.
- (8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.
- (9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.
- (10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.
- Section 6. KRS 11.5163 is amended to read as follows:
- (1) The executive director shall establish and implement a statewide public safety interoperability plan. This plan shall include

the development of required architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. The Kentucky Wireless Interoperability Executive Committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies. The executive director shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The executive director shall report by September 15 annually to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and the Interim Joint Committee on State Government on progress and activity by agencies of the Commonwealth to comply with standards to achieve public safety communications interoperability.

- (2) The Kentucky Wireless Interoperability Executive Committee shall serve as the advisory body for all wireless communications strategies presented by agencies of the Commonwealth and local governments. All state agencies in the Commonwealth shall present all project plans for primary wireless public safety voice or data communications systems for review and recommendation by the committee, and the committee shall forward the plans to the executive director for final approval. Local government entities shall present project plans for primary wireless public safety voice or data communications systems for review and recommendation by the Kentucky Wireless Interoperability Executive Committee.
- (3) The committee shall develop funding and support plans that provide for the maintenance of and technological upgrades to the public safety shared infrastructure, and shall make recommendations to the executive director, the Governor's Office for Policy and Management, and the General Assembly.
- (4) The executive director shall examine the project plans for primary wireless public safety voice or data communications systems of state agencies as required by subsection (2) of this section, and shall determine whether they meet the required architecture and standards for primary wireless public safety voice or data communications systems.
- (5) The Kentucky Wireless Interoperability Executive Committee shall consist of twenty-one (21) members as follows:
 - (a) A person knowledgeable in the field of wireless communications appointed by the executive director who shall serve as chair;
 - (b) The executive director of the Office of Infrastructure Services, Commonwealth Office of Technology;
 - (c) The executive director of the Office of the 911 Coordinator;
 - (d) The executive director of Kentucky Educational Television, or the executive director's designee;
 - (e) The chief information officer of the Transportation Cabinet;
 - (f) The chief information officer of the Justice and Public Safety Cabinet;
 - (g) The chief information officer of the Department of Kentucky State Police;
 - (h) The commissioner of the Department of Fish and Wildlife Resources, or the commissioner's designee;
 - (i) The chief information officer of the Environmental and Public Protection Cabinet;
 - (j) The director of the Division of Emergency Management, Department of Military Affairs;
 - (k) The executive director of the Kentucky Office of Homeland Security;
 - (l) The chief information officer, Department for Public Health, Cabinet for Health and Family Services;
 - (m) A representative from an institution of postsecondary education appointed by the Governor from a list of three (3) names submitted by the president of the Council on Postsecondary Education;
 - (n) The executive director of the Center for Rural Development, or the executive director's designee;
 - (o) A representative from a municipal government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities;
 - (p) A representative from a county government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Counties;
 - (q) A representative from a municipal police department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Chiefs of Police;
 - (r) A representative from a local fire department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Fire Chiefs;
 - (s) A representative from a county sheriff's department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Sheriffs' Association;
 - (t) A representative from a local Emergency Medical Services agency to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Board of Emergency Medical Services; and
 - (u) A representative from a local 911 dispatch center to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Chapter of the National Emergency Number Association/Association of Public Safety Communications Officials.
- (6) Appointed members of the committee shall serve for a two (2) year term. Members who serve by virtue of an office shall serve on the committee while they hold that office.

- (7) The committee shall meet quarterly, or as often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.
- (8) The committee shall be attached to the Commonwealth Office of Technology for administrative purposes only. Members shall not be paid, and shall not be reimbursed for travel expenses.
- (9) The Public Safety Working Group is hereby created for the primary purpose of fostering cooperation, planning, and development of the public safety frequency spectrum as regulated by the Federal Communications Commission, including the 700 MHz public safety band. The group shall endeavor to bring about a seamless, coordinated, and integrated public safety communications network for the safe, effective, and efficient protection of life and property. The Public Safety Working Group membership and other working group memberships deemed necessary shall be appointed by the chair of the Kentucky Wireless Interoperability Executive Committee.
- (10) The committee may establish additional working groups as determined by the committee.

Section 7. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
4. Department of Law.
 - (a) Attorney General.
5. Department of the Treasury.
 - (a) Treasurer.
6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

1. Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy~~Offices of the Deputy Secretaries~~.
 - (g) Office of Legal Services~~General Counsel~~.
 - (h) Office of the~~Division of~~ Kentucky State Medical Examiner~~Examiners Office~~.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services~~Commission on Correction and Community Service~~.
 - (l) Office of Management and Administrative Services.
 - (m) Office of Public Safety Training.

(n) Office of Investigations.

(o) Department of Kentucky Vehicle Enforcement.

(p) Department for Public Advocacy.

2. Education Cabinet:

- (a) Office of the Secretary.
- (b) Office of Legal Services.
 - 1. Client Assistance Program.
- (c) Office of Communication.
- (d) Office of Legislative and Intergovernmental Affairs.
- (e) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - 3. Division of Technology Services.
- (f) Board of Directors for the Center for School Safety.
- (g) Council on Postsecondary Education.
 - 1. Foundation for Adult Education.
- (h) Department of Education.
 - 1. Kentucky Board of Education.
- (i) Department for Libraries and Archives.
- (j) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Career and Technical Education.
 - 4. Office of Employment and Training.
- (k) Foundation for Workforce Development.
- (l) Kentucky Office for the Blind State Rehabilitation Council.
- (m) Kentucky Technical Education Personnel Board.
- (n) Kentucky Workforce Investment Board.
- (o) Statewide Council for Vocational Rehabilitation.
- (p) Statewide Independent Living Council.
- (q) Unemployment Insurance Commission.
- (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.

3. Environmental and Public Protection Cabinet:

- (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of Communications and Public Outreach.
 - 3. Office of Regulatory Affairs.
 - 4. Office of Legal Services.
 - 5. Office of Administrative and Information Services.
 - 6. Office of Administrative Hearings.
 - 7. Office of Inspector General.
 - 8. Mine Safety Review Commission.

9. Workers' Compensation Board.
 10. Kentucky State Nature Preserves Commission.
 11. Kentucky Environmental Quality Commission.
 12. Kentucky Occupational Safety and Health Review Commission.
- (b) Department for Environmental Protection.
1. Office of the Commissioner.
 2. Division of Air Quality.
 3. Division of Water.
 4. Division of Environmental Services.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
1. Office of the Commissioner.
 2. Office of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas Conservation.
 7. Office of Mine Safety and Licensing.
 8. Division of Forestry.
 9. Division of Conservation.
- (d) Department of Public Protection.
1. Office of the Commissioner.
 2. Division of Administrative Services.
 3. Crime Victims Compensation Board.
 4. Board of Claims.
 5. Board of Tax Appeals.
 6. Kentucky Boxing and Wrestling Authority.
 7. Kentucky Horse Racing Authority.
 8. Kentucky Public Service Commission.
 9. Office of Alcoholic Beverage Control.
 10. Office of Charitable Gaming.
 11. Office of Financial Institutions.
 12. Office of Housing, Buildings and Construction.
 13. Office of Insurance.
- (e) Department of Labor.
1. Office of the Commissioner.
 2. Office of Occupational Safety and Health.
 3. Office of Labor Management Relations and Mediation.
 4. Office of Workplace Standards.
 5. Office of Workers' Claims.
 6. Workers' Compensation Funding Commission.
 7. Kentucky Labor Management Advisory Council.
 8. Occupational Safety and Health Standards Board.
 9. Prevailing Wage Review Board.
 10. Kentucky Employees Insurance Association.
 11. Apprenticeship and Training Council.

12. State Labor Relations Board.
 13. Workers' Compensation Advisory Council.
 14. Workers' Compensation Nominating Commission.
 15. Employers' Mutual Insurance Authority.
 16. Division of Administrative Services.
4. Transportation Cabinet:
- (a) Department of Highways.
 1. Office of Program Planning and Management.
 2. Office of Project Development.
 3. Office of Construction and Operations.
 4. Office of Intermodal Programs.
 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Aviation.
 - (e) Department of Intergovernmental Programs.
 1. Office of Transportation Enhancement Programs.
 2. Office of Rural and Secondary Roads.
 - (f) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of Public Affairs.
 3. Office of Transportation Delivery.
 4. Office for Business and Occupational Development.
 5. Office of Budget and Fiscal Management.
 6. Office of Legal Services.
 7. Office of Inspector General.
 8. Office of the Transportation Operations Center.
 9. Office of Personnel Management.
5. Cabinet for Economic Development:
- (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
 - (g) Office of Research and Information Technology.
 - (h) Department of Commercialization and Innovation.
 - (i) Office of Legal Services.
 - (j) Commission on Small Business Advocacy.
6. Cabinet for Health and Family Services:
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission for Children with Special Health Care Needs.
 - (e) Office of Health Policy.
 - (f) Office of the Secretary.
 - (g) Office of Legal Services.
 - (h) Office of Inspector General.

- (i) Office of Legislative and Public Affairs.
 - (j) Department for Community Based Services.
 - (k) Department for Disability Determination Services.
 - (l) Office of the Ombudsman.
 - (m) Department for Human Support Services.
 - (n) Kentucky Commission on Community Volunteerism and Service.
 - (o) Office of Fiscal Services.
 - (p) Office of Human Resource Management.
 - (q) Office of Technology.
 - (r) Office of Contract Oversight.
 - (s) Governor's Office of Wellness and Physical Activity.
7. Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Department for Facilities and Support Services.
 - (f) Department of Revenue.
 - (g) Commonwealth Office of Technology.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Savings Bond Authority.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) County Officials Compensation Board.
 - (l) Kentucky Employees Retirement Systems.
 - (m) Commonwealth Credit Union.
 - (n) State Investment Commission.
 - (o) Kentucky Housing Corporation.
 - (p) Kentucky Local Correctional Facilities Construction Authority.
 - (q) Kentucky Turnpike Authority.
 - (r) Historic Properties Advisory Commission.
 - (s) Kentucky Tobacco Settlement Trust Corporation.
 - (t) State Board for Proprietary Education.
 - (u) Kentucky Higher Education Assistance Authority.
 - (v) Kentucky River Authority.
 - (w) Kentucky Teachers' Retirement System Board of Trustees.
8. Commerce Cabinet:
- (a) Department of Tourism.
 - (1) Division of Tourism Services.
 - (2) Division of Marketing and Advertising.
 - (3) Division of Parks Marketing.
 - (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Personnel and Payroll.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Project Administration.
 - (6) Division of Customer Services.
 - (7) Division of Recreation.

2007 Regular Session

- (8) Division of Golf Courses.
- (9) Division of Food Services.
- (10) Division of Rangers.
- (11) Division of Eastern Parks.
- (12) Division of Southern Parks.
- (13) Division of Western Parks.
- (c) Department of Fish and Wildlife Resources.
 - (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.
 - (3) Division of Engineering.
 - (4) Division of Fisheries.
 - (5) Division of Information and Education.
 - (6) Division of Wildlife.
 - (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
 - (1) Division of Expositions and Admission.
 - (2) Division of Kentucky Fair and Exposition Center Operations.
 - (3) Division of Commonwealth Convention Center.
 - (4) Division of Public Relations and Media.
 - (5) Division of Administrative Services.
 - (6) Division of Personnel Management and Staff Development.
 - (7) Division of Sales.
 - (8) Division of Security and Traffic Control.
- (f) Office of the Secretary.
- (g) Office of Finance and Administration.
- (h) Office of Legal Affairs.
- (i) Office of Intergovernmental Affairs.
- (j) Office of Human Resources.
- (k) Office of Public Affairs and Constituent Services.
- (l) Office of Information Technology.
- (m) Office of the Kentucky Sports Authority.
 - (1) Kentucky Sports Authority Board.
- (n) Office of Creative Services.
- (o) Office of Capital Plaza Operations.
- (p) Office of Energy Policy.
 - (1) Energy Policy Advisory Council.
- (q) Office of Arts and Cultural Heritage.
- (r) Kentucky African-American Heritage Commission.
- (s) Kentucky Foundation for the Arts.
- (t) Kentucky Humanities Council.
- (u) Kentucky Heritage Council.
- (v) Kentucky Arts Council.
- (w) Kentucky Historical Society.
 - (1) Division of Museums.

- (2) Division of Oral History and Educational Outreach.
- (3) Division of Research and Publications.
- (4) Division of Administration.
- (x) Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
- (y) Kentucky Artisans Center at Berea.
- (z) Martin Luther King Commission.
- (aa) Northern Kentucky Convention Center.
- (ab) Eastern Kentucky Exposition Center.
- 9. Personnel Cabinet:
 - (a) Office of the Secretary.
 - (b) Department for Personnel Administration.
 - (c) Office for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Office of Government Training.
 - (h) Department for Employee Insurance.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Department for Local Government.
- 3. Kentucky Commission on Human Rights.
- 4. Kentucky Commission on Women.
- 5. Department of Veterans' Affairs.
- 6. Kentucky Commission on Military Affairs.
- 7. Office of Minority Empowerment.
- 8. Governor's Council on Wellness and Physical Activity.

Section 8. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

- (1) Department of Military Affairs;
- (2) Department for Local Government;
- (3) Kentucky Commission on Human Rights;
- (4) Kentucky Commission on Women;
- (5) Kentucky Commission on Military Affairs;
- (6) Governor's Scholars Program;
- (7) Agricultural Development Board;
- (8) ~~Kentucky Agency for Substance Abuse Policy;~~
- (9) Kentucky Agricultural Finance Corporation;
- ~~(9) [(10)]~~ Office of Minority Empowerment;
- ~~(10) [(11)]~~ Office of Homeland Security; and
- ~~(11) [(12)]~~ Governor's Council on Wellness and Physical Activity.

Section 9. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

- (1) Justice and Public Safety Cabinet.
- (2) Education Cabinet.
- (3) Environmental and Public Protection Cabinet.
- (4) Transportation Cabinet.
- (5) Cabinet for Economic Development.

- (6) Cabinet for Health and Family Services.
- (7) Finance and Administration Cabinet.
- (8) Commerce Cabinet.
- (9) Personnel Cabinet.

Section 10. KRS 12.330 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:

- (1) As used in Sections 10, 11, and 12 of this Act~~[KRS 12.330 to 12.334]~~, "KY-ASAP" means the Kentucky Agency for Substance Abuse Policy.
- (2) ~~The Office of Drug Control Policy [Kentucky Agency for Substance Abuse Policy] is created and attached for administrative purposes to the Office of the Governor. KY-ASAP shall be headed by an executive director with experience in overseeing programs involving tobacco and substance abuse and shall have other staff as necessary to conduct its affairs.~~
- (3) ~~KY-ASAP~~ shall administer an endowment from interest generated through funds appropriated or gifts, donations, or funds received from any source. ~~The Office of Drug Control Policy [KY-ASAP]~~ may expend endowment principal, if necessary in its discretion, to carry out the purposes of Sections 10, 11, and 12 of this Act~~[KRS 12.330 to 12.334]~~. These expenditures from the endowment principal are hereby appropriated for this purpose.
- (3)~~(4)~~
 - (a) The Office of Drug Control Policy shall oversee the activities specified in Sections 10, 11, and 12 of this Act and provide administrative support to the seventeen (17) member KY-ASAP Board, which is created to oversee the activities of KY-ASAP. Membership of the board shall be appointed by the Governor and shall consist of the following:
 - 1. One (1) member representing the Kentucky Family Resource Youth Services Coalition, or a designee;
 - 2. One (1) member representing the Kentucky Health Department Association, or a designee;
 - 3. The secretary of the Cabinet for Health and Family Services, or designee;
 - 4. The secretary of the Justice and Public Safety Cabinet, or a designee;
 - 5. One (1) member representing the Division of Mental Health and Substance Abuse Services within the Department for Mental Health and Mental Retardation Services, Cabinet for Health and Family Services, or a designee;
 - 6. The commissioner of the Department for Public Health, Cabinet for Health and Family Services, or a designee;
 - 7. The executive director of the Office of Alcoholic Beverage Control, or a designee;
 - 8. The commissioner of the Department of Education;
 - 9. The director of the Administrative Office of the Courts, or a designee;
 - 10. One (1) member representing the Kentucky Association of Regional Programs, or a designee;
 - 11. One (1) member representing the Kentucky Heart Association, or a designee;
 - 12. One (1) member representing the Kentucky Lung Association, or a designee;
 - 13. One (1) member representing the Kentucky Cancer Society, or a designee;
 - 14. Two (2) members representing local tobacco addiction and substance abuse advisory and coordination boards; and
 - 15. Two (2) members representing private community-based organizations, whether for-profit or nonprofit, with experience in programs involving smoking cessation or prevention or alcohol or substance abuse prevention and treatment.
 - (b) Members shall serve for a term of four (4) years, may be reappointed, and may serve no more than two (2) consecutive terms. Members shall not be compensated but shall receive reimbursement for expenses incurred while performing board business.
 - (c) The board shall meet at least quarterly. A quorum of nine (9) members shall be required for the transaction of business. Meetings shall be held at the call of the chair, or upon the written request of two (2) members to the chair.
 - (d) The board shall:
 - 1. Oversee deposits and expenditures from the endowment;
 - 2. Request, in its discretion, an audit relating to the expenditure of endowment funds;
 - 3. Receive quarterly reports from the executive director regarding KY-ASAP's activities;
 - 4. Progress toward development and implementation of the strategic plan;
 - 5. Recommend to KY-ASAP the most efficient means for using public funds to coordinate, supplement, and support high quality and ongoing programs of all public agencies and private service providers related to smoking cessation and prevention and alcohol and substance abuse prevention and treatment;

6. Recommend matters for review and analysis by KY-ASAP; and
7. Perform other duties as necessary for the oversight of KY-ASAP.

~~(4)(5)}~~ **The Office of Drug Control Policy** and KY-ASAP shall promote the implementation of research-based strategies that target Kentucky's youth and adult populations.

~~(5)(6)}~~ **The Office of Drug Control Policy** and KY-ASAP shall vigorously pursue the philosophy that tobacco in the hands of Kentucky's youth is a drug abuse problem because of the addictive qualities of nicotine, and because tobacco is the most prevalent gateway drug that leads to later and escalated drug and alcohol abuse.

Section 11. KRS 12.332 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:

The Office of Drug Control Policy shall be responsible for all matters relating to the research, coordination, and execution of drug control policy and for the management of state and federal grants including but not limited to the prevention and treatment related to substance abuse. By December 31 of each year, the Office of Drug Control Policy shall review, approve, and coordinate all current projects of any substance abuse program which is conducted by or receives funding through agencies of the executive branch. This oversight shall extend to all substance abuse programs which are principally related to the prevention or treatment, or otherwise targeted at the reduction, of substance abuse in the Commonwealth. The Office of Drug Control Policy shall promulgate administrative regulations consistent with enforcing this oversight authority. In addition, the Office of Drug Control Policy and KY-ASAP shall:

- (1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky;
- (2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and service providers;
- (3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse issues to ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse;
- (4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse prevention, education, or treatment;
- (5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and monitor related programs;
- (6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse prevention, cessation, and treatment programs. **The Office of Drug Control Policy and KY-ASAP shall identify gaps in information referral sources;**
- (7) Search for grant opportunities for existing programs within the Commonwealth;
- (8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;
- (9) Observe programs from other states;
- (10) Coordinate services among local and state agencies, including but not limited to the Justice **and Public Safety** Cabinet, the Cabinet for Health and Family Services, the Department of Agriculture, the Environmental and Public Protection Cabinet, the Administrative Office of the Courts, and the Education Cabinet;
- (11) Assure the availability of training, technical assistance, and consultation to local service providers for programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse;
- (12) Review existing research on programs related to smoking cessation and prevention and substance abuse prevention and treatment;
- (13) Comply with any federal mandate regarding smoking cessation and prevention and substance abuse, to the extent authorized by state statute;
- (14) Establish a mechanism to coordinate the distribution of funds to support any local prevention, treatment, and education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;
- (15) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;
- (16) Work with community-based organizations to encourage them to work together to establish comprehensive tobacco

addiction and substance abuse prevention education programs and carry out the strategic plan developed in this section. These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;

- (17) Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco addiction, substance abuse, and the development of other disease in children, young people, and adults. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently;
- (18) Certify to the Governor, the secretary of the Justice and Public Safety Cabinet, and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with the Office of Drug Control Policy and KY-ASAP, coordinated with community resources, and vigorously pursued the philosophy of the Office of Drug Control Policy and KY-ASAP;
- (19) Promulgate, with the approval of the secretary of the Justice and Public Safety Cabinet, any administrative regulations necessary to implement Sections 10, 11, and 12 of this Act ~~[KRS 12.330 to 12.334]~~; and
- (20) Report annually to the Legislative Research Commission and Governor ~~[by October 1, 2000]~~ regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semiannually to the Legislative Research Commission and Governor on the status of the Office of Drug Control Policy and KY-ASAP programs ~~[proper organization structure, devising and implementing an accountability system to be designed to ensure efficiency and efficacy of]~~ services, and grants, and on other matters as requested by the Legislative Research Commission and Governor.

Section 12. KRS 12.334 is repealed and reenacted as a new section of KRS Chapter 15A:

- (1) KY-ASAP shall establish in each county a local tobacco addiction and alcohol and substance abuse advisory and coordination board to assist in planning, overseeing, and coordinating the implementation of local programs related to smoking cessation and prevention and alcohol and substance abuse prevention, cessation, and treatment, although a single board may be established for multiple counties to ensure a comprehensive range of services. The board shall assist with the coordination of programs provided by public and private entities. If the existing programs of private service providers are of high quality, KY-ASAP shall concentrate on providing missing elements and support for those providers. The Cabinet for Health and Family Services shall support the communities' efforts.
- (2) KY-ASAP shall consult with community leaders to solicit the names of residents from the community to serve on each advisory and coordination board. KY-ASAP shall request from each board the submission of reasonable reports on the effectiveness, efficiency, and efforts of each local program, including recommendations for increased or decreased funding, and KY-ASAP shall supply information as necessary to the advisory and coordination board to enable it to carry out its functions.
- (3) KY-ASAP shall provide incentives to encourage multicounty advisory and coordination board requests and shall establish a single board to represent all counties making the request. Priority in establishing a board shall be given to existing regional prevention centers or coalitions, community organizations, or local Kentucky Incentives for Prevention (KIP) project coalitions. Membership shall consist of residents from each of the counties.
- (4) Each advisory and coordination board shall develop a long-term community strategy that is designed to reduce the incidence of youth and young adult smoking and tobacco addiction, promote resistance to smoking, reduce the incidence of substance abuse, and promote effective treatment of substance abuse. All county resources, both private and public, for-profit and nonprofit, shall be considered in developing this strategy.
 - (a) Employers, local leaders, schools, family resource and youth services centers, health care providers and institutions, economic developers, and other relevant local and regional entities shall be consulted in the development of the strategy.
 - (b) An assessment of needs and available services shall be included in the strategy.

Section 13. KRS 13B.020 is amended to read as follows:

- (1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.
- (2) The provisions of this chapter shall not apply to:
 - (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
 - (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;
 - (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
 - (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;

- (e) Administrative hearings conducted by the legislative and judicial branches of state government;
 - (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;
 - (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;
 - (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
 - (i) Administrative hearings exempted pursuant to subsection (3) of this section;
 - (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
 - (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.
- (3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:
- (a) Finance and Administration Cabinet
 - 1. Higher Education Assistance Authority
 - a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
 - b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33
 - 2. Department of Revenue
 - a. Any licensing and bond revocation hearings conducted under the authority of KRS 138.210 to 138.448 and 234.310 to 234.440
 - b. Any license revocation hearings under KRS 131.630 and 138.130 to 138.205
 - (b) Cabinet for Health and Family Services
 - 1. Office of Health Policy
 - a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
 - b. Licensure revocation hearings conducted under authority of KRS Chapter 216B
 - 2. Department for Community Based Services
 - a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630
 - 3. Department for Disability Determination Services
 - a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404
 - (c) Justice and Public Safety Cabinet
 - 1. Department of Kentucky State Police
 - a. Kentucky State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16
 - 2. Department of Corrections
 - a. Parole Board hearings conducted under authority of KRS Chapter 439
 - b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
 - c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197
 - 3. Department of Juvenile Justice
 - a. Supervised placement revocation hearings conducted under KRS Chapter 635
 - (d) Environmental and Public Protection Cabinet
 - 1. Department for Natural Resources
 - a. Surface mining hearings conducted under authority of KRS Chapter 350
 - 2. Department for Environmental Protection
 - a. Wild River hearings conducted under authority of KRS Chapter 146
 - b. Water resources hearings conducted under authority of KRS Chapter 151
 - c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223
 - d. Environmental protection hearings conducted under authority of KRS Chapter 224
 - e. Petroleum Storage Tank Environmental Assurance Fund hearings under authority of KRS Chapter

224

3. Office of Workers' Claims
 - a. Workers' compensation hearings conducted under authority of KRS Chapter 342
 4. Kentucky Occupational Safety and Health Review Commission
 - a. Occupational safety and health hearings conducted under authority of KRS Chapter 338
 5. Department of Public Protection
 - a. Board of Claims
 - i. Liability hearings conducted under authority of KRS Chapter 44
 - b. Public Service Commission
 - i. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279
- (e) Education Cabinet
1. Unemployment Insurance hearings conducted under authority of KRS Chapter 341
- (f) Secretary of State
1. Registry of Election Finance
 - a. Campaign finance hearings conducted under authority of KRS Chapter 121
- (g) State universities and colleges
1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
 2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
 3. Campus residency hearings conducted under authority of KRS Chapter 164
 4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
 5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.
- (4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:
- (a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;
 - (b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or
 - (c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.
- (5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.
- (6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.
- Section 14. KRS 15.243 is amended to read as follows:
- (1) In addition to the other duties and powers of the Attorney General, he shall enforce all of the state's election laws by civil or criminal processes.
 - (2) The Attorney General shall:
 - (a) Devise and administer programs to observe the conduct of elections;
 - (b) Hold public hearings;
 - (c) Establish a toll-free telephone service for the purpose of receiving reports of election law violations. The service shall be operated during regular business hours throughout the year and during the hours which any poll in the state is open on the day of any primary, special election or regular election;
 - (d) Initiate investigations or investigate alleged violations of election laws at the request of a registered voter or on his own motion;

- (e) Issue subpoenas for the production of any books, papers, correspondence, memoranda or other records, and compel the attendance of witnesses that he deems relevant to the purposes of any investigation;
 - (f) Present evidence of alleged violations to a grand jury; and
 - (g) File appropriate complaints in any court of competent jurisdiction.
- (3) (a) The Attorney General shall be required to begin an independent inquiry for any potential irregularities that may have occurred in each election in not fewer than five percent (5%) of Kentucky's counties, to be selected at random in a public process, within twenty (20) days following each primary or regular election. No county shall be subject to inquiry under this subsection in two (2) consecutive elections.
- (b) The Attorney General shall report his findings to the grand jury of each county involved and to the chief circuit judge for the circuit in which the county is located.
- (4) When the Registry of Election Finance concludes there is probable cause to believe a violation of election laws has occurred, it shall forward the matter to the Attorney General for prosecution. In the event the Attorney General or local prosecutor fails to prosecute the matter in a timely fashion, the registry's attorney may petition the Circuit Court to be appointed as a special prosecutor. Upon such motion timely filed, for good cause shown, the court shall enter an order to that effect.
- (5) When requested by the Attorney General, all state and local agencies and officials, including the Auditor of Public Accounts, Commonwealth's attorneys, county attorneys, Registry of Election Finance, *Department of Kentucky* State Police, sheriffs' departments and local police shall give all possible assistance to the Attorney General in the performance of his duties.

Section 15. KRS 15.247 is amended to read as follows:

- (1) The Attorney General shall develop and administer a program for the protection of crime victims and witnesses and their immediate families.
- (2) Within the limits of the administrative regulations, guidelines, and appropriations for this purpose, the program shall provide funding to the *Department of Kentucky* State Police or to a sheriff's office or city or county police department agreeing to provide protection to crime victims and witnesses and their families.
- (3) Any Commonwealth's attorney or county attorney may apply to the Attorney General for funding for protection of crime victims, witnesses, and their families.
- (4) No protective service shall be rendered to the same person for more than six (6) months.
- (5) Protective services funded by this program shall be limited to:
 - (a) Physical protection of the person;
 - (b) Physical security measures for the person's residence, vehicle, workplace, or combination thereof; or
 - (c) Short-term relocation.
- (6) The Attorney General shall promulgate administrative regulations under KRS Chapter 13A for the operation of the program.
- (7) Nothing in this statute shall be construed to create a cause of action for money damages against the state, a county, a municipality, or any of their agencies, public officials, or employees.
- (8) No court shall order a law enforcement agency to protect crime victim witnesses or their immediate families.
- (9) No record that may lead to the identity of a person seeking or given protection under this section shall be an open record. This protection shall extend even to the question of whether such a record exists.

Section 16. KRS 15.280 is amended to read as follows:

- (1) A Criminal Justice Statistical Analysis Center is hereby created as part of the Kentucky Justice *and Public Safety* Cabinet.
- (2) The Criminal Justice Statistical Analysis Center shall provide its reports and recommendations to the Governor and the General Assembly through the Kentucky Criminal Justice Council.
- (3) The Criminal Justice Statistical Analysis Center shall:
 - (a) Improve the quality and usefulness of criminal justice statistics and research results that are disseminated to citizens, public agencies, and private agencies in Kentucky; ~~by:~~
 - 1. ~~Conducting periodic needs assessments of criminal justice agencies;~~
 - 2. ~~Analyzing offender-based tracking data;~~
 - 3. ~~Conducting specialized studies that use statistical data which are presently maintained by state and local agencies in Kentucky; and~~
 - 4. ~~Supporting the implementation of a statewide Unified Criminal Justice Information System through the Unified Criminal Justice Information System Committee of the Kentucky Criminal Justice Council;~~
 - (b) *Publish* ~~Increase the ability of statistical users to translate data and research results into practice by:~~
 - 1. ~~Publishing~~ research results and statistical data that are requested by criminal justice agencies; ~~and~~

~~2. Conducting conferences and workshops on the use of statistical information;~~

- (c) Improve the relationship between citizens and criminal justice agencies of Kentucky by conducting citizen surveys of the needs, attitudes, and behavior relating to crime and justice; and
- (d) Strengthen the relationship between~~the~~ Kentucky criminal justice agencies and the~~National~~ Bureau of Justice Statistics, United States Department of Justice, by:
 - 1. Providing justice statistics to the Bureau of Justice Statistics as required; and
 - 2. Serving as a clearinghouse for Bureau of Justice Statistics materials.
- (4) The Kentucky Justice and Public Safety Cabinet may expend any federal grants or federal funds provided for carrying out the functions and authority as assigned in this section. Further, the Kentucky Justice and Public Safety Cabinet~~through the Kentucky Criminal Justice Council~~ may employ such employees as may be necessary to fulfill the duties, responsibilities, and functions assigned by this section.

Section 17. KRS 15.310 is amended to read as follows:

As used in KRS 15.315 to 15.510, 15.990, and 15.992, unless the context otherwise requires:

- (1) "Basic training course" means the peace officer basic training course provided by the Department of Criminal Justice Training or a course approved and recognized by the Kentucky Law Enforcement Council;
- (2) "Certified peace officer" means a peace officer who is certified under KRS 15.380 to 15.402;
- (3) "Certification" means the act by the council of issuing certification to a peace officer who successfully completes the training requirements pursuant to KRS 15.404 and the requirements set forth within this chapter;
- (4) "Council" means the Kentucky Law Enforcement Council established by KRS 15.315 to 15.510, 15.990, and 15.992;
- (5) "Department" means the Department of Criminal Justice Training of the Justice and Public Safety Cabinet;
- (6) "Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus security officers, law enforcement support personnel, public airport authority security officers, other public and federal peace officers responsible for law enforcement, and special local peace officers licensed pursuant to KRS 61.360;
- (7) "Peace officer" means a person defined in KRS 446.010;
- (8) "Secretary" means the secretary of the Justice and Public Safety Cabinet; and
- (9) "Validated job task analysis" means the minimum entry level qualifications and training requirements for peace officers in the Commonwealth based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

Section 18. KRS 15.315 is amended to read as follows:

The Kentucky Law Enforcement Council is hereby established as an independent administrative body of state government to be made up as follows:

- (1) The Attorney General of Kentucky, the commissioner of the Department of Kentucky State Police, directors of the Southern Police Institute of the University of Louisville, the dean of the College of Justice and Safety~~Law Enforcement~~ of Eastern Kentucky University, the president of the Kentucky Peace Officers Association, the president of the Kentucky Association of Chiefs of Police, the Kentucky president of the Fraternal Order of Police, and the president of the Kentucky Sheriffs' Association shall be ex officio members of the council, as full voting members of the council by reason of their office. The United States attorneys for the Eastern and Western Districts of Kentucky may confer and designate a local law enforcement liaison who~~Kentucky special agent in charge of the Federal Bureau of Investigation~~ shall serve on the council in an advisory capacity only without voting privileges. Each ex officio member may designate in writing a person to represent him or her and to vote on his or her behalf.
- (2) Twelve (12)~~Eleven (11)~~ members shall be appointed by the Governor for terms of four (4) years from the following classifications: a city manager or mayor, a county judge/executive, three (3) Kentucky sheriffs, a member of the Kentucky State Bar Association, five (5) chiefs of police, and a citizen of Kentucky not coming within the foregoing classifications. No person shall serve beyond the time he or she holds the office or employment by reason of which he or she was initially eligible for appointment. Vacancies shall be filled in the same manner as the original appointment and the successor shall be appointed for the unexpired term. Any member may be appointed for additional terms.
- (3) No member may serve on the council with the dual membership as the representative of more than one (1) of the aforementioned groups or the holder of more than one (1) of the aforementioned positions. In the event that an existing member of the council assumes a position entitling him to serve on the council in another capacity, the Governor shall appoint an additional member from the group concerned to prevent dual membership.
- (4) Membership on the council does not constitute a public office, and no member shall be disqualified from holding public office by reason of his membership.

Section 19. KRS 15.330 is amended to read as follows:

- (1) The council is vested with the following functions and powers:
 - (a) To prescribe standards for the approval and continuation of approval of schools at which law enforcement and telecommunications training courses required under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992 shall be conducted, including but not limited to minimum standards for facilities, faculty, curriculum, and hours of attendance related thereto;
 - (b) To prescribe minimum qualifications for instructors at such schools, except that institutions of higher education shall be exempt from council requirements;
 - (c) To prescribe qualifications for attendance and conditions for expulsion from such schools;
 - (d) To prescribe minimum standards and qualifications for voluntary career development programs for certified peace officers and telecommunicators, including minimum standards for experience, education, and training, and to issue certificates to those meeting the minimum standards;
 - (e) To approve, to issue, and to revoke for cause certificates to schools and instructors as having met requirements under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992;
 - (f) To approve law enforcement officers, telecommunicators, and other persons as having met requirements under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992;
 - (g) To inspect and evaluate schools at any time and to require of schools, instructors, and persons approved or to be approved under the provisions of KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992, any information or documents;
 - (h) To promulgate reasonable rules and administrative regulations in accordance with KRS Chapter 13A to accomplish the purposes of KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992;
 - (i) To monitor the Law Enforcement Foundation Program as prescribed in KRS 15.410 to 15.510;
 - (j) To adopt bylaws for the conduct of its business not otherwise provided for; and
 - (k) The council shall have the authority to certify police officers as set out in this chapter.
- (2) The provisions of KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992 do not apply to the Department of Kentucky State Police except for the certification requirement established by this chapter.
Section 20. KRS 15.380 is amended to read as follows:
- (1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
 - (a) Department of Kentucky State Police officers, but for the commissioner of the Department of Kentucky State Police;
 - (b) City, county, and urban-county police officers;
 - (c) Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
 - (d) State or public university safety and security officers appointed pursuant to KRS 164.950;
 - (e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;
 - (f) Airport safety and security officers appointed under KRS 183.880;
 - (g) Office of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090;
 - (h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040; and
 - (i) County detectives appointed in a county containing a consolidated local government with the power of arrest in the county and the right to execute process statewide in accordance with KRS 69.360.
- (2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Personnel Cabinet for job specifications.
- (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.
- (4) The following officers may, upon request of the employing agency, be certified by the council:
 - (a) Deputy coroners;
 - (b) Deputy constables;
 - (c) Deputy jailers;
 - (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
 - (e) Officers appointed under KRS 61.360;
 - (f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;
 - (g) Private security officers;

- (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and
 - (i) Investigators employed by the Office of Charitable Gaming in accordance with KRS 238.510.
- (5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:
- (a) Sheriffs;
 - (b) Coroners;
 - (c) Constables;
 - (d) Jailers;
 - (e) Kentucky Horse Racing Authority security officers employed under KRS 230.240; and
 - (f) Commissioner of the Department of Kentucky State Police.
- (6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.

Section 21. KRS 15.398 is amended to read as follows:

The following Kentucky Revised Statutes and any administrative regulations promulgated thereunder affecting those peace officers required to be certified pursuant to KRS 15.380 to 15.404 shall not be superseded by the provisions of KRS 15.380 to 15.404, and in all instances the provisions of all statutes specified below shall prevail:

- (1) KRS Chapter 16, relating to Department of Kentucky State Police Officers;
- (2) KRS Chapter 70, relating to sheriffs, and deputy sheriffs;
- (3) KRS Chapter 78, relating to county police;
- (4) KRS Chapters 15 and 95, except for KRS 95.955, relating to city and urban-county police;
- (5) KRS Chapter 183, relating to airport safety and security officers;
- (6) KRS Chapter 164, relating to State Universities and Colleges; Regional Education and Archaeology officers;
- (7) KRS Chapter 18A, relating to all state peace officers;
- (8) KRS 241.090, relating to Office of Alcoholic Beverage Control field representatives and investigators;
- (9) KRS 304.47-040, relating to Division of Insurance Fraud Investigators; and
- (10) Any other statutes affecting peace officers not specifically cited herein.

Section 22. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

- (1) "Local unit of government" means any city or county, combination of cities and counties, state or public university, or county sheriff's office of the Commonwealth.
- (2) "Police officer" means a full-time member of a lawfully organized police department of county, urban-county or city government, a sheriff or full-time deputy sheriff, including any providing court security or appointed under KRS 70.030, or a state or public university police officer who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Department of Kentucky State Police, any sheriff who earns the maximum constitutional salary for this office, any special deputy sheriff appointed under KRS 70.045, any constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.
- (3) "Council" means the Kentucky Law Enforcement Council.
- (4) "Validated job task analysis" means the core job description which describes the minimum entry level requirements, qualifications, and training requirements for peace officers in the Commonwealth which is based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

Section 23. KRS 15.440 is amended to read as follows:

- (1) Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:
 - (a) Employs one (1) or more police officers;
 - (b) Pays every police officer at least the minimum federal wage;
 - (c) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972, and for all sheriffs appointed or elected on or after July 15, 1998, and all deputy sheriffs, and state or public university police officers employed after July 15, 1998; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection, and that all sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to July 15, 1998 shall be deemed to have met

the requirements of this subsection;

- (d) Requires all police officers employed on or after July 1, 1972, and all sheriffs appointed or elected on or after July 15, 1998, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998, to successfully complete a basic training course of at least six hundred forty (640) hours' duration within one (1) year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council. All sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998, shall be deemed to have met the requirements of this subsection. The council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, set the number of hours for basic training at a number higher than six hundred forty (640) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis;
- (e) Requires all police officers, whether originally employed before or after July 1, 1972, and all sheriffs appointed or elected before, on, or after July 15, 1998, and all deputy sheriffs and state or public police officers employed before, on, or after July 15, 1998, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council. This requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001;
- (f) Requires compliance with all provisions of law applicable to local police, state or public university police, or sheriffs and their deputies, including transmission of data to the centralized criminal history record information system as required by KRS 17.150; ~~and~~
- (g) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, state or public university police department, or sheriff's office, issued by the Justice and Public Safety Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510; and
- (h) Possesses a written policy and procedures manual related to domestic violence for law enforcement agencies that meets the standards set forth by, and has been approved by, the Justice and Public Safety Cabinet. The policy shall comply with the provisions of KRS 403.715 to 403.785. The policy shall include purpose statements; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for Families and Children, Department for Community Based Services; victim rights, assistance and service responsibilities; and duties related to timely completion of records.

- (2) No local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department, state or public university police department, or sheriff's office actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department, state or public university police department, or sheriff's office has substantially complied with subsection (1)(f) and (g) of this section.
- (3) A sheriff's office shall not lose eligibility to share in the distribution of funds from the Law Enforcement Foundation Program fund if the sheriff does not participate in the Law Enforcement Foundation Program fund.

Section 24. KRS 15.450 is amended to read as follows:

- (1) The secretary or his or her designated representative shall administer the Law Enforcement Foundation Program fund pursuant to the provisions of KRS 15.410 to 15.510 and may promulgate any administrative regulations as, in his or her judgment, are necessary to carry out his responsibilities under KRS 15.410 to 15.510. Administrative hearings promulgated by administrative regulation under authority of this section shall be conducted in accordance with KRS Chapter 13B.
- (2) The secretary or his designated representative shall determine which local units of government are eligible to share in the Law Enforcement Foundation Program fund and may withhold or terminate payments to any local unit that does not comply with the requirements of KRS 15.410 to 15.510 or the administrative regulations issued by the Justice and Public Safety Cabinet under KRS 15.410 to 15.510.
- (3) The Justice and Public Safety Cabinet shall, from moneys appropriated and accruing to the fund as provided under KRS 15.430, receive reimbursement for the salaries and other costs of administering the fund, including, but not limited to, council operations and expenses. The amount to be reimbursed for any given year shall be determined by the council and shall not exceed five percent (5%) of the total amount of funds for that year.
- (4) The Justice and Public Safety Cabinet shall furnish periodically to the council any reports as may be deemed reasonably necessary.

Section 25. KRS 15.470 is amended to read as follows:

Law Enforcement Foundation Program funds made available to local units shall be received, held, and expended in accordance with the provisions of KRS 15.410 to 15.510, including the administrative~~rules and~~ regulations promulgated~~issued~~ by the

Justice and Public Safety Cabinet, and the following specific restrictions:

- (1) Funds provided shall be used only as a cash salary supplement to police officers, for payments to the defined benefit pension plan to which the officer belongs to cover employer retirement costs on the cash salary supplement, and for administrative costs as provided in KRS 15.450;
- (2) Funds provided shall be used only to compensate police officers who have complied with KRS 15.440(1)(c), (d), and (e).
- (3) Each police officer shall be entitled to receive the state supplement which his qualifications brought to the local unit;
- (4) Funds provided shall not be used to supplant existing salaries or as a substitute for normal salary increases periodically due to police officers.

Section 26. KRS 15.480 is amended to read as follows:

The Finance and Administration Cabinet, on the certification of the Justice and Public Safety Cabinet, shall draw warrants as specified hereinafter on the State Treasurer for the amount of the Law Enforcement Foundation Program fund due each participating local unit. Checks shall be issued by the State Treasurer and transmitted to the Justice and Public Safety Cabinet for distribution to the proper officials of participating local units which have complied with the provisions of KRS 15.410 to 15.510 and the ~~administrative rules and~~ regulations of the Justice and Public Safety Cabinet. Beginning July 1, 1972, and on the first day of each month thereafter, the share of each eligible and participating local unit of government shall be distributed from the Law Enforcement Foundation Program fund.

Section 27. KRS 15.490 is amended to read as follows:

- (1) Each participating local unit of government shall submit reports to the Justice and Public Safety Cabinet on March 31, June 30, September 30 and December 31 of each year containing information relative to number, rank, education, training, and compensation of police officers employed by it and the disposition made of any state or other funds received pursuant to KRS 15.410 to 15.510. Nothing in this section shall prohibit the Justice and Public Safety Cabinet from requiring additional information or reports from participating local units of government;
- (2) Local units of government shall include the additional compensation paid to each police officer from the Law Enforcement Foundation Program fund as a part of the officer's salary in determining all payroll deductions.

Section 28. KRS 15.500 is amended to read as follows:

- (1) If funds appropriated by the General Assembly and otherwise made available to the Law Enforcement Foundation Program fund are insufficient to provide the amount of money required by KRS 15.460, the Justice and Public Safety Cabinet shall establish the rate of assistance to be paid to eligible local units of governments.
- (2) Funds unexpended by the Justice and Public Safety Cabinet at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund pursuant to KRS 15.430, 42.190 and 136.392, shall not lapse as provided by KRS 45.229, but shall be carried forward into the following fiscal year, and shall be used solely for the purposes specified in KRS 15.410 to 15.500.

Section 29. KRS 15.510 is amended to read as follows:

An appeal may be taken from any decision of the Justice and Public Safety Cabinet to withhold or terminate payment from the Law Enforcement Foundation Program fund to any local unit of government. Appeals shall be taken to the Circuit Court of the county where the controversy originates.

Section 30. KRS 15.540 is amended to read as follows:

- (1) An agency hiring a telecommunicator after July 15, 2006, shall certify to the Department of Criminal Justice Training before admission to the telecommunicator training program that the telecommunicator:
 - (a) Is a citizen of the United States and has reached the age of majority;
 - (b) Is a high school graduate or has received a general equivalency diploma (GED);
 - (c) Has not been convicted of a felony or other crimes involving moral turpitude as determined by submission of each applicant's fingerprints to the information systems section of the Department of Kentucky State Police and to the Federal Bureau of Investigation identification division, and by such other investigations as required by the hiring agency;
 - (d) Has taken a psychological suitability screening administered or approved by the Kentucky Law Enforcement Council to determine his or her suitability to perform the duties of a telecommunicator. Any agency that administers its own suitability screening shall certify the results to the department;
 - (e) Has taken a polygraph examination administered or approved by the Kentucky Law Enforcement Council to determine his or her suitability to perform the duties of a telecommunicator. Any agency that administers its own polygraph examination shall certify the results to the department; and
 - (f) Has passed a drug screening administered or approved by the Kentucky Law Enforcement Council. A person shall be deemed to have passed a drug screening if the results are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own screening shall certify passing results to the department.

- (2) Provisions of the Open Records Act, KRS 61.870 to 61.884, to the contrary notwithstanding, the applicant's home address, telephone number, date of birth, Social Security number, and results of any background investigation, psychological suitability screening, and polygraph examination conducted under this section shall not be subject to disclosure.

Section 31. KRS 15.565 is amended to read as follows:

- (1) No person shall receive an official appointment on a permanent basis as a CJIS telecommunicator unless that person has previously been awarded a certificate by the Kentucky Law Enforcement Council attesting to that person's satisfactory completion of the CJIS telecommunications academy. Every person who is employed after July 15, 2006, as a CJIS telecommunicator shall forfeit his or her position as such unless, within six (6) months from the date of employment, that person satisfactorily completes the CJIS telecommunications academy and is awarded a certificate attesting thereto. The council shall waive the training requirements listed in this section and award a CJIS telecommunicator certificate for all CJIS telecommunicators who are serving on July 15, 2006, and have successfully completed the CJIS-full access course.
- (2) A non-CJIS telecommunicator who gains employment as a CJIS telecommunicator shall successfully complete the CJIS-full access course within six (6) months from the date of his or her employment. A non-CJIS telecommunicator whose employing agency initiates the use of CJIS shall successfully complete the CJIS-full access course within six (6) months from the date that the agency initiates the use of CJIS.
- (3) All CJIS telecommunicators, whether originally employed before or after July 15, 2006, shall successfully complete each calendar year an in-service training course, appropriate to their job assignment and responsibility, of at least eight (8) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council.
- (4) All CJIS telecommunicators, whether originally employed before or after July 15, 2006, shall successfully complete eight (8) hours of CJIS in-service training every two (2) years at a school certified or recognized by the Kentucky Law Enforcement Council.
- (5) Extensions of time in which to complete the training specified in this section may be granted by the commissioner of the Department of Kentucky State Police or the commissioner's designee.
- (6) A CJIS telecommunicator who fails to complete the training within a period of six (6) months and any extension of time granted under this section shall be terminated by the employing agency and shall not be permitted to serve as a telecommunicator with any governmental agency in the Commonwealth for a period of one (1) year.

Section 32. KRS 15.570 is amended to read as follows:

The secretary of justice and public safety shall with the approval of the Kentucky Law Enforcement Council waive the basic telecommunicator training program and certify applicants who furnish evidence of satisfactory completion of a basic law enforcement telecommunicator training program which, in the council's opinion, is comparable to that of the training program.

Section 33. KRS 15.706 is amended to read as follows:

- (1) The Prosecutors Advisory Council shall collect statistical data regarding the investigation, prosecution, dismissal, conviction, or acquittal of any person charged with committing, attempting to commit, or complicity to a sexual offense defined by KRS Chapter 510 involving a minor, incest involving a minor, use of a minor in a sexual performance, or unlawful transaction with a minor.
- (2) Each Commonwealth's attorney, each county attorney, the secretary of the Cabinet for Health and Family Services, the commissioner of the Department of Kentucky State Police, each Circuit Court clerk, and the Administrative Office of the Courts shall provide any data requested by the council for this purpose, on a form prescribed by the council, at intervals as the council may direct.
- (3) The council may contract with any other public agency to collect the data in lieu of collecting the data itself.
- (4) The Prosecutors Advisory Council may promulgate administrative regulations to specify information to be reported.
- (5) The information required to be reported by this section shall be provided by each Commonwealth's attorney and county attorney at the end of each quarter of the calendar year or as otherwise directed by the Prosecutors Advisory Council.
- (6) The Prosecutors Advisory Council and the Office of the Attorney General shall compile the information by county and issue a public report at least annually.
- (7) The public report shall not contain the name or identifying information of a victim or person not formally charged with the commission of child sexual abuse. Information collected by the Commonwealth's attorney or county attorney or by the Prosecutors Advisory Council containing data which cannot be published shall be excluded from inspection, unless by court order, from the Open Records Law.
- (8) Any Commonwealth's attorney or any county attorney who fails to report information as defined by this section or administrative regulation shall be subject to salary reduction as authorized by KRS 61.120.

Section 34. KRS 15.910 is amended to read as follows:

- (1) The state board shall be composed of the following members:
 - (a) The secretary of the Cabinet for Health and Family Services, the secretary of the Finance and Administration Cabinet, the chief state school officer, the commissioner of the Department of Kentucky State Police, and the Attorney General, or designees authorized to speak on their behalf; and

- (b) Ten (10) public members appointed by the Governor. It is recommended that, as a group, the public members shall demonstrate knowledge in the area of child sexual abuse and exploitation prevention; shall be representative of the demographic composition of this state; and, to the extent practicable, shall be representative of all the following categories: parents, school administrators, law enforcement, the religious community, the legal community, the medical community, professional providers of child sexual abuse and exploitation prevention services, and volunteers in child sexual abuse and exploitation prevention services.
- (2) The term of each public member shall be three (3) years, except that of the public members first appointed, three (3) shall serve for three (3) years, three (3) for two (2) years, and four (4) for one (1) year. A public member shall not serve more than two (2) consecutive terms whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.
- (3) The Attorney General shall serve as chairman or designate a chairperson of the state board in which case the chairperson shall serve in that position at the pleasure of the Attorney General. The state board may elect other officers and committees as it considers appropriate.
- (4) There shall be no per diem compensation; however, the schedule for reimbursement of expenses for the public members of the state board shall be the same as for state employees. The reimbursement, executive director and staff salaries, and all actual and necessary operating expenses of the state board shall be paid from the trust fund, pursuant to an authorization as provided in KRS 15.935.

Section 35. KRS 15.942 is amended to read as follows:

The Justice ~~and Public Safety~~ Cabinet, the Attorney General, the Administrative Office of the Courts, and the Cabinet for Health and Family Services shall develop a training plan for investigation of child sexual abuse cases and protection of child sexual abuse victims within the Commonwealth. They may seek assistance from any educational, legal, and mental and physical health-care professionals needed for implementation of training programs.

Section 36. KRS 15.990 is amended to read as follows:

Any person who knowingly or willfully makes any false or fraudulent statement or representation in any record, report, or application to the council, department, or other agency of the Justice ~~and Public Safety~~ Cabinet under KRS 15.410 to 15.510 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or imprisoned for not less than thirty (30) days nor more than ninety (90) days, or both.

SECTION 37. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) The Criminal Justice Council is hereby created within the Justice and Public Safety Cabinet.
- (2) The membership of the council shall consist of:
 - (a) The secretary of the Justice and Public Safety Cabinet, who shall serve as the chair;
 - (b) The Attorney General or his or her designee;
 - (c) The chair of the Judiciary Committee of the House of Representatives or his or her designee;
 - (d) The chair of the Judiciary Committee of the Senate or his or her designee;
 - (e) The executive director of the Administrative Office of the Courts or his or her designee;
 - (f) The president of the Kentucky Association of Criminal Defense Lawyers or his or her designee;
 - (g) The deputy secretary of the Justice and Public Safety Cabinet, who shall serve as the deputy chair;
 - (h) The commissioner of the Department of Kentucky State Police or his or her designee;
 - (i) The commissioner of the Department of Criminal Justice Training or his or her designee;
 - (j) The commissioner of the Department of Corrections or his or her designee;
 - (k) The commissioner of the Department of Juvenile Justice or his or her designee;
 - (l) The commissioner of the Department of Kentucky Vehicle Enforcement or his or her designee;
 - (m) A representative of the County Attorneys Association;
 - (n) The Public Advocate of Kentucky or his or her designee; and
 - (o) A representative of the Commonwealth's Attorneys Association.
- (3) The council shall undertake such research and other activities as may be authorized or directed by:
 - (a) The secretary of the Justice and Public Safety Cabinet; or
 - (b) The General Assembly.
- (4) Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties. The council shall meet on the call of its chair.
- (5) A simple majority of the members of the council shall constitute a quorum for the conduct of business at a meeting.
- (6) The council is authorized to establish committees and appoint additional persons who may not be members of the council, as necessary to effectuate its purposes.

- (7) The council's administrative functions shall be performed by the executive director of the Office of Legislative and Intergovernmental Services, appointed by the secretary of the Justice and Public Safety Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities.**

Section 38. KRS 15A.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "~~Cabinet~~[Secretary]" means the ~~secretary of the~~ Justice and Public Safety Cabinet;
- (2) "Commissioner" means the commissioner of the Department of Juvenile Justice;
- (3) "Department" means the Department of Juvenile Justice;
- (4) "Facility" means any facility operating under the authority or control of the Department of Juvenile Justice; and
- (5) "~~Secretary~~[Cabinet]" means the secretary of the Justice and Public Safety Cabinet.

Section 39. KRS 15A.015 is amended to read as follows:

Deputy secretaries of justice and public safety shall be appointed by and directly responsible to the secretary and shall be the principal assistants and advisors to the secretary for all policies, programs and operations of the cabinet.

Section 40. KRS 15A.020 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall have the following departments:**

(a) Department of Corrections;

(b) Department of Criminal Justice Training, which shall have the following divisions:

- 1. Training Operations Division;**
- 2. Administrative Division; and**
- 3. Training Support Division;**

(c) Department of Juvenile Justice, which shall have the following divisions:

- 1. Division of Medical Services;**
- 2. Division of Western Region;**
- 3. Division of Central Region;**
- 4. Division of Eastern Region;**
- 5. Division of Southeastern Region;**
- 6. Division of Northern Region;**
- 7. Division of Administrative Services;**
- 8. Division of Program Services;**
- 9. Division of Placement Services;**
- 10. Professional Development Division;**
- 11. Mental Health Services Division; and**
- 12. Community Services Division.**

(d) Department of Kentucky Vehicle Enforcement, headed by a commissioner appointed pursuant to KRS 12.040, which shall perform functions required by KRS Chapter 281 and other state and federal laws and administrative regulations relating to commercial vehicles and vehicles for hire and which shall perform such other functions as may be assigned by the secretary. The Department of Kentucky Vehicle Enforcement shall have the following divisions:

- 1. Division of Field Operations East;**
- 2. Division of Field Operations West;**
- 3. Division of Special Operations; and**
- 4. Division of Administrative Services.**

(e) Department of Kentucky State Police, which shall have the following divisions:

- 1. Administrative Division;**
- 2. Operations Division; and**
- 3. Technical Services Division; and**

(f) Department for Public Advocacy, which shall have the following divisions:

- 1. Protection and Advocacy Division;**
- 2. Division of Law Operations;**
- 3. Division of Trial Services; and**

4. Division of Post-Trial Services.

- (2) Each department, except for the Department of Public Advocacy, shall be headed by a commissioner who shall be appointed by the secretary of justice and public safety with the approval of the Governor as required by KRS 12.040. Each commissioner shall be directly responsible to the secretary and shall have such functions, powers, and duties as provided by law and as the secretary may prescribe. The Department for Public Advocacy shall be headed by the public advocate, appointed as required by KRS 31.020, who shall be directly responsible to the Public Advocacy Commission. The Department of Public Advocacy is an independent state agency which shall be attached to the Justice and Public Safety Cabinet for administrative purposes only. The Justice and Public Safety Cabinet shall not have control over the Department of Public Advocacy's information technology equipment and use unless granted access by court order.
- (3) The Justice and Public Safety Cabinet shall have the following offices:
- (a) Office of the Secretary, which shall be headed by a deputy secretary appointed pursuant to KRS 12.050 and responsible for the direct administrative support for the secretary and other duties as assigned by the secretary, and which, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - (b) Office of Management and Administrative Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 and who shall be responsible to and report to the secretary and be responsible for all matters relating to human resources, state and federal grants management, including but not limited to the administration of KRS 15A.060, fiscal functions, management and daily operations of the information processing activities for the cabinet, and management and daily administrative services for the cabinet; and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - (c) Office of Legal Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 and KRS 12.210 to provide legal representation and services for the cabinet. The executive director shall be directly responsible to and report to the secretary and, with the approval of the secretary, may employ such attorneys appointed pursuant to KRS 12.210 and other staff as necessary to perform the duties, functions, and responsibilities of the office;
 - (d) Office of Legislative and Intergovernmental Services, which shall be headed by an executive director appointed pursuant to KRS 12.050, and who shall be responsible for all matters relating to the provision of support to the Criminal Justice Council, legislative liaison services, and functions and duties vested in the Criminal Justice Council as described in Section 41 of this Act. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - (e) Office of the Kentucky State Medical Examiner, which shall be headed by a chief medical examiner appointed pursuant to KRS 72.240 and who shall be responsible for all matters relating to forensic pathology and forensic toxicology and other duties as assigned by the secretary. The executive director, appointed pursuant to KRS 12.050, shall be responsible for all matters related to the administrative support of the Office of the State Medical Examiner. The executive director shall report directly to the secretary and with the approval of the secretary may employ such administrative support staff as necessary to perform the administrative duties, functions, and responsibilities of the office. The chief medical examiner shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the forensic duties, functions, and responsibilities of the office;
 - (f) Office of Drug Control Policy, which shall be headed by an executive director appointed pursuant to KRS 12.050 and who shall be responsible for all matters relating to the research, coordination, and execution of drug control policy and for the management of state and federal grants including but not limited to the prevention and treatment related to substance abuse. By December 31 of each year, the Office of Drug Control Policy shall review, approve, and coordinate all current projects of any substance abuse program which is conducted by or receives funding through agencies of the executive branch. This oversight shall extend to all substance abuse programs which are principally related to the prevention or treatment, or otherwise targeted at the reduction, of substance abuse in the Commonwealth. The Office of Drug Control Policy shall promulgate administrative regulations consistent with enforcing this oversight authority. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
 - (g) Office of Public Safety Training, which shall be headed by an executive director appointed pursuant to KRS 12.050 and who shall be responsible for all matters relating to the construction and operation of joint usage training facilities at the Public Safety Training Center for the cabinet. The Department of Criminal Justice Training shall provide all administrative and logistical support for this office. The executive director shall be responsible to and report to the secretary for all matters relating to the construction and operation of joint usage training facilities at the Public Safety Training Center, and management, scheduling, maintenance, and daily operations of the Public Safety Training Center. The executive director, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office; and

(h) Office of Investigations, which shall be headed by an executive director appointed pursuant to KRS 12.050 and who shall be responsible for investigating all matters in which there is a suspicion of violation of written policy, administrative regulation, or statutory law. If in the course of such investigation it is found that a criminal violation may have been committed, then a referral of such matter shall be made to an appropriate law enforcement agency. The executive director shall be directly responsible to and report to the secretary and, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office. The Office of Investigations may be used to investigate matters in which there is a suspicion of violation of written policy, administrative regulation, or statutory law within the Department of Public Advocacy only when such investigation will have no prejudicial impact upon a person who has an existing attorney-client relationship with the Department of Public Advocacy. Notwithstanding the provisions of this paragraph, investigation and discipline of KRS Chapter 16 personnel shall continue to be conducted by the Department of Kentucky State Police pursuant to KRS Chapter 16. ~~There is established within the cabinet a Department of State Police, a Department of Corrections, a Department of Juvenile Justice, and a Department of Criminal Justice Training. Each department shall be headed by a commissioner appointed by the secretary with the approval of the Governor as required by KRS 12.050. The commissioners shall be directly responsible to the secretary and shall perform such functions, powers, and duties as provided by law and as the secretary may prescribe.~~

Section 41. KRS 15A.030 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet, in addition to the departments, divisions, offices, and branches set forth in Section 40 of this Act [KRS 15A.020], shall consist of the following organizational units [which are hereby created or reestablished]:
- (a) Kentucky State Corrections Commission, supported by the Department of Corrections;
 - (b) Criminal Justice Council, supported by the Office of Legislative and Intergovernmental Services;
 - (c) Kentucky Law Enforcement Council, supported by the Department of Criminal Justice Training; and
 - (d) Kentucky Parole Board, supported by the cabinet.
- (2) Except for the Kentucky Parole Board, which shall be attached to the cabinet for administrative and support services only, each agency specified in this section shall:
- (a) Perform its duties as specified by law;
 - (b) Except as otherwise provided by law, be under the general direction and control of the secretary;
 - (c) Perform such other duties as may be assigned to the secretary; and
 - (d) Report to the secretary.
- ~~(1) Office of the Secretary of Justice comprised of the secretary of justice, the Commission on Correction and Community Service, the Kentucky State Corrections Commission, the Office of the Criminal Justice Council, and the Criminal Justice Council. The Parole Board shall be attached to the Office of the Secretary for administrative and support purposes only.~~
- ~~(2) Offices of Deputy Secretaries of Justice.~~
- ~~(3) Office of the General Counsel.~~
- ~~(4) Division of Kentucky State Medical Examiners Office.~~
- ~~(5) Office of Management, Administrative, and Legal Services, which shall be responsible for providing information systems management, investigative services, and legal services to the Office of the Secretary. The office shall be headed by an executive director appointed by the secretary in accordance with KRS 12.050.~~

Section 42. KRS 15A.040 is amended to read as follows:

- ~~[(1)] The Office of the Secretary of the Justice and Public Safety Cabinet [Criminal Justice Council] shall advise and recommend to the secretary of the Justice and Public Safety Cabinet, the Governor, and the General Assembly policies and direction for long-range planning regarding all elements of the criminal justice system. The office [council] shall also review and make written recommendations on subjects including but not limited to administration of the criminal justice system, the rights of crime victims, sentencing issues, capital litigation, a comprehensive strategy to address gangs and gang problems, and the Penal Code. Recommendations for these and all other issues shall be submitted to the Governor and the Legislative Research Commission at least six (6) months prior to every regular session of the Kentucky General Assembly. The council shall:~~
- ~~[(a)] Make recommendations to the justice secretary with respect to the [Award of] state and federal grants and ensure that the grants are consistent with the priorities adopted by the Governor, the General Assembly, and the council;~~
 - ~~[(b)] Conduct comprehensive planning to promote the maximum benefits of grants;~~
 - ~~[(c)] Develop model criminal justice programs;~~
 - ~~[(2)] [(d)] Disseminate information on criminal justice issues and crime trends; and~~
 - ~~[(e)] Work with community leaders to assess the influence of gangs and the problems that gangs cause for local communities, assist local communities in mobilizing community resources to address their problems, sponsor multidisciplinary training to help communities focus on proven strategies to address gang problems, and conduct~~

- an ongoing assessment of gang problems in local communities;
- (f) ~~Recommend any modifications of law necessary to insure that the laws adequately address problems identified in local communities relating to gangs;~~
- ~~(3)(g)~~ Provide technical assistance to all criminal justice agencies;
- (h) ~~Review and evaluate proposed legislation affecting criminal justice; and~~
- (i) ~~All reports and proposed legislation shall be presented to the Interim Joint Committee on Judiciary not later than July 1 of the year prior to the beginning of each regular session of the General Assembly.~~
- (2) ~~Membership of the Criminal Justice Council shall consist of the following:~~
- (a) ~~The secretary of the Justice Cabinet or his designee;~~
- (b) ~~The director of the Administrative Office of the Courts or his designee;~~
- (c) ~~The Attorney General or his designee;~~
- (d) ~~Two (2) members of the House of Representatives as designated by the Speaker of the House;~~
- (e) ~~Two (2) members of the Senate as designated by the President of the Senate;~~
- (f) ~~A crime victim, as defined in KRS Chapter 346, to be selected and appointed by the Governor;~~
- (g) ~~A victim advocate, as defined in KRS 421.570, to be selected and appointed by the Governor;~~
- (h) ~~A Kentucky college or university professor specializing in criminology, corrections, or a similar discipline to be selected and appointed by the Governor;~~
- (i) ~~The public advocate or his designee;~~
- (j) ~~The president of the Kentucky Sheriffs' Association;~~
- (k) ~~The commissioner of state police or his designee;~~
- (l) ~~A person selected by the Kentucky State Lodge of the Fraternal Order of Police;~~
- (m) ~~The president of the Kentucky Association of Chiefs of Police;~~
- (n) ~~A member of the Prosecutors Advisory Council as chosen by the council;~~
- (o) ~~The Chief Justice or a justice or judge designated by him;~~
- (p) ~~One (1) member of the Kentucky Association of Criminal Defense Lawyers, appointed by the president of the organization;~~
- (q) ~~One (1) member of the Kentucky Jailers' Association appointed by the president of the organization;~~
- (r) ~~One (1) member of the Circuit Clerks' Association;~~
- (s) ~~Three (3) criminal law professors, one each from the University of Kentucky College of Law, the Louis D. Brandeis School of Law at the University of Louisville, and the Salmon P. Chase College of Law at Northern Kentucky University, to be selected and appointed by the Governor;~~
- (t) ~~One (1) District Judge, designated by the Chief Justice;~~
- (u) ~~One (1) Circuit Judge, designated by the Chief Justice;~~
- (v) ~~One (1) Court of Appeals Judge, designated by the Chief Justice;~~
- (w) ~~One (1) representative from an organization dedicated to restorative principles of justice involving victims, the community, and offenders;~~
- (x) ~~One (1) individual with a demonstrated commitment to youth advocacy, to be selected and appointed by the Governor;~~
- (y) ~~The commissioner of the Department of Juvenile Justice or his designee;~~
- (z) ~~The commissioner of the Department of Corrections, or his designee;~~
- (aa) ~~The commissioner of the Department of Criminal Justice Training or his designee; and~~
- (ab) ~~The executive director of the Commonwealth Office of Technology.~~
- (3) ~~The secretary of justice shall serve ex officio as chairman of the council. Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties.~~
- (4) ~~The council shall meet at least once every three (3) months.~~
- (5) ~~The council may hold additional meetings:~~
- (a) ~~On the call of the chairman;~~
- (b) ~~At the request of the Governor to the chairman; or~~
- (c) ~~At the written request of the members to the chairman, signed by a majority of the members.~~
- (6) ~~Two thirds (2/3) members of the council shall constitute a quorum for the conduct of business at a meeting.~~

- (7) ~~Failure of any member to attend two (2) meetings within a six (6) month period shall be deemed a resignation from the council and a new member shall be named by the appointing authority.~~
- (8) ~~The council is authorized to establish committees and appoint additional persons who may not be members of the council as necessary to effectuate its purposes, including but not limited to:~~
- ~~(a) Uniform Criminal Justice Information System committee;~~
 - ~~(b) Committee on sentencing; and~~
 - ~~(c) Penal Code committee.~~
- (9) ~~The council's administrative functions shall be performed by a full time executive director, who shall also serve as the executive director of the office of the Criminal Justice Council, appointed by the secretary of the Justice Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities].~~

Section 43. KRS 15A.060 is amended to read as follows:

The Office of Secretary of Justice and Public Safety shall serve as the state planning agency for purposes of compliance with the Federal Crime Control and Safe Streets Act of 1968, as amended, or subsequently adopted federal criminal justice legislation, ~~and provide staff services to the Criminal Justice Council relating to the administration of these federally supported programs].~~

Section 44. KRS 15A.065 is amended to read as follows:

- (1) The Department of Juvenile Justice shall be headed by a commissioner and shall develop and administer programs for:
- (a) Prevention of juvenile crime;
 - (b) Identification of juveniles at risk of becoming status or public offenders and development of early intervention strategies for these children, and, except for adjudicated youth, participation in prevention programs shall be voluntary;
 - (c) Providing educational information to law enforcement, prosecution, victims, defense attorneys, the courts, the educational community, and the public concerning juvenile crime, its prevention, detection, trial, punishment, and rehabilitation;
 - (d) The operation of or contracting for the operation of postadjudication treatment facilities and services for children adjudicated delinquent or found guilty of public offenses or as youthful offenders;
 - (e) The operation or contracting for the operation, and the encouragement of operation by others, including local governments, volunteer organizations, and the private sector, of programs to serve predelinquent and delinquent youth;
 - (f) Utilizing outcome-based planning and evaluation of programs to ascertain which programs are most appropriate and effective in promoting the goals of this section;
 - (g) Conducting research and comparative experiments to find the most effective means of:
 - 1. Preventing delinquent behavior;
 - 2. Identifying predelinquent youth;
 - 3. Preventing predelinquent youth from becoming delinquent;
 - 4. Assessing the needs of predelinquent and delinquent youth;
 - 5. Providing an effective and efficient program designed to treat and correct the behavior of delinquent youth and youthful offenders;
 - 6. Assessing the success of all programs of the department and those operated on behalf of the department and making recommendations for new programs, improvements in existing programs, or the modification, combination, or elimination of programs as indicated by the assessment and the research; and
 - (h) Seeking funding from public and private sources for demonstration projects, normal operation of programs, and alterations of programs.
- (2) The Department of Juvenile Justice may contract, with or without reimbursement, with a city, county, or urban-county government, for the provision of probation, diversion, and related services by employees of the contracting local government.
- (3) The Department of Juvenile Justice may contract for the provision of services, treatment, or facilities which the department finds in the best interest of any child, or for which a similar service, treatment, or facility is either not provided by the department or not available because the service or facilities of the department are at their operating capacity and unable to accept new commitments. The department shall, after consultation with the Finance and Administration Cabinet, promulgate administrative regulations to govern at least the following aspects of this subsection:
- (a) Bidding process; and
 - (b) Emergency acquisition process.
- (4) The Department of Juvenile Justice shall develop programs to:

2007 Regular Session

- (a) Ensure that youth in state-operated or contracted residential treatment programs have access to an ombudsman to whom they may report program problems or concerns;
 - (b) Review all treatment programs, state-operated or contracted, for their quality and effectiveness; and
 - (c) Provide mental health services to committed youth according to their needs.
- (5) (a) The Department of Juvenile Justice shall have an advisory board appointed by the Governor, which shall serve as the advisory group under the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415, as amended, and which shall provide a formulation of and recommendations for meeting the requirements of this section not less than annually to the Governor, the Justice and Public Safety Cabinet, the Department of Juvenile Justice, the Cabinet for Health and Family Services, the Interim Joint Committees on Judiciary and on Appropriations and Revenue of the Legislative Research Commission when the General Assembly is not in session, and the Judiciary and the Appropriations and Revenue Committees of the House of Representatives and the Senate when the General Assembly is in session. The advisory board shall develop program criteria for early juvenile intervention, diversion, and prevention projects, develop statewide priorities for funding, and make recommendations for allocation of funds to the Commissioner of the Department of Juvenile Justice. The advisory board shall review grant applications from local juvenile delinquency prevention councils and include in its annual report the activities of the councils. The advisory board shall meet not less than quarterly.
- (b) The advisory board shall be chaired by a private citizen member appointed by the Governor and shall serve a term of two (2) years and thereafter be elected by the board. The members of the board shall be appointed to staggered terms and thereafter to four (4) year terms. The membership of the advisory board shall consist of no fewer than fifteen (15) persons and no more than thirty-three (33) persons who have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice. A majority of the members shall not be full-time employees of any federal, state, or local government, and at least one-fifth (1/5) of the members shall be under the age of twenty-four (24) years at the time of appointment. On July 15, 2002, any pre-existing appointment of a member to the Juvenile Justice Advisory Board and the Juvenile Justice Advisory Committee shall be terminated unless that member has been re-appointed subsequent to January 1, 2002, in which case that member's appointment shall continue without interruption. The membership of the board shall include the following:
1. Three (3) current or former participants in the juvenile justice system;
 2. An employee of the Department of Juvenile Justice;
 3. An employee of the Cabinet for Health and Family Services;
 4. A person operating alternative detention programs;
 5. An employee of the Department of Education;
 6. An employee of the Department of Public Advocacy;
 7. An employee of the Administrative Office of the Courts;
 8. A representative from a private nonprofit organization with an interest in youth services;
 9. A representative from a local juvenile delinquency prevention council;
 10. A member of the Circuit Judges Association;
 11. A member of the District Judges Association;
 12. A member of the County Attorneys Association;
 13. A member of the County Judge/Executives Association;
 14. A person from the business community not associated with any other group listed in this paragraph;
 15. A parent not associated with any other group listed in this paragraph;
 16. A youth advocate not associated with any other group listed in this paragraph;
 17. A victim of a crime committed by a person under the age of eighteen (18) not associated with any other group listed in this paragraph;
 18. A local school district special education administrator not associated with any other group listed in this paragraph;
 19. A peace officer not associated with any other group listed in this paragraph; and
 20. A college or university professor specializing in law, criminology, corrections, psychology, or similar discipline with an interest in juvenile corrections programs.
- (c) Failure of any member to attend three (3) meetings within a calendar year shall be deemed a resignation from the board. The board chair shall notify the Governor of any vacancy and submit recommendations for appointment.
- (6) The Department of Juvenile Justice shall, in cooperation with the Department of Public Advocacy, develop a program of legal services for juveniles committed to the department who are placed in state-operated residential treatment facilities and juveniles in the physical custody of the department who are detained in a state-operated detention facility, who have

legal claims related to the conditions of their confinement involving violations of federal or state statutory or constitutional rights. This system may utilize technology to supplement personal contact. The Department of Juvenile Justice shall promulgate an administrative regulation to govern at least the following aspects of this subsection:

- (a) Facility access;
 - (b) Scheduling; and
 - (c) Access to residents' records.
- (7) The Department of Juvenile Justice may, if space is available and conditioned upon the department's ability to regain that space as needed, contract with another state or federal agency to provide services to youth of that agency.

Section 45. KRS 15A.090 is amended to read as follows:

The secretary shall establish the internal organization of the cabinet not otherwise established by the Governor or the General Assembly~~[in 1974 Acts, Chapter 74]~~ and shall organize the cabinet into such organizational units as the secretary deems necessary to perform the functions, powers and duties of the cabinet, subject to the provisions of KRS Chapter 12.

Section 46. KRS 15A.160 is amended to read as follows:

The secretary may promulgate administrative regulations in accordance with KRS Chapter 13A and direct proceedings and actions for the administration of all laws and functions which are vested in the cabinet except laws and functions vested in the Department of Public Advocacy.

Section 47. KRS 15A.190 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet in consultation with the Cabinet for Health and Family Services, the Kentucky Commission on Women, and any other agency concerned with particular acts of criminal activity, shall design, print, and distribute to all law enforcement agencies in the Commonwealth, a uniform reporting form which provides statistical information relating to the crimes involving domestic violence, child abuse, victimization of the elderly, including but not limited to elder abuse, neglect, and exploitation and other crimes against the elderly, or any other particular area of criminal activity deemed by the secretary of justice and public safety to require research as to its frequency.
- (2) The provision of subsection (1) of this section concerning the distribution of forms shall become effective on January 1, 2006.

Section 48. KRS 15A.195 is amended to read as follows:

- (1) No state law enforcement agency or official shall stop, detain, or search any person when such action is solely motivated by consideration of race, color, or ethnicity, and the action would constitute a violation of the civil rights of the person.
- (2) The secretary of the Justice and Public Safety Cabinet, in consultation with the Kentucky Law Enforcement Council, the Attorney General, the Department~~[Office]~~ of Criminal Justice Training, the secretary of the Transportation Cabinet, the Department of Kentucky State Police, the secretary of the Environmental and Public Protection Cabinet, and the commissioner of the Department of Public Protection, shall design and implement a model policy to prohibit racial profiling by state law enforcement agencies and officials.
- (3) The Kentucky Law Enforcement Council shall disseminate the established model policy against racial profiling to all sheriffs and local law enforcement officials, including local police departments, city councils, and fiscal courts. All local law enforcement agencies and sheriffs' departments are urged to implement a written policy against racial profiling or adopt the model policy against racial profiling as established by the secretary of the Justice and Public Safety Cabinet within one hundred eighty (180) days of dissemination of the model policy. A copy of any implemented or adopted policy against racial profiling shall be filed with the Kentucky Law Enforcement Council and the Kentucky Law Enforcement Foundation Program Fund.
- (4)
 - (a) Each local law enforcement agency that participates in the Kentucky Law Enforcement Foundation Program fund under KRS 15.420 in the Commonwealth shall implement a policy, banning the practice of racial profiling, that meets or exceeds the requirements of the model policy disseminated under subsection (3) of this section. The local law enforcement agency's policy shall be submitted by the local law enforcement agency to the secretary of the Justice and Public Safety Cabinet within one hundred eighty (180) days of dissemination of the model policy by the Kentucky Law Enforcement Council under subsection (3) of this section. If the local law enforcement agency fails to submit its policy within one hundred eighty (180) days of dissemination of the model policy, or the secretary rejects a policy submitted within the one hundred and eighty (180) days, that agency shall not receive Kentucky Law Enforcement Foundation Program funding until the secretary approves a policy submitted by the agency.
 - (b) If the secretary of the Justice and Public Safety Cabinet approves a local law enforcement agency's policy, the agency shall not change its policy without obtaining approval of the new policy from the secretary of the Justice and Public Safety Cabinet. If the agency changes its policy without obtaining the secretary's approval, the agency shall not receive Kentucky Law Enforcement Foundation Program funding until the secretary approves a policy submitted by the agency.
- (5) Each local law enforcement agency shall adopt an administrative action for officers found not in compliance with the agency's policy. The administrative action shall be in accordance with other penalties enforced by the agency's

administration for similar officer misconduct.

Section 49. KRS 15A.197 is amended to read as follows:

The Justice and Public Safety Cabinet and its agencies may provide state personnel, state property, and other state resources to Trooper Island Incorporated.

Section 50. KRS 15A.310 is amended to read as follows:

- (1) The Department of Juvenile Justice, the Cabinet for Health and Family Services, the Department of Corrections, the Administrative Office of the Courts, and the Department of Kentucky State Police shall be responsible for the recording of those data elements for juveniles that are needed for the development of the centralized criminal history record information system.
- (2) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440.
- (3) The Department of Juvenile Justice shall provide access to Commonwealth's attorneys, county attorneys, law enforcement agencies, the Department of Kentucky State Police, the Department of Corrections, the Cabinet for Health and Family Services, and the Administrative Office of the Courts to its database.

Section 51. KRS 15A.350 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall establish a motorcycle safety education program. The program shall provide for instructor training courses, instructor approval, and rider training courses for novice riders that shall be held at locations throughout the state. The program may provide for the following:
 - (a) Rider training courses for experienced riders;
 - (b) Activities to increase the awareness of a motorcyclist's knowledge of the effects of alcohol and drug use;
 - (c) Driver improvement efforts;
 - (d) Licensing improvement efforts;
 - (e) Program promotion activities;
 - (f) Enhancement of the public's awareness of motorcycles; and
 - (g) Enhancement of motorcycle safety through education.
- (2) The Justice and Public Safety Cabinet shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the development of standards for, and the administration of, a motorcycle safety education program. Standards for the motorcycle rider training courses shall include standards for course content, delivery, curriculum, materials, student evaluation, and the training and approval of instructors. Standards shall meet or exceed established national standards for motorcycle rider training courses prescribed by the Motorcycle Safety Foundation.

Section 52. KRS 15A.358 is amended to read as follows:

- (1) The motorcycle safety education program fund is established as a restricted fund in the State Treasury. Moneys in the fund are hereby appropriated for the purposes set forth in KRS 15A.350 to 15A.366. Moneys in the fund shall be utilized to provide motorcycle training courses as established in KRS 15A.352 and for implementation of the program, including reimbursement of entities that offer approved motorcycle rider education courses. The Justice and Public Safety Cabinet shall not deduct administrative costs from the motorcycle safety education program fund.
- (2) If at the end of each fiscal year money remains in the fund, it shall be retained in the fund. The interest and income earned on money in the fund, after deducting any applicable charges, shall be credited to the motorcycle safety education program fund.
- (3) The following revenue shall be credited to the fund:
 - (a) Four dollars (\$4) of the annual registration fee for each registered motorcycle as provided in KRS 186.050;
 - (b) Four dollars (\$4) of the application fee for a motorcycle instruction permit as provided in KRS 186.531;
 - (c) Four dollars (\$4) of the fee for each original or renewal motorcycle driver's license or endorsement as provided in KRS 186.531; and
 - (d) Any federal or state motorcycle safety funds granted to the program.

Section 53. KRS 15A.360 is amended to read as follows:

The Justice and Public Safety Cabinet shall report monthly to the Interim Joint Committee on Appropriations and Revenue on the revenues deposited into the motorcycle safety education program fund, the expenditures incurred, and the available balance in the fund. In addition, the ~~Justice~~ cabinet shall identify the safety programs provided, the cost of the programs, location, and number of attendees. To facilitate the timely reporting of data under this section, the cabinet shall enter into agreements with entities that provide the training to require monthly billing and attendance records.

Section 54. KRS 15A.362 is amended to read as follows:

- (1) The Motorcycle Safety Education Commission is established as an independent body to help foster the growth and development of the motorcycle safety education program established under KRS 15A.350.
- (2) The Motorcycle Safety Education Commission shall be comprised of seven (7) members, appointed as follows:

- (a) One (1) representative of the Department of Kentucky State Police, appointed by the Governor;
 - (b) One (1) representative of the Transportation Cabinet's Division of Driver Licensing, appointed by the Governor;
 - (c) One (1) instructor in the motorcycle safety education program, appointed by the Governor;
 - (d) Two (2) members of the Kentucky Motorcycle Association, to be appointed by the Governor from a list of five (5) nominees selected by the association;
 - (e) One (1) member appointed by the Governor from a list of three (3) nominees selected by the President of the Senate; and
 - (f) One (1) member appointed by the Governor from a list of three (3) nominees selected by the Speaker of the House of Representatives.
- (3) Members of the Motorcycle Safety Education Commission shall serve a term of four (4) years. Sitting members shall be eligible to succeed themselves.
 - (4) Commission members shall receive no compensation for their services, and shall not be compensated for expenses incurred from travel or in connection with the performance of their duties as commission members.
 - (5) The commission shall elect its chair and vice chair from its membership.
 - (6) The commission shall meet quarterly or upon the call of the chair or the request of the secretary of the Justice and Public Safety Cabinet.
 - (7) The commission may take action only at meetings where a quorum is present.
 - (8) The commission shall keep a record of its meetings and recommendations.

Section 55. KRS 15A.364 is amended to read as follows:

The Motorcycle Safety Education Commission shall have the following responsibilities:

- (1) Approve any administrative regulation relating to the motorcycle safety education program promulgated by the cabinet prior to the administrative regulation being filed with the Legislative Research Commission pursuant to KRS Chapter 13A;
- (2) Approve any proposal by the cabinet to contract for services pursuant to KRS Chapter 45A or any interagency agreement for services relating to the motorcycle safety education program prior to the issuance of the contract or the agreement;
- (3) Approve all expenditures of money relating to the motorcycle safety education program which has not been specifically authorized in the biennial budget;
- (4) Establish for the ~~Justice~~ cabinet the short-range and long-range goals to promote the continued growth and expansion of the motorcycle safety education program;
- (5) Make recommendations regarding the administration of the motorcycle safety education program;
- (6) Ensure that the ~~Justice~~ cabinet and the motorcycle safety education program is informed on the views and philosophies of interested parties; and
- (7) Act as a communication channel between the relevant state agencies and motorcyclists and the general public.

Section 56. KRS 16.010 is amended to read as follows:

As used in KRS 16.030 to 16.170, unless the context requires otherwise:

- (1) "Cabinet" means the Justice and Public Safety Cabinet;
- (2) "Secretary" means the secretary of justice and public safety;
- (3) "Commissioner" means the commissioner of the Department of Kentucky State Police;
- (4) "Officer" means any member of the Department of Kentucky State Police who possesses the powers of a peace officer;
- (5) "Civilian" means such experts, statisticians, clerks, and other assistants who do not possess the powers of a peace officer;
- (6) "Board" means the Department of Kentucky State Police Personnel Board; and
- (7) "Department" means the Department of Kentucky State Police.
- (8) "Continuous service" for participation in and eligibility for the promotional process for each rank means:
 - (a) For sergeant, service as a commissioned Kentucky State Police officer that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, or termination;
 - (b) For lieutenant, service in grade as a sergeant that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, termination, or by demotion in accordance with KRS 16.140;
 - (c) For captain, service in grade as lieutenant that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, termination, or by demotion in accordance with KRS 16.140.

Section 57. KRS 16.050 is amended to read as follows:

- (1) The commissioner shall appoint or promote to the ranks and grades and positions of the department such officers as are considered by him or her to be necessary for the efficient administration of the department. Notwithstanding the provisions of KRS 64.640, the commissioner of the Department of Kentucky State Police and the secretary of the Personnel Cabinet

shall biennially conduct a salary survey, by rank, of State Police/highway patrol officers in those states adjoining Kentucky. The salaries of such officers of equal rank in those states surveyed shall be averaged, and such averages where the average for that rank exceeds the salary paid to Kentucky officers of that rank in the preceding biennium, shall be included in the department's budget request submitted to the Kentucky General Assembly.

- (2) All initial appointments of officers to the department shall be made for merit and fitness after a competitive examination.
- (3) There is created a Department of Kentucky State Police Personnel Board consisting of the commissioner and four (4) other members to be appointed by the Governor, two (2) to be appointed from each of the two (2) major political parties.
- (4) The initial appointment of members of the board shall be for terms of one (1), two (2), three (3), and four (4) years. Thereafter each appointment shall be for a term of four (4) years, except that a person appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed for the remainder of that term.
- (5) Members of the board may be removed by the Governor only for cause, after being given a copy of charges against them and an opportunity to be heard publicly on such charges before the Governor.
- (6) The board shall elect one (1) of its members chairman. It shall meet at such time and place as shall be specified by call of the commissioner. Three (3) members shall constitute a quorum for the transaction of business. Members of the board other than the commissioner shall receive compensation of fifty dollars (\$50) and reimbursement of travel expenses for each meeting of the board which they attend.
- (7) The board shall promulgate~~[make]~~ administrative regulations to carry out the purposes herein, which shall include provisions for:
 - (a) Open competitive examination as to fitness of applicants for employment as officers; and
 - (b) Establishment of eligible lists as a result of such competitive examinations, from which lists vacancies shall be filled.
- (8) The board shall hear appeals from applicants for employment for which examinations are being given or have been conducted and from eligibles on examination registers subject to the procedural rules which the board may adopt pursuant to the provisions of this section.

Section 58. KRS 16.055 is amended to read as follows:

- (1) Promotions to sergeant within the department shall be on the following terms and conditions:
 - (a) The applicant must have served six (6) years of continuous service as a commissioned State Police officer to be eligible for promotion to sergeant;
 - (b) Promotions shall be based on cumulative scores computed from twenty percent (20%) on personnel performance evaluation, forty percent (40%) on job simulation examination, and forty percent (40%) on a written examination;
 - (c) The promotional list shall continue in existence for one (1) year, shall consist of the numerical scores and rankings of each applicant, and promotions shall be made in consecutive order beginning with the highest numerical ranking to fill an interim vacancy. When two (2) or more applicants receive the same numerical score, the order of placement on the list shall be determined by seniority of service. Upon the determination of a new numerical ranking following a new examination, all previous rankings shall be null and void;
 - (d) The written examination shall be prepared and administered by an individual designated by the commissioner. The materials and textbooks will be selected by the commissioner and his or her staff. The commissioner will inform all applicants at least three (3) months prior to the examination date of the exact material from which test questions will be taken;
 - (e) The written test shall be administered to all applicants at the same time. Immediately upon completion of the written test the applicant will receive his or her numerical score. Such numerical score shall remain valid for a period of two (2) years following the date of examination unless the source material upon which the test is based is changed by more than thirty percent (30%);
 - (f) The job simulation examination shall be evaluated by boards designated by the commissioner consisting of the commissioner or his or her designated appointee not lower than rank of captain, an officer from another police agency of the rank equal to the position for which the applicant is competing, an instructor from an accredited law enforcement education program, a personnel director from private industry, and an officer from the Kentucky State Police of the rank equal to the position for which the applicant is competing;
 - (g) The designated job simulation examination boards will perform all evaluations under guidelines developed and approved by the commissioner; and
 - (h) Personnel evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the commissioner.
- (2) Promotions from sergeant to lieutenant within the department shall be on the same terms and conditions as promotions to sergeant. In addition, any applicant for lieutenant must have completed at least one (1) year of continuous service in grade as sergeant.
- (3) Promotions from lieutenant to captain within the department shall be on the same terms and conditions as promotions to

lieutenant. In addition, any applicant for captain must have completed at least one (1) year of continuous service in grade as lieutenant.

- (4) The department will develop and administer only one (1) test for each of the above ranks. All eligible applicants will be permitted to participate in the promotional process to the next highest position of responsibility wherever a vacancy exists.
- (5) Officers promoted to rank of sergeant, lieutenant, or captain shall serve a probationary period for one (1) year of continuous service from the effective date of their promotions, and may be reverted to their previous rank with or without cause at any time during this period.
- (6) The provisions of KRS 16.140 to the contrary notwithstanding, all ranks above the grade of captain are temporary and shall not be subject to the provisions for selection and promotion as required herein. All officers in such temporary positions shall serve at the pleasure of the commissioner and shall revert to their previous permanent rank upon the termination of their temporary appointment.
- (7) The total number of supervisory officers of all classifications shall be limited to a ratio not to exceed one (1) supervisor for every five (5) nonsupervisory officers.
- (8) No officer of the department, other than temporary positions above the rank of captain, shall be promoted to the next highest rank without competing with other officers as prescribed by this promotional procedure.
- (9) There shall be no discrimination based on race, sex, age, national origin, color, religion, creed, or political affiliation with respect to the department promotional system. All personnel actions are to be based solely on merit.

Section 59. KRS 16.065 is amended to read as follows:

In addition to the performance of all duties relating to the Department of Kentucky State Police, the department~~[of State Police]~~ shall perform the following functions:

- (1) Security of state facilities located in Frankfort;
- (2) Highway enforcement; and
- (3) Water safety enforcement as provided in KRS Chapter 235.

Section 60. KRS 16.070 is amended to read as follows:

- (1) The commissioner is the head and chief executive officer of the department. He or she shall provide for himself or herself and each officer of the department, under the provisions of KRS 45A.045 to 45A.650, such uniforms, equipment, and facilities, including motor vehicles, necessary to the performance of~~[-his- or -]~~ their respective duties, but all uniforms, equipment, and facilities, including motor vehicles, shall remain the property of the Commonwealth. The commissioner may sell through the Finance and Administration Cabinet, under the provisions of KRS 45A.045 to 45A.650, such uniforms, equipment, and facilities, including motor vehicles, as become unfit for use, and all moneys received therefrom shall be paid into the State Treasury and credited to a revolving fund to be used by the department.
- (2) The commissioner shall keep an inventory and shall charge against each officer the value of all property of the department issued to him or her, and if it is determined by the commissioner that any loss or destruction of property was due to the carelessness or neglect of an officer, then the value of the property shall be deducted from the pay of the officer.
- (3) By agreement with the commissioner of highways of the Commonwealth, the commissioner of the Department of Kentucky State Police may provide for the leasing of motor vehicles and accessories thereto, radio facilities and equipment, office equipment and other property or facilities, upon such terms and conditions and for such compensation as said agreement may provide. The commissioner of highways and the commissioner of Department of Kentucky State Police may further provide, by agreement, for the service and repair at any state garage of motor vehicles or accessories thereto which are owned, operated, or rented by the department, upon such terms and conditions and for such compensation as said agreement may provide. Subject to KRS Chapter 42, the department is authorized, by lease or purchase, to acquire, maintain, and operate motor vehicles, and the officers of said department, including the commissioner, are authorized and empowered to operate such motor vehicles in the course of their duties, and in carrying out the purposes, responsibilities, and functions provided for in KRS 16.010 to 16.170.
- (4) The commissioner shall establish local headquarters so as to best distribute the officers and employees of the department throughout the various sections of the Commonwealth where they will be most efficient in carrying out the provisions of KRS 16.010 to 16.170.

Section 61. KRS 16.075 is amended to read as follows:

- (1) The Department of Kentucky State Police may secure such automobile liability insurance as will reasonably protect the interest of members of the State Police when in the conduct of official business.
- (2) Policies authorized by this section shall be purchased only in accordance with regulations prescribed by the executive director of insurance and the secretary of the Finance and Administration Cabinet.

Section 62. KRS 16.080 is amended to read as follows:

- (1) The commissioner shall promulgate administrative~~[adopt, formulate, alter, and repeal rules and]~~ regulations for the enlistment, training, discipline, and conduct of officers of the department and he or she may promulgate administrative~~[make any other rules and]~~ regulations for the governing and operation of the department as appear to him

or her reasonably necessary to carry out the provisions of KRS 16.010 to 16.170.

- (2) The commissioner may require any officer or civilian who receives or disburses public funds in the course of his or her duties to file a bond, conditioned that he or she will honestly, correctly, and according to law, receive, disburse, and account for all public moneys coming into his or her hands. The commissioner and each officer shall execute a bond to the Commonwealth of Kentucky in the sum of not less than two thousand dollars (\$2,000), conditioned upon the faithful discharge of his or her duties. The premium on the bonds shall be paid by the department. The commissioner and each officer of the department shall, before entering upon the discharge of their official duties, take the constitutional oath of office.
- (3) Subject to the provisions of KRS 56.440 to 56.550, the commissioner, with the approval of the Governor and the secretary of the Finance and Administration Cabinet, may acquire real estate or interests therein, by purchase, lease, or otherwise, necessary for the purposes of the department, and, with like approval, provide for the acquisition or construction of necessary buildings and other permanent structures and facilities. Title to any real estate acquired shall be taken in the name of the Commonwealth.

Section 63. KRS 16.090 is amended to read as follows:

The commissioner is authorized to organize and maintain a training school or schools for officers of the department, and in connection therewith to provide by administrative regulation the course and conduct of such training and the period of time for which any officer, or any applicant therefor, shall attend such school. The commissioner, under such administrative regulations as he or she may ~~promulgate~~^{adopt}, is further authorized, but shall not be required, to make such training facilities available to any local governing unit within this Commonwealth.

Section 64. KRS 16.095 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall require all officers employed by them to complete an educational course approved by the Cabinet for Health and Family Services on human immunodeficiency virus infection and acquired immunodeficiency syndrome. The Justice and Public Safety Cabinet shall develop literature on the human immunodeficiency virus infection and acquired immunodeficiency syndrome and a training curriculum of not more than four (4) hours for the instruction of officers. The literature and training curriculum shall include information of known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change. This training may be part of any other training required and for which law enforcement officers receive an allowance to attend. However, nonreceipt of allowance does not exclude a law enforcement officer from the training required in this section.
- (2) All officers shall successfully complete the training required. Any person holding the position of officer shall not exercise that position for more than one (1) year without successfully completing the required training. If an officer does not successfully complete the required training within the time specified, he or she shall be suspended from further service as an officer until he or she successfully completes the required training.

Section 65. KRS 16.165 is amended to read as follows:

Any Department of Kentucky State Police officer (as defined in KRS 16.010) who becomes disabled after July 1, 1977, as a direct result of an injury or disease arising out of the performance of a hazardous duty in the course of employment with the department may elect to be retained on the regular payroll of the department~~[of State Police]~~ subject to the following:

- (1) Compensation paid to the officer by the department shall be adjusted and maintained at the officer's regular rate of pay based upon the officer's rank and tenure with the department, and shall include annual increments, salary adjustments, and other benefits of employment, provided, however, such compensation paid to the officer by the department shall be reduced by the amount of payments received by the officer from workers' compensation insurance, Social Security benefits and other federal or state financed disability programs designed to supplement the officer's income for which the officer is qualified and elects participation. Final compensation shall not be reduced by payments for medical care. The disabled officer's regular rate of pay, without the reductions required by this subsection, shall be his creditable compensation for purposes of KRS 16.510 to 16.652.
- (2) Such officer shall be assigned by the commissioner of the Department of Kentucky State Police to a position in the department for which ~~the officer~~^{he} is qualified, if the commissioner determines, based upon medical reports and recommendations submitted for that purpose, that the officer is able to perform limited duties. If it is determined that the officer is able to perform limited duties and refuses to accept an assignment from the commissioner, the officer shall not be eligible for the payment of compensation authorized by this section. If the commissioner determines that the officer is unable to perform limited duties, the officer shall be eligible for the payment of compensation authorized by this section without the performance of limited duties. Any officer adversely affected or aggrieved by a final determination of the commissioner pursuant to this section may appeal within thirty (30) days to the local Circuit Court.
- (3) Payments made pursuant to this section shall continue until the officer is eligible for normal retirement allowances pursuant to KRS 16.576 or until the officer elects early retirement allowances pursuant to KRS 16.577 or disability retirement allowances pursuant to KRS 16.582. If the officer receives preretirement payments under this section or KRS 16.167 and subsequently elects disability retirement, the effective date of his disability retirement shall be the first month following the month in which the officer last receives preretirement payments under this section or KRS 16.167, KRS 16.505(16) to the contrary notwithstanding.

- (4) Any Department of Kentucky State Police officer, disabled prior to July 1, 1977, as a result of severe physical injuries arising out of the performance of duty, who is unable to maintain gainful employment as a result of such injuries, but who was ineligible for retention on the regular payroll because of the date of his injury, shall, if his or her time in active service plus his or her time on disability retirement allowance equal the time necessary for normal retirement pursuant to KRS 16.505(15), have his or her retirement allowance increased to the amount he or she would receive, had he or she been retained on the regular payroll of the department pursuant to this section and had he or she subsequently elected normal retirement pursuant to KRS 16.576 when first eligible, but any survivor option which he or she chose at the time of disability retirement shall not be changed.

Section 66. KRS 16.167 is amended to read as follows:

Prior to his or her retirement under KRS 16.510 to 16.652, any Department of Kentucky State Police officer (as defined in KRS 16.010) who became disabled on or before July 1, 1977, as a result of an injury or disease arising out of the performance of a hazardous duty in the course of his or her employment with the department may elect benefits under KRS 16.165, if he or she qualifies therefor, or he or she may elect to continue receiving preretirement benefits otherwise available to him or her due to the disability.

Section 67. KRS 16.175 is amended to read as follows:

- (1) The Department of Kentucky State Police, in cooperation with the Transportation Cabinet, the Division of Emergency Management, the Kentucky Broadcasters Association, and the Kentucky Press Association, shall operate a system to notify the public when a child has been abducted and the department~~[of State Police]~~ determines that public notification might aid in the recovery of the child. The system shall be known as the Kentucky Amber alert system.
- (2) The system shall utilize existing resources, including but not limited to electronic highway signs, the emergency broadcast system, law enforcement communications systems, and local, regional, and statewide media providers.
- (3) No public alert using the system shall be issued unless the department~~[of State Police]~~, in consultation with the law enforcement agency in the jurisdiction in which the abduction of a minor occurred, have determined:
 - (a) That the minor has actually been abducted or that all available evidence strongly indicates that the minor has been abducted;
 - (b) That public notification is the most appropriate method of recovering the child in a safe and efficient manner; and
 - (c) The geographic area in which the notification shall be made.
- (4) If it is determined by the department~~[of State Police]~~ that public notification shall be initiated, the department~~[of State Police]~~ shall notify the public and private agencies and organizations which will actually provide the notification and shall provide those organizations and agencies with the information which the department~~[of State Police]~~ deems necessary.
- (5) All law enforcement agencies in the Commonwealth shall cooperate with the department~~[of State Police]~~ in the provision and dissemination of information regarding any abducted minor.
- (6) No law enforcement agency, other than the department~~[of State Police]~~, shall activate the notification system specified in this section without the authority of the department~~[of State Police]~~.
- (7) The system shall be operated by all agencies of the Commonwealth within existing budgetary appropriations.

Section 68. KRS 16.185 is amended to read as follows:

- (1) Any officer who is sued for any act or omission in the line of duty and who has a judgment for monetary damages rendered against him or her in his or her individual capacity, and who personally suffers actual financial loss, unreimbursed from any source, by the enforcement and satisfaction of the judgment, including any costs or attorney fees awarded pursuant thereto, shall be indemnified by the Commonwealth, from funds appropriated to the Finance and Administration Cabinet for the payment of judgments, to the extent of his or her actual financial loss.
- (2) The indemnification shall be contingent upon an express determination by the commissioner that the act or omission which resulted in liability was within the scope and course of the officer's employment and occurred during the performance of duty and was committed or omitted in the good faith belief that the act or omission was lawful and proper.
- (3) If the officer seeking indemnification is the commissioner, the determination referred to in subsection (2) of this section shall be made by the Governor.
- (4) The indemnification shall not be construed to abrogate or limit any privilege, immunity, or matter of defense otherwise available to the officer and shall not constitute a waiver of any privilege, immunity, or matter of defense, including the sovereign immunity of the Commonwealth.
- (5) The indemnification shall not be the subject of comment, directly or indirectly, before any jury hearing any cause of action in which an officer is a party, and any comment before the jury shall result in an immediate mistrial.

Section 69. KRS 16.200 is amended to read as follows:

- (1) The Department of Kentucky State Police shall administer a program for the investigation of applications filed pursuant to KRS 514.130 and the disposition of property pursuant to KRS 500.090.
- (2) Upon a finding by the department~~[Kentucky State Police]~~ or a local law enforcement agency assigned by the department~~[Kentucky State Police]~~ to investigate an application filed pursuant to KRS 514.120 that the property is

lawfully owned by the applicant, the ~~department~~~~[Kentucky State Police]~~ shall issue, or cause to be issued, in consultation with any state or federal regulatory agency, a suitable identification number to be affixed to the property together with a document stating the number so issued.

- (3) Upon a finding by the ~~department~~~~[Kentucky State Police]~~ or a local law enforcement agency assigned by the ~~department~~~~[Kentucky State Police]~~ to investigate an application filed pursuant to KRS 514.120 that the property is not lawfully owned by the applicant, the ~~department~~~~[Kentucky State Police]~~ shall seize the property or cause it to be seized by the local agency and held for disposition by a court of competent jurisdiction.
- (4) The ~~department~~~~[Kentucky State Police]~~ shall ~~promulgate~~~~[issue]~~ such administrative regulations as are reasonably necessary to enforce the provisions of this section and KRS 500.090 and 514.130.

Section 70. KRS 16.210 is amended to read as follows:

- (1) Property taken by the Department of Kentucky State Police shall be placed with the property officer of the post to which the officer is assigned.
- (2) Property which is forfeited may be disposed of as provided by KRS 500.090; however, the proceeds of any sale shall go to the state or be distributed as otherwise provided by law.
- (3) All other property may be disposed of as provided in KRS 67.592 and 67.594 except that all proceeds from any sale shall go to the state.

Section 71. KRS 16.220 is amended to read as follows:

- (1) Subject to the duty to return confiscated firearms to innocent owners pursuant to KRS 500.090, all firearms confiscated by the Department of Kentucky State Police and not retained for official use pursuant to KRS 500.090 shall be sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearm sold. The Department of Kentucky State Police shall transfer firearms that are to be sold to the Department for Facilities and Support Services, Division of Surplus Properties, for sale. Proceeds of the sale shall be transferred to the account of the Department for Local Government for use as provided in subsection (3) of this section. Prior to the sale of any firearm, the Department of Kentucky State Police shall make an attempt to determine if the firearm to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law.
- (2) The Department of Kentucky State Police shall receive firearms and ammunition confiscated by or abandoned to every law enforcement agency in Kentucky. The ~~department~~~~[Kentucky State Police]~~ shall dispose of the firearms received in the manner specified in subsection (1) of this section. However, firearms which are not retained for official use, returned to an innocent lawful owner, or transferred to another government agency or public museum shall be sold as provided in subsections (1) and (3) of this section.
- (3) The proceeds of firearms sales shall be utilized by the Department for Local Government to provide grants to city, county, charter county, and urban-county police departments, university safety and security departments organized pursuant to KRS 164.950 and sheriff's departments for the purchase of body armor for sworn peace officers of those departments and service animals, as defined in KRS 525.010, of those departments or for the purchase of firearms or ammunition. Body armor purchased by the department receiving grant funds shall meet or exceed the standards issued by the National Institute of Justice for body armor. No police or sheriff's department shall apply for a grant to replace existing body armor unless that body armor has been in actual use for a period of five (5) years or longer.
- (4) The Department of Kentucky State Police may transfer a machine gun, short-barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any other weapon, or destructive device as defined by the National Firearms Act which is subject to registration under the National Firearms Act, and is not properly registered in the national firearms transfer records for those types of weapons, to the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the Treasury, after a reasonable attempt has been made to transfer the firearm to an eligible state or local law enforcement agency or to an eligible museum and no eligible recipient will take the firearm or weapon. National Firearms Act firearms and weapons which are properly registered and not returned to an innocent lawful owner or retained for official use as provided in this section shall be sold to properly licensed dealers under subsection (3) of this section.

Section 72. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

- (1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;
- (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its successor;
- (4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;
- (5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

- (6) "Service" means the total of current service and prior service;
- (7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;
- (8) "Creditable compensation" means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);
- (9) "Final compensation" at any time means the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
- (10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;
- (11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (12) "Retirement allowance" means the retirement payments to which a retired member is entitled;
- (13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;
- (14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of Kentucky State Police;
- (15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959;
- (16) "Disability retirement date" means the first day of the month following the last day of paid employment;
- (17) "Dependent child" means a child in the womb and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);
- (18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;
- (19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;
- (20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;
- (21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;
- (22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;
- (23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted

2007 Regular Session

to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;
- (27) "Person" means a natural person;
- (28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;
- (30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;
- (33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543; and
- (34) "Month" means a calendar month.

Section 73. KRS 16.520 is amended to read as follows:

- (1) Membership in the system shall consist of all regular full-time officers of the Department of Kentucky State Police appointed pursuant to KRS 16.050 who are entitled to exercise the powers of peace officers except those who do not choose to participate pursuant to KRS 61.545(3).
- (2) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

Section 74. KRS 16.543 is amended to read as follows:

- (1) Employee contributions shall be deducted from the creditable compensation of each member of the retirement system in the active employment of the Department of Kentucky State Police of the Justice and Public Safety Cabinet as an officer as defined in KRS 16.520. After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 16.545(4). Service credit shall be allowed for each month such member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he or she receives creditable compensation for one hundred (100) hours of work.
- (2) Contributions shall not be made and no service will be earned while on authorized leave except:
 - (a) A member shall be entitled to service credit in accordance with KRS 61.555; and
 - (b) A member on educational leave, approved by the Personnel Cabinet, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions or such contributions shall be picked up in accordance with KRS 16.545 and his or her employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.
- (3) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 16.560.

Section 75. KRS 17.110 is amended to read as follows:

- (1) All city and county law enforcement agencies shall cause a photograph, a set of fingerprints, and a general description report of all persons arrested on a felony charge to be made and two (2) copies of each item forwarded within thirty (30) days after the arrest to the Department of Kentucky State Police of the Justice and Public Safety Cabinet, in accordance

with administrative regulations of the ~~Justice~~ cabinet. Unless the charges are dismissed or withdrawn at that appearance, the judge shall require any adult person appearing before any Circuit Court in the Commonwealth on a felony charge, who has not been arrested, to, if this has not already been done in the case before the court, be photographed and fingerprinted, and have a general description made following his arraignment. Agencies specified above shall furnish any other information involving offenses or in their possession relative to law enforcement upon request by the ~~Justice~~ cabinet.

- (2) Each city and county law enforcement agency shall advise the Department of Kentucky State Police of the disposition made of all cases wherein a person has been charged with an offense.

Section 76. KRS 17.115 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall:

- (a) Receive and file fingerprints, photographs, and other records pertaining to the investigation of crime and the apprehension of criminals; and
- (b) Cooperate with the state, county, and city law enforcing agencies of other states and of the United States in order to develop and carry on an interstate and national system of criminal identification.

- (2) Persons in charge of any penal or correctional institution in the state, and all state law enforcement and peace officers operating identification facilities shall cooperate in providing the cabinet with fingerprints and descriptions of all persons lawfully committed to their custody or detained by them in cases where fingerprints and descriptions are taken, together with a report of the disposition of all cases of such persons.

Section 77. KRS 17.120 is amended to read as follows:

The Justice and Public Safety Cabinet shall forward one (1) copy of each photograph, set of fingerprints and general description report received by it in a criminal case to the Federal Bureau of Investigation.

Section 78. KRS 17.125 is amended to read as follows:

- (1) The following agencies shall, subject to restrictions imposed by state or federal law, disclose and share with each other all information they maintain on a juvenile in a facility or program or informal adjustment authorized by law:
- (a) All sheriff's offices, police departments, and any other law enforcement agency;
 - (b) All Commonwealth's attorneys and county attorneys;
 - (c) The Attorney General;
 - (d) All jails and juvenile detention facilities, public and private;
 - (e) All courts and clerks of courts;
 - (f) The Administrative Office of the Courts;
 - (g) All departments within the Justice and Public Safety Cabinet; and
 - (h) All departments within the Cabinet for Health and Family Services.
- (2) Except as provided in this section, all information shared by agencies specified above shall be subject to applicable confidentiality disclosure, redisclosure, and access restrictions imposed by federal or state law.
- (3) All public or private elementary or secondary schools, vocational or business schools, or institutions of higher education shall provide all records specifically requested in writing, and pertaining to status offenders, public offenders, youthful offenders, juveniles remanded to detention, and any juvenile convicted by a court, to any of the agencies listed in subsection (1) of this section. The records or information provided pursuant to this subsection shall be subject to:
- (a) Access or other restrictions imposed by federal or state law;
 - (b) All confidentiality restrictions imposed by federal or state law; and
 - (c) All disclosure and redisclosure restrictions imposed by federal or state law.
- (4) Any request for records, the provision of records, the sharing of records, the disclosure of records, or the redisclosure of records shall be done for official purposes only, on a bona fide need to know basis, and only in connection with a legitimate investigation, prosecution, treatment program, or educational program.
- (5) Information and records relating to pending litigation in Circuit Court, District Court, or a federal court and information and records relating to an ongoing investigation are not subject to disclosure or sharing under this section.
- (6) Obtaining or attempting to obtain a record relating to a minor or by sharing or attempting to share a record relating to a minor with an unauthorized person is a violation of this section.

Section 79. KRS 17.131 is amended to read as follows:

- (1) There is hereby established the Kentucky Unified Criminal Justice Information System, referred to in this chapter as the "system." The system shall be a joint effort of the criminal justice agencies, the Courts of Justice, and the Office of Homeland Security ~~and the courts~~. Notwithstanding any statutes, administrative regulations, and policies to the contrary, if standards and technologies other than those set by the Commonwealth Office of Technology are required, the executive director of the Commonwealth Office of Technology shall review, expedite, and grant appropriate exemptions to effectuate the purposes of the unified criminal justice information system. Nothing in this section shall be construed to hamper any

public officer or official, agency, or organization of state or local government from furnishing information or data that they are required or requested to furnish and which they are allowed to procure by law, to the General Assembly, the Legislative Research Commission, or a committee of either. For the purposes of this section, "criminal justice agencies" include all departments of the Justice and Public Safety Cabinet except the Department of Public Advocacy, the Unified Prosecutorial System, Commonwealth's attorneys, county attorneys, the Transportation Cabinet, the Cabinet for Health and Family Services, and any agency with the authority to issue a citation or make an arrest.

- (2) The program to design, implement, and maintain the system shall be under the supervision of the executive director of the Office of Homeland Security in consultation with the executive director of the Commonwealth Office of Technology and the Administrative Office of the Courts~~[Uniform Criminal Justice Information System Committee of the Criminal Justice Council. The membership of this committee shall be determined by the council, upon the recommendation of the executive director of the Commonwealth Office of Technology, who shall chair the committee].~~
- (3) The executive director of the Office of Homeland Security, the executive director of the Commonwealth Office of Technology, and a representative of the Administrative Office of the Courts, or their respective designees~~[committee]~~ shall be responsible for recommending standards, policies, and other matters to the secretary of justice and public safety for promulgation of administrative regulations in accordance with KRS Chapter 13A to implement the policies, standards, and other matters relating to the system and its operation.
- (4) ~~[The committee shall submit recommendations to the Criminal Justice Council and the secretary of justice for administrative regulations to implement the uniform policy required to operate the system. The committee shall implement the uniform policy.]~~
- (5) ~~[The uniform policy shall include a system to enable the criminal justice agencies and the courts to share data stored in each other's information systems. Initially, the uniform policy shall maximize the use of existing databases and platforms through the use of a virtual database created by network linking of existing databases and platforms among the various departments. The uniform policy shall also develop plans for the new open system platforms before the existing platforms become obsolete.]~~
- ~~[(6) The committee shall be responsible for recommending to the Criminal Justice Council and the secretary of justice any necessary changes in administrative regulations necessary to implement the system. The committee shall also recommend to the Criminal Justice Council, the Chief Justice, and the secretary of justice recommendations for statutory additions or changes necessary to implement and maintain the system. The secretary shall be responsible for reporting approved statutory recommendations to the Governor, the Chief Justice, the Legislative Research Commission, and appropriate committees of the General Assembly.]~~
- ~~(7) The chair of the committee shall report annually to the Criminal Justice Council on the status of the system.]~~
- ~~(5) [(8)]~~ All criminal justice and participating public safety agencies shall follow the policies established by administrative regulation for the exchange of data and connection to the system.
- ~~(6) [(9)]~~ The executive director of the Commonwealth Office of Technology~~[committee]~~ shall review how changes to existing criminal justice agency applications impact the new integrated network. Changes to criminal justice agency applications that have an impact on the integrated network shall be coordinated through and approved by the executive director of the Office of Homeland Security, in consultation with the Commonwealth Office of Technology~~[committee]~~.
- ~~(7) [(10)]~~ Any future state-funded expenditures by a criminal justice agency for computer platforms in support of criminal justice applications shall be reviewed by the Office of Homeland Security and the Commonwealth Office of Technology~~[committee]~~.
- (8) As part of the unified criminal justice information system, the executive director of the Office of Homeland Security, in consultation with the secretary of the Justice and Public Safety Cabinet, the executive director of the Commonwealth Office of Technology, and the Administrative Office of the Courts, shall design and implement an automated warrant system. The automated warrant system shall be compatible with any similar system required by the federal government for inclusion of state information in federal criminal justice databases.
- ~~(9) [(11)]~~ Any criminal justice and public safety agency~~[or officer]~~ that does not participate in the~~[criminal justice information]~~ system may be denied access to state and federal grant funds.

Section 80. KRS 17.140 is amended to read as follows:

- (1) A centralized criminal history record information system shall be established in the Justice and Public Safety Cabinet under the direction, control and supervision of the commissioner of the Department of Kentucky State Police.
- (2) A centralized criminal history records information system means the system including equipment, facilities, procedures, and agreements for the collection, processing, preservation or dissemination of criminal history records maintained by the Justice and Public Safety Cabinet.

Section 81. KRS 17.147 is amended to read as follows:

The Department of Kentucky State Police shall:

- (1) Collect data necessary for the operation of the centralized criminal history record information system from all persons and agencies mentioned in KRS 17.150.

- (2) Prepare and distribute to all such persons and agencies forms to be used in reporting data to the centralized criminal history record information system. The forms shall provide for items of information needed by federal bureaus or departments engaged in the administration of criminal justice programs.
- (3) Prescribe the forms and content of records to be kept by such persons and agencies to insure reporting of data to the centralized criminal history record information system.
- (4) Instruct such persons and agencies in the installation, maintenance, and use of such records and in the manner of reporting to the centralized criminal history record information system.
- (5) Tabulate, analyze, and interpret the data collected.
- (6) Supply data, at their request, to participating federal bureaus, departments, or criminal justice agencies engaged in the administration of criminal justice programs.
- (7) Annually present to the Governor, on or before July 1, concerning the criminal statistics of the preceding calendar year, and present at such other times as the commissioner may deem wise, or the Governor may request, reports on special aspects of criminal statistics. A sufficient number of copies of all reports shall be printed for general distribution in the interest of public enlightenment.

Section 82. KRS 17.148 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet, Department of Kentucky State Police, shall:
 - (a) Coordinate all efforts of the state's various departments and agencies to promote traffic safety and make recommendations regarding the prevention of unnecessary duplications of these efforts; and
 - (b) Cooperate with all organizations, public or private, in the encouragement and promotion of traffic safety education in all forms; and
 - (c) Receive, control and expend, in accordance with the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies, grants and funds from either public or private sources.
- (2) There are hereby transferred to and vested in the Department of Kentucky State Police all functions, powers, duties, funds, personnel, equipment and supplies relating to the administration of the National Highway Safety Act of 1966 in Kentucky, which responsibility and authority have been conferred upon the Transportation Cabinet.

Section 83. KRS 17.150 is amended to read as follows:

- (1) Every sheriff, chief of police, coroner, jailer, prosecuting attorney, probation officer, parole officer; warden or superintendent of a prison, reformatory, correctional school, mental hospital, or institution for the retarded; Department of Kentucky State Police, state fire marshal, Board of Alcoholic Beverage Control; Cabinet for Health and Family Services; Transportation Cabinet; Department of Corrections; Department of Juvenile Justice; and every other person or criminal justice agency, except the Court of Justice and the Department of Public Advocacy, public or private, dealing with crimes or criminals or with delinquency or delinquents, when requested by the cabinet, shall:
 - (a) Install and maintain records needed for reporting data required by the cabinet;
 - (b) Report to the cabinet as and when the cabinet requests all data demanded by it, except that the reports concerning a juvenile delinquent shall not reveal the juvenile's or the juvenile's parents' identity;
 - (c) Give the cabinet or its accredited agent access for purpose of inspection; and
 - (d) Cooperate with the cabinet to the end that its duties may be properly performed.
- (2) Intelligence and investigative reports maintained by criminal justice agencies are subject to public inspection if prosecution is completed or a determination not to prosecute has been made. However, portions of the records may be withheld from inspection if the inspection would disclose:
 - (a) The name or identity of any confidential informant or information which may lead to the identity of any confidential informant;
 - (b) Information of a personal nature, the disclosure of which will not tend to advance a wholesome public interest or a legitimate private interest;
 - (c) Information which may endanger the life or physical safety of law enforcement personnel; or
 - (d) Information contained in the records to be used in a prospective law enforcement action.
- (3) When a demand for the inspection of the records is refused by the custodian of the record, the burden shall be upon the custodian to justify the refusal of inspection with specificity. Exemptions provided by this section shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this section.
- (4) Centralized criminal history records are not subject to public inspection. Centralized history records mean information on individuals collected and compiled by the Justice and Public Safety Cabinet from criminal justice agencies and maintained in a central location consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges and any disposition arising therefrom, including sentencing, correctional supervision, and release. The information shall be restricted to that recorded as the result of the initiation of criminal proceedings or any proceeding related thereto. Nothing in this subsection shall apply to documents maintained by criminal justice agencies

which are the source of information collected by the Justice and Public Safety Cabinet. Criminal justice agencies shall retain the documents and no official thereof shall willfully conceal or destroy any record with intent to violate the provisions of this section.

- (5) The provisions of KRS Chapter 61 dealing with administrative and judicial remedies for inspection of public records and penalties for violations thereof shall be applicable to this section.
- (6) The secretary of justice and public safety shall adopt the administrative regulations necessary to carry out the provisions of the criminal history record information system and to insure the accuracy of the information based upon recommendations submitted by the commissioner, Department of Kentucky State Police.
- (7) The Administrative Office of the Courts may, upon suitable agreement between the Chief Justice and the secretary of justice and public safety, supply criminal justice information and data to the cabinet. No information, other than that required by KRS 27A.350 to 27A.420 and 27A.440, shall be solicited from a circuit clerk, justice or judge, court, or agency of the Court of Justice unless the solicitation or request for information is made pursuant to an agreement which may have been reached between the Chief Justice and the secretary of justice and public safety.

Section 84. KRS 17.151 is amended to read as follows:

The Department of Kentucky State Police shall, in cooperation with the Administrative Office of the Courts, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Department of Corrections, be responsible for the recording of those data elements that are needed for development of the centralized criminal history record information system:

- (1) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440;
- (2) The Department of Kentucky State Police shall provide access to the Administrative Office of the Courts, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Department of Corrections to its database; and
- (3) The Department of Kentucky State Police, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Department of Corrections shall assign the same identification number or other variable to each person whose name appears in the database.

Section 85. KRS 17.152 is amended to read as follows:

All data supplied to the centralized criminal history record information system by the Department of Kentucky State Police, Administrative Office of the Courts, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Department of Corrections shall be compatible with the system and shall contain both citation and personal identification numbers.

Section 86. KRS 17.1522 is amended to read as follows:

The Department of Kentucky State Police shall update the centralized criminal history record information system within thirty (30) days of receipt of information. The update shall include information from the:

- (1) Offender level;
- (2) Arrest level; and
- (3) Informational and evaluational level.

Section 87. KRS 17.1523 is amended to read as follows:

- (1) The uniform offense report shall contain provisions for obtaining information as to whether or not specific crimes appear from their facts and circumstances to be caused as a result of or reasonably related to race, color, religion, sex, or national origin.
- (2) All law enforcement officers, when completing a uniform offense report, shall note thereon whether or not the offense appears to be caused as a result of or reasonably related to race, color, religion, sex, or national origin or attempts to victimize or intimidate another due to any of the foregoing causes.
- (3) The Justice and Public Safety Cabinet shall, annually, as a part of the crime reports report on crimes which appear to have been caused by the factors cited in subsections (1) and (2) of this section.

Section 88. KRS 17.160 is amended to read as follows:

- (1) Notwithstanding any other provision of law, an employer may request from the Justice and Public Safety Cabinet or the Administrative Office of the Courts, or both, records of all available convictions involving any felony offense, any misdemeanor offense in KRS Chapter 531 or KRS Chapter 510, any misdemeanor offense under KRS Chapter 218A committed within the five (5) years immediately preceding the application, or any conviction for violating KRS Chapter 189A committed within the five (5) years immediately preceding the application of a person who applies for employment or volunteers for a position in which he or she would have supervisory or disciplinary power over a minor. The cabinet or the Administrative Office of the Courts, as appropriate, shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.
- (2) Any request for records under subsection (1) of this section shall be on a form approved by the cabinet and the Administrative Office of the Courts. No fee shall be charged to the employer or to the person whose records were requested if funding for the record checks provided for in this section is provided through some other mechanism; otherwise the cabinet or the Administrative Office of the Courts may charge a fee to be paid by the organization making

the request, not to exceed the actual cost of processing the request.

- (3) The cabinet and the Administrative Office of the Courts shall ~~promulgate~~~~[adopt]~~ administrative regulations to implement the provisions of this section. No administrative regulation shall be adopted requiring or authorizing the fingerprinting of applicants.
- (4) As used in this section "employer" means any organization chartered by the Congress of the United States or specified by the Attorney General which employs or uses the services of volunteers or paid employees in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children. An organization which has an administrative office with paid personnel which has jurisdiction over suborganizations in one (1) or more counties shall make application for record checks through the administrative office of the organization and not through each individual suborganization.
- (5) Offenses which may be searched for under this section are ones involving any conviction, plea of guilty, or Alford plea, to any offense specified in subsection (1) of this section or the attempted violation of any offense specified in subsection (1) of this section. Conviction for a violation or attempted violation of an offense committed outside the Commonwealth of Kentucky is a crime if such offense would have been a crime in Kentucky under subsection (1) of this section if committed in Kentucky.

Section 89. KRS 17.165 is amended to read as follows:

- (1) As used in this section, "sex crime" means a conviction or a plea of guilty to a sex crime specified in KRS 17.500.
- (2) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.
- (3) As used in this section, "violent crime" shall mean a conviction of or a plea of guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.
- (4) No child-care center as defined in KRS 199.894 shall employ, in a position which involves supervisory or disciplinary power over a minor, or direct contact with a minor, any person who is a violent offender or has been convicted of a sex crime. Each child-care center shall request all conviction information for any applicant for employment from the Justice and Public Safety Cabinet or the Administrative Office of the Courts prior to employing the applicant.
- (5) No child-care provider that is required to be certified under KRS 199.8982 or that receives a public child-care subsidy administered by the cabinet or an adult who resides on the premises of the child-care provider and has direct contact with a minor shall have been convicted of a violent crime, or a sex crime, or have been found by the Cabinet for Health and Family Services or a court to have abused or neglected a child.
- (6) Each application form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."
- (7) Any request for records under subsection (4) of this section shall be on a form approved by the Justice and Public Safety Cabinet or the Administrative Office of the Courts, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.
- (8) The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988.

Section 90. KRS 17.167 is amended to read as follows:

- (1) As used in this section, "felony offender" means any person who has been convicted of, entered an Alford plea to, or pleaded guilty to the commission of a capital offense or a felony.
- (2) Any paid or volunteer fire department certified by the Commission on Fire Protection Personnel Standards and Education, ambulance service licensed by the Commonwealth of Kentucky, or rescue squad officially affiliated with a local disaster and emergency services organization or with the Division of Emergency Management may apply to the Justice and Public Safety Cabinet or the Administrative Office of the Courts for a felony offender record check on applicants for employment or membership with the fire department, ambulance service, or rescue squad.
- (3) Each application form, provided by a fire department, ambulance service, or rescue squad to an applicant for employment or membership, shall conspicuously state the following: "FOR EMPLOYMENT WITH OR MEMBERSHIP WITH A FIRE DEPARTMENT, AMBULANCE SERVICE, OR RESCUE SQUAD, STATE LAW PERMITS A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT OR MEMBERSHIP."
- (4) Any request for records under this section shall be on a form approved by the Justice and Public Safety Cabinet or the Administrative Office of the Courts. The Justice and Public Safety Cabinet and the Administrative Office of the Courts shall not charge a fee for making record checks.

Section 91. KRS 17.170 is amended to read as follows:

- (1) Any person, including a youthful offender as defined in KRS 600.020, detained in the custody of the Department of Juvenile Justice who is convicted of a felony offense under KRS Chapter 510 or KRS 530.020, shall, or who is in the

custody of the Department of Corrections on July 14, 1992, under KRS Chapter 510 or KRS 530.020 may, have a sample of blood, an oral swab, or sample obtained through a noninvasive procedure taken by the Department of Corrections or the Department of Juvenile Justice, when appropriate, for DNA (deoxyribonucleic acid) law enforcement identification purposes and inclusion in law enforcement identification databases.

- (2) The samples shall be obtained in a medically approved manner by a physician, registered nurse, phlebotomist, medical technician, or medical technologist, and packaged and submitted in containers provided by the Department of Kentucky State Police forensic laboratory in accordance with administrative regulations promulgated by the Department of Kentucky State Police forensic laboratory. No civil liability shall attach to any person authorized to obtain the DNA sample as provided by this section as a result of the act of obtaining the DNA sample from any person, provided the procedure was done according to generally accepted medical procedures.
- (3) The cost of testing shall be paid by the agency or individual making the request for testing.
- (4) Any person who tampers or attempts to tamper with any DNA sample collected under this section or its container without lawful authority shall be guilty of a Class D felony.

Section 92. KRS 17.175 is amended to read as follows:

- (1) A centralized database of DNA (deoxyribonucleic acid) identification records for convicted criminals, crime scene specimens, missing persons, and close biological relatives of missing persons shall be established in the Department of Kentucky State Police under the direction, control, and supervision of the Department of Kentucky State Police forensic laboratory. The established system shall be compatible with the procedures set forth in a national DNA identification index to ensure data exchange on a national level.
- (2) The purpose of the centralized DNA database is to assist federal, state, and local criminal justice and law enforcement agencies within and outside the Commonwealth in the identification, detection, or exclusion of individuals who are subjects of the investigation or prosecution of sex-related crimes, violent crimes, or other crimes and the identification and location of missing and unidentified persons.
- (3) The Department of Kentucky State Police forensic laboratory shall receive, analyze, and classify samples of blood received from the Department of Corrections in compliance with KRS 17.170 and this section, and samples from other sources, and shall file the DNA results in the centralized databases for identification and statistical purposes.
- (4) Records produced from the samples shall be used only for law enforcement purposes and shall be exempt from the provisions of KRS Chapter 61.
- (5) A person whose DNA profile has been included in the data bank pursuant to this chapter may request expungement on the grounds that the felony conviction on which the authority for including the DNA profile was based, has been reversed and the case dismissed. The Department of Kentucky State Police shall expunge all identifiable information in the data bank pertaining to the person and destroy all samples from the person upon receipt of:
 - (a) A written request for expungement pursuant to this section; and
 - (b) A certified copy of the court order reversing and dismissing the conviction.
- (6) The Department of Kentucky State Police forensic laboratory shall promulgate administrative regulations necessary to carry out the provisions of the DNA database identification system to include procedures for collection of DNA samples and the database system usage and integrity.
- (7) Any person who disseminates, receives, or otherwise uses or attempts to use information in the database, knowing that such dissemination, receipt, or use is for a purpose other than authorized by law, shall be guilty of a Class A misdemeanor.

Section 93. KRS 17.176 is amended to read as follows:

- (1) In addition to the requirements specified in KRS 422.285, any evidence submitted for testing and analysis pursuant to KRS 422.285 or 422.287 shall be of probative value. When the motion is filed with the court requesting testing and analysis of evidence pursuant to this section, the applicant shall include sufficient information about the evidence, the necessity for its testing and analysis, and its applicability to the proceeding for a court to make a determination of the probative value of the evidence proposed to be tested and analyzed.
- (2) The prosecution, with a court order issued pursuant to this section, may submit not more than five (5) items of evidence for testing and analysis by the Department of Kentucky State Police forensic laboratory or another laboratory selected by the Department of Kentucky State Police forensic laboratory without charge. The cost of testing and analysis of any items of evidence in excess of the five (5) initial items to be tested and analyzed shall be borne by the agency or person requesting the testing and analysis. Any additional item of evidence submitted for testing and analysis shall be accompanied by the court order specified in subsection (1) of this section.
- (3) The defense, with a court order issued pursuant to this section, may submit not more than five (5) items of evidence for testing and analysis by the Department of Kentucky State Police forensic laboratory or another laboratory selected by the Department of Kentucky State Police forensic laboratory without charge. The cost of testing and analysis of any item of evidence in excess of the five (5) initial items to be tested and analyzed shall be borne by the agency or person requesting the testing and analysis. Any additional item of evidence submitted for testing and analysis shall be accompanied by the court order specified in subsection (1) of this section.

- (4) Any other party in a criminal case, with permission of the court after a specific showing of necessity for testing and analysis, together with the items specified in subsection (1) of this section, may submit an item of evidence for testing and analysis by the Department of Kentucky State Police forensic laboratory or another laboratory selected by the Department of Kentucky State Police forensic laboratory for testing and analysis. The cost of testing and analysis of any item of evidence permitted to be submitted by the court shall be borne by the person or organization requesting the testing and analysis.
- (5) The Department of Kentucky State Police shall promulgate by administrative regulation a uniform schedule of fees to be charged for testing and analysis conducted pursuant to KRS 422.285 or 422.287.

Section 94. KRS 17.177 is amended to read as follows:

- (1) KRS 17.171, 17.172, 17.173, 17.174, 17.176, 422.285, 422.287, and 524.140, and the amendments to KRS 17.170 and 17.175 contained in 2002 Ky. Acts ch. 154, secs. 4 and 9, shall become effective on July 15, 2002.
- (2) Implementation of KRS 17.176, 422.285, 422.287, and 524.140, and of KRS 17.170 as amended by 2002 Ky. Acts ch. 154, sec. 4, shall occur on July 15, 2002; however, actual compliance with the provisions of KRS 17.171, 17.172, 17.173, and 17.174, and of KRS 17.175 as amended by 2002 Ky. Acts ch. 154, sec. 9, may be delayed until funding is available for their full implementation.
- (3) As funding becomes available, KRS 17.171, 17.172, 17.173, and 17.174, and KRS 17.175 as amended by 2002 Ky. Acts ch. 154, sec. 9, shall be implemented in their numerical order. As a section is implemented, the Reviser of Statutes shall be notified by the secretary of justice and public safety, in writing, as to the date of implementation. DNA sample collection and testing shall apply to any person meeting the criteria of KRS 17.171, 17.172, 17.173, or 17.174, or KRS 17.175 as amended by 2002 Ky. Acts ch. 154, sec. 9, as of July 15, 2002, and not the date of implementation of the testing.
- (4) Once implementation of a provision of KRS 17.171, 17.172, 17.173, or 17.174, or of KRS 17.175 as amended by 2002 Ky. Acts ch. 154, sec. 9, is begun it shall not be discontinued.

Section 95. KRS 17.180 is amended to read as follows:

- (1) The Department of Kentucky State Police shall design, implement, and maintain an automated fingerprint identification system.
- (2) The automated fingerprint identification system shall be compatible with any similar system required by the federal government for inclusion of state information in federal criminal justice databases.
- (3) The Commonwealth shall provide and maintain in every detention center the automated fingerprint identification system equipment and programs required by the Department of Kentucky State Police through administrative regulation.

Section 96. KRS 17.450 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall establish within the cabinet a "Kentucky Missing Child Information Center", which shall serve as a central repository of and clearinghouse for information about Kentucky children believed to be missing and children from other states believed to be missing in Kentucky.
- (2) The cabinet shall provide the Missing Child Information Center with computer equipment and a computer program which shall list and be capable of immediately retrieving the name and complete description of any missing Kentucky child referred to in subsection (1) of this section.
- (3) The cabinet shall design the computer program so as to accept and generate complete information on a missing child, which information shall be retrievable by the child's name and date of birth, social security number, fingerprint classification, any number of physical descriptions, including hair and eye color and body marks, and known associates and locations.
- (4) Only law enforcement agencies shall be authorized to order missing child information entered into or retrieved from the missing child information center computer, except that a parent or guardian may order from the Department of Kentucky State Police information on his or her child to be entered or retrieved when another law enforcement agency has refused to enter or retrieve such missing child information.
- (5) The cabinet, through the Kentucky Missing Child Information Center, shall regularly issue flyers containing physical and situational descriptions of missing children when requested by a law enforcement agency or when determined by the cabinet.
- (6) For purposes of this section, child shall mean any person under eighteen (18) years of age or any person certified or known to be mentally incompetent or disabled.
- (7) A complete written report shall be issued annually by the cabinet, which report shall include statistical information on the numbers of missing children entered on the computer and located and recommendations for more accurate and timely reports and better usage of the computer.
- (8) The cabinet may promulgate administrative~~[issue]~~ regulations in conformance with this section which provide for the orderly receipt of missing child information and requests for retrieval of missing child information.
- (9) The Department of Kentucky State Police and each city, county, and urban-county police department and each sheriff's office shall fingerprint children without charge on forms provided by the cabinet. The completed fingerprint forms shall be

delivered to the child's parent or guardian and no copy of the fingerprint form shall be retained by the police department or sheriff's office.

Section 97. KRS 17.460 is amended to read as follows:

- (1) Upon notification by a parent, guardian, person exercising custodial control or supervision, or the authorized representative of the Department for Community Based Services of the Cabinet for Health and Family Services if the child is a ward of the state, that a child is missing, the law enforcement agency receiving notification shall immediately complete a missing person's report in a form prescribed by the Justice and Public Safety Cabinet which shall include information the Justice and Public Safety Cabinet deems necessary for the identification of the missing child, including the child's physical description, last known location, and known associates.
- (2) Within twenty-four (24) hours after completion of the missing person's report form, the law enforcement agency shall transmit the report for inclusion within the Kentucky Missing Child Information Center computer and shall cause the report to be entered into the National Crime Information Center computer.
- (3) Within twenty-four (24) hours thereafter, the law enforcement agency shall investigate the report, shall inform all appropriate law enforcement officers of the existence of the missing child report, and shall communicate the report to every other law enforcement agency having jurisdiction in the area.
- (4)
 - (a) Upon location of the missing child and verification of the National Crime Information Center entry, the law enforcement agency shall transport the child to the parent, guardian, or person exercising custodial control or supervision.
 - (b) If the child is a ward of the state, the law enforcement agency shall transport the child to the authorized representative of the Department for Community Based Services of the Cabinet for Health and Family Services in the jurisdiction of the law enforcement agency.
 - (c) If the law enforcement agency is unable to return the child to the appropriate caretaker pursuant to paragraph (a) of this subsection, the law enforcement agency shall contact the court-designated worker with jurisdiction for placement determination.
 - (d) If the child is in custody on a charge of committing an offense pursuant to KRS Chapters 600 to 645, the law enforcement agency shall proceed according to the provisions therein.
- (5) Within twenty-four (24) hours after a missing child is located and returned to the appropriate caretaker pursuant to subsection (4) of this section, the law enforcement agency which transported, found, or returned the missing child shall notify both the Missing Child Information Center and the National Crime Information Center of that fact.

Section 98. KRS 17.470 is amended to read as follows:

- (1) Upon receipt of a report of a missing child who was born in the Commonwealth, the Department of Kentucky State Police shall notify within forty-eight (48) hours the state registrar of vital statistics for the Commonwealth of the disappearance of such child and shall provide to the state registrar identifying information about the missing child. Upon learning of the recovery of a missing child, the Department of Kentucky State Police shall notify the state registrar.
- (2) The Department of Kentucky State Police shall provide the commissioner of education with a list of the names of all missing children and children who have been recovered along with, if available, the last known school of enrollment. The commissioner of education shall provide the information to schools as required in KRS 156.495.

Section 99. KRS 17.500 is amended to read as follows:

As used in KRS 17.500 to 17.580:

- (1) "Approved provider" means a mental health professional licensed or certified in Kentucky whose scope of practice includes providing mental health treatment services and who is approved by the Sex Offender Risk Assessment Advisory Board, under administrative regulations promulgated by the board, to provide comprehensive sex offender presentence evaluations or treatment to adults and youthful offenders, as defined in KRS 600.020;
- (2) "Cabinet" means the Justice and Public Safety Cabinet;
- (3)
 - (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:
 1. Kidnapping, as set forth in KRS 509.040, except by a parent;
 2. Unlawful imprisonment, as set forth in KRS 509.020, except by a parent;
 3. Sex crime;
 4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;
 5. Promoting prostitution, as set forth in KRS 529.030, 529.040, and 529.050, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);
 6. Use of a minor in a sexual performance, as set forth in KRS 531.310;
 7. Sexual abuse, as set forth in KRS 510.120 and 510.130;

8. Unlawful transaction with a minor in the first degree as set forth in KRS 530.064(1)(a);
 9. Any offense involving a minor or depictions of a minor as set forth in KRS Chapter 531;
 10. Any attempt to commit any of the offenses described in subparagraphs 1. to 9. of this paragraph; and
 11. Solicitation to commit any of the offenses described in subparagraphs 1. to 9. of this paragraph;
- (b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense;
- (4) "Law enforcement agency" means any lawfully organized investigative agency, sheriff's office, police unit, or police force of federal, state, county, urban-county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws;
- (5) "Registrant" means:
- (a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:
 1. A sex crime; or
 2. A criminal offense against a victim who is a minor; or
 - (b) Any person required to register under KRS 17.510; or
 - (c) Any sexually violent predator; or
 - (d) Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed;
- (6) "Registrant information" means the name, including any lawful name change together with the previous name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, a photograph, aliases used, residence, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants;
- (7) "Residence" means any place where a person sleeps. For the purposes of this statute, a registrant may have more than one (1) residence. A registrant is required to register each residence address;
- (8) "Sex crime" means:
- (a) A felony offense defined in KRS Chapter 510, or KRS 530.020, 530.064(1)(a), 531.310, or 531.320;
 - (b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or
 - (c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection;
- (9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in this section, as of the date the verdict is entered by the court;
- (10) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme;
- (11) "The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554; and
- (12) "Victim" has the same meaning as in KRS 421.500.

Section 100. KRS 17.510 is amended to read as follows:

- (1) The cabinet shall develop and implement a registration system for registrants which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.
- (2) A registrant shall, on or before the date of his or her release by the court, the parole board, the cabinet, or any detention facility, register with the appropriate local probation and parole office in the county in which he or she intends to reside. The person in charge of the release shall facilitate the registration process.
- (3) Any person required to register pursuant to subsection (2) of this section shall be informed of the duty to register by the court at the time of sentencing if the court grants probation or conditional discharge or does not impose a penalty of incarceration, or if incarcerated, by the official in charge of the place of confinement upon release. The court and the official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register has been explained to the person. The court and the official in charge of the place of confinement shall require the releasee to complete the acknowledgment form and the court or the official shall retain the original completed form. The official shall then send the form to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601.
- (4) The court or the official shall order the person to register with the appropriate local probation and parole office which shall obtain the person's fingerprints and the person's photograph. Thereafter, the registrant shall return to the appropriate local probation and parole office not less than one (1) time every two (2) years in order for a new photograph to be obtained,

and the registrant shall pay the cost of updating the photo for registration purposes. Failure to comply with this requirement shall be punished as set forth in subsection (11) of this section.

- (5)
 - (a) The appropriate probation and parole office shall send the registration form containing the registrant information, fingerprint card, and photograph, and any special conditions imposed by the court or the Parole Board, to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601.
 - (b) The Information Services Center, upon request by a state or local law enforcement agency, shall make available to that agency registrant information, including a person's fingerprints and photograph, where available, as well as any special conditions imposed by the court or the Parole Board.
 - (c) Any employee of the Justice Cabinet who disseminates, or does not disseminate, registrant information in good faith compliance with the requirements of this subsection shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (6) Any person who has been convicted in a court of any state or territory, a court of the United States, or a similar conviction from a court of competent jurisdiction in any other country, or a court martial of the United States Armed Forces of a sex crime or criminal offense against a victim who is a minor and who has been notified of the duty to register by that state, territory, or court, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws, or has a similar conviction from a court of competent jurisdiction in any other country, shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register with the appropriate local probation and parole office in the county of residence within five (5) working days of relocation. No additional notice of the duty to register shall be required of any official charged with a duty of enforcing the laws of this Commonwealth.
- (7) If a person is required to register under federal law or the laws of another state or territory, or if the person has been convicted of an offense under the laws of another state or territory that would require registration if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register within five (5) working days with the appropriate local probation and parole office in the county of residence, employment, vocation, or schooling. A person required to register under federal law or the laws of another state or territory shall be presumed to know of the duty to register in the Commonwealth. As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.
- (8) The registration form shall be a written statement signed by the person which shall include registrant information, including an up-to-date photograph of the registrant for public dissemination.
- (9) For purposes of KRS 17.500 to 17.580 and 17.991, a post office box number shall not be considered an address.
- (10)
 - (a) If the residence address of any registrant changes, but the registrant remains in the same county, the person shall register, on or before the date of the change of address, with the appropriate local probation and parole office in the county in which he or she resides.
 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.
 2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) working days after the date of the change of address.
 - (c)
 1. As soon as a probation and parole office learns of the person's new address under paragraph (b)1. of this subsection, that probation and parole office shall notify the appropriate local probation and parole office in the county of the new address of the effective date of the new address.
 2. As soon as a probation and parole office learns of the person's new address under paragraph (b)2. of this subsection, that office shall forward this information as set forth under subsection (5) of this section.
- (11) Any person required to register under this section who knowingly violates any of the provisions of this section or prior law is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.
- (12) Any person required to register under this section or prior law who knowingly provides false, misleading, or incomplete information is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.
- (13)
 - (a) The ~~Justice~~ cabinet shall verify the addresses of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under KRS 17.520(2) and at least once every calendar year for a person required to register under KRS 17.520(3). If the ~~Justice~~ cabinet determines that a person has moved without providing his or her new address to the appropriate local probation and parole office or offices as required under subsection (10)(a) and (b) of this section, the ~~Justice~~ cabinet shall notify the appropriate local probation and parole office of the new address. The office shall then forward this information as

set forth under subsection (5) of this section. The ~~Justice~~ cabinet shall also notify the appropriate court, Parole Board, and appropriate Commonwealth's attorney, sheriff's office, probation and parole office, corrections agency, and law enforcement agency responsible for the investigation of the report of noncompliance.

- (b) An agency that receives notice of the noncompliance from the cabinet under paragraph (a) of this subsection:
1. Shall consider revocation of the parole, probation, or conditional discharge of any person released under its authority; and
 2. Shall notify the appropriate county or Commonwealth's Attorney for prosecution.

Section 101. KRS 17.520 is amended to read as follows:

- (1) A registrant, upon his or her release by the court, the Parole Board, the cabinet, or any detention facility, shall be required to register for a period of time required under this section.
- (2) (a) Lifetime registration is required for:
 1. Any person who has been convicted of kidnapping, as set forth in KRS 509.040, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;
 2. Any person who has been convicted of unlawful confinement, as set forth in KRS 509.020, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;
 3. Any person convicted of a sex crime:
 - a. Who has one (1) or more prior convictions of a felony criminal offense against a victim who is a minor; or
 - b. Who has one (1) or more prior sex crime convictions;
 4. Any person who has been convicted of two (2) or more felony criminal offenses against a victim who is a minor;
 5. Any person who has been convicted of:
 - a. Rape in the first degree under KRS 510.040; or
 - b. Sodomy in the first degree under KRS 510.070; and
 6. Any sexually violent predator.
- (3) All other registrants are required to register for twenty (20) years following discharge from confinement or twenty (20) years following the maximum discharge date on probation, shock probation, conditional discharge, parole, or other form of early release, whichever period is greater.
- (4) If a person required to register under this section is reincarcerated for another offense or as the result of having violated the terms of probation, parole, or conditional discharge, the registration requirements and the remaining period of time for which the registrant shall register are tolled during the reincarceration.
- (5) A person who has pled guilty, entered an Alford plea, or been convicted in a court of another state or territory, in a court of the United States, or in a court-martial of the United States Armed Forces who is required to register in Kentucky shall be subject to registration in Kentucky based on the conviction in the foreign jurisdiction. The Justice Cabinet shall promulgate administrative regulations to carry out the provisions of this subsection.
- (6) The court shall designate the registration period as mandated by this section in its judgment and shall cause a copy of its judgment to be mailed to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601.

Section 102. KRS 17.547 is amended to read as follows:

The following shall be immune from suit for good faith conduct under KRS 17.500 to 17.580 and 17.991:

- (1) Law enforcement agencies including the ~~Justice~~ cabinet;
- (2) Independent contractors acting under the direction of law enforcement agencies;
- (3) State and county officials;
- (4) Approved providers, as defined in KRS 17.500; and
- (5) Employees of any of the agencies, entities, and persons identified in subsections (1), (2), (3), and (4) of this section.

Section 103. KRS 17.580 is amended to read as follows:

- (1) The Department of Kentucky State Police shall establish a Web site available to the public. The Web site shall display:
 - (a) The registrant information, except for information that identifies a victim, fingerprints, and Social Security numbers, obtained by the Information Services Center, Department of Kentucky State Police, under KRS 17.510;
 - (b) The sex offender information, except for information that identifies a victim, Social Security numbers, and vehicle registration data, obtained by the Information Services Center, Department of Kentucky State Police, under KRS

17.510 prior to April 11, 2000; and

- (c) The registrant's conviction, the elements of the offense for which the registrant was convicted, whether the registrant is currently on probation or parole, and whether the registrant is compliant or noncompliant.

The Web site shall be updated every day except for Saturdays, Sundays, and state holidays.

- (2) The information pertaining to an individual shall be maintained on the Web site so long as that individual is registered in accordance with KRS 17.500 to 17.580.
- (3) The following language shall be prominently displayed on the Web site: "UNDER KRS 525.070 AND 525.080, USE OF INFORMATION OBTAINED FROM THIS WEB SITE TO HARASS A PERSON IDENTIFIED ON THIS WEB SITE IS A CRIMINAL OFFENSE PUNISHABLE BY UP TO NINETY (90) DAYS IN THE COUNTY JAIL. MORE SEVERE CRIMINAL PENALTIES APPLY FOR MORE SEVERE CRIMES COMMITTED AGAINST A PERSON IDENTIFIED ON THIS WEB SITE."
- (4) (a) Any Department of Kentucky State Police employee who disseminates, or does not disseminate, registrant information or sex offender information in good faith compliance with the requirements of this section shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (b) Any person, including an employee of a sheriff's office, acting in good faith in disseminating, or not disseminating, information previously disseminated by the Department of Kentucky State Police shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (5) The ~~Justice~~ cabinet shall establish a toll-free telephone number for a person to call to learn the identity of the Web site created in this section and the location of public access to the Web site in the county where the person resides.
- (6) In addition to the Web site, a local law enforcement agency may provide personal notification regarding the registrants located in its jurisdiction. Any notification shall contain the warning specified in subsection (3) of this section.

Section 104. KRS 18A.095 is amended to read as follows:

- (1) (a) The provisions of this section shall not apply to employees commissioned pursuant to the provisions of Section 281 of this Act ~~[KRS 281.770]~~.
- (b) Dismissals, demotions, suspensions, and other penalizations of these commissioned employees, and appeals relating thereto, shall be governed by the provisions of Sections 282 and 283 of this Act ~~[KRS 281.771 and 281.772]~~.
- (2) A classified employee with status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.
- (3) Prior to dismissal, a classified employee with status shall be notified in writing of the intent to dismiss him. The notice shall also state:
 - (a) The specific reasons for dismissal including:
 - 1. The statutory or regulatory violation;
 - 2. The specific action or activity on which the intent to dismiss is based;
 - 3. The date, time, and place of such action or activity; and
 - 4. The name of the parties involved; and
 - (b) That the employee has the right to appear personally, or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.
- (4) The Personnel Cabinet shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the head of the cabinet or agency or his designee, to each appointing authority. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:
 - (a) The right granted an employee under the provisions of this section relating to pretermination hearings; and
 - (b) The time limits and procedures to be followed by all parties in pretermination hearings.
- (5) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives the notice, the employee may request to appear, personally or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.
- (6) Unless waived by the employee, the appearance shall be scheduled within six (6) working days after receipt of an employee's request to appear before the head of the cabinet or agency or his designee, excluding the day his request is received.
- (7) No later than five (5) working days after the employee appears before the head of the cabinet or agency or his designee, excluding the day of the appearance, the cabinet head or agency or his designee shall:
 - (a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and
 - (b) Notify the employee in writing of the decision.
- (8) If the cabinet or agency head or his designee determines that the employee shall be dismissed or otherwise penalized, the employee shall be notified in writing of:

- (a) The effective date of his dismissal or other penalization;
 - (b) The specific reason for this action, including:
 - 1. The statutory or regulatory violation;
 - 2. The specific action or activity on which the dismissal or other penalization is based;
 - 3. The date, time, and place of the action or activity; and
 - 4. The name of the parties involved;
 - (c) That he may appeal the dismissal or other penalization to the board within sixty (60) days after receipt of this notification, excluding the day he receives notice.
- (9) A classified employee with status who is demoted, suspended, or otherwise penalized shall be notified in writing of:
- (a) The demotion, suspension, or other penalization;
 - (b) The effective date of the demotion, suspension, or other penalization;
 - (c) The specific reason for the action including:
 - 1. The statutory or regulatory violation;
 - 2. The specific action or activity on which the demotion, suspension, or other penalization is based;
 - 3. The date, time, and place of the action or activity; and
 - 4. The name of the parties involved; and
 - (d) That he has the right to appeal to the board within sixty (60) days, excluding the day that he received notification.
- (10) Any unclassified employee who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after the dismissal, demotion, suspension, or other form of penalization, appeal to the board for review thereof.
- (11) (a) An employee whose position is reallocated shall be notified in writing by the appointing authority of:
- 1. The reallocation; and
 - 2. His right to request reconsideration by the secretary within ten (10) working days of receipt of the notice, excluding the day he receives notification;
- (b) He shall be provided with a form prescribed by the secretary on which to request reconsideration; and
- (c) The employee shall file a written request for reconsideration of the reallocation of his position with the secretary in a manner and form prescribed by the secretary and shall be given a reasonable opportunity to be heard thereon by the secretary. The secretary shall make a determination within sixty (60) days after the request has been filed by an employee. After reconsideration of the request by the secretary, the employee may appeal to the board.
- (12) Any state employee, applicant for employment, or eligible on a register may appeal to the board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged, or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employee, applicant, or eligible, and whether his right to inspect or copy these records was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy these records has been denied, abridged, or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employee, an applicant for employment, and an eligible on a register shall not have the right to inspect or to copy any examination materials.
- (13) Any classified employee may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age forty (40) and above. Nothing in this section shall be construed to preclude any classified or unclassified employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.
- (14) When an eligible's name is removed from a register, the secretary shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the secretary or in accordance with the decision of the board.
- (15) (a) Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board;
- (b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of this rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the secretary pending reconsideration by the board;
- (c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of the examination to assure that uniform rating procedures have been applied equally and fairly;
- (d) An appeal to the board by applicants or eligibles under subsections (11) and (13) of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the

notification of the action in question was mailed.

- (16) An evaluation may be appealed to the board if an employee has complied with the review procedure established in KRS 18A.110(7)(j).
- (17)
 - (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The Personnel Cabinet shall be responsible for the distribution of these forms;
 - (b) The appeal form shall be attached to any notice, or copy of any notice, of dismissal, demotion, suspension, fine, involuntary transfer, or other penalization, reallocation, or notice of any other action an employee may appeal under the provisions of this section. The appeal form shall instruct the employee to state whether he is a classified or unclassified employee, his full name, his appointing authority, work station address and telephone number, and, if he has retained counsel at the time he files an appeal, the name, address, and telephone number of his attorney;
 - (c) The form shall also instruct a classified employee to state the action he is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employee to make a short, plain, concise statement of the reason for the appeal and the cause given for his dismissal; and
 - (d) Upon receipt of the appeal by the board, the appointing authority and the Personnel Cabinet shall be notified and the board shall schedule a hearing.
- (18) All administrative hearings conducted by the board shall be conducted in accordance with KRS Chapter 13B.
- (19)
 - (a) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the reasons for the appeal and the cause for which he has been dismissed. The board may deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 18A.100;
 - (b) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing.
- (20) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:
 - (a) Employ class action procedures; or
 - (b) Conduct test representative cases.
- (21) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.
- (22) An appeal to the board may be heard by the full board or one (1) or more of the following: Its executive director, its general counsel, any nonelected member of the board, or any hearing officer secured by the board pursuant to KRS 13B.030.
- (23)
 - (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to, his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or disability, the appointing authority shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;
 - (b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;
 - (c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall direct the appointing authority to alter, modify, or rescind the disciplinary action;
 - (d) In all other cases, the board shall direct the appointing authority to rescind the action taken or otherwise grant specific relief or dismiss the appeal.
- (24) If a final order of the board is appealed, a court shall award reasonable attorney fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. This award shall not include attorney fees attributable to the hearing before the board.
- (25) When any employee is dismissed and not ordered reinstated after the appeal, the board in its discretion may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he had been removed.
- (26) After a final decision has been rendered by the board or court, an employee who prevails in his appeal shall be credited with the amount of leave time used for time spent at his hearing before the board or court. Employees who had an

insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.

- (27) If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employee shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.
- (28) For the purposes of subsections (3), (4), (5), (6), (7), and (8) of this section, the word "agency" means any agency not assigned to a cabinet for organizational purposes.
- (29) Notwithstanding any other prescribed limitation of action, an employee that has been penalized, but has not received a written notice of his or her right to appeal as provided in this section, shall file his or her appeal with the Personnel Board within one (1) year from the date of the penalization or from the date that the employee reasonably should have known of the penalization.

Section 105. KRS 18A.115 is amended to read as follows:

- (1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:
 - (a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;
 - (b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;
 - (c) Members of boards and commissions;
 - (d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the Secretary of the Governor's Cabinet, and the Office of Program Administration;
 - (e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television and the executive director and deputy executive director of the Education Professional Standards Board;
 - (f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;
 - (g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;
 - (h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;
 - (i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;
 - (j) Physicians employed as such;
 - (k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;
 - (l) The judicial department, referees, receivers, jurors, and notaries public;
 - (m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;
 - (n) Patients or inmates employed in state institutions;
 - (o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;
 - (p) Interim employees;
 - (q) Officers and members of the state militia;
 - (r) Department of Kentucky State Police troopers ~~and sworn officers in the Department of State Police, Justice Cabinet~~;
 - (s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to

work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

- (t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);
 - (u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;
 - (v) County and Commonwealth's attorneys and their respective appointees;
 - (w) Chief district engineers and the state highway engineer;
 - (x) Veterinarians employed as such by the Kentucky Horse Racing Authority;
 - (y) Employees of the Kentucky Peace Corps;
 - (z) Employees of the Council on Postsecondary Education;
 - (aa) Executive director of the Commonwealth Office of Technology;
 - (ab) Employees of the Kentucky Commission on Community Volunteerism and Service;
 - (ac) Persons employed in certified teaching positions at the Kentucky School for the Blind and the Kentucky School for the Deaf; and
 - (ad) Federally funded time-limited employees as defined in KRS 18A.005.
- (2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.
- (3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.
- (4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.
- (5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.
- (6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.
- (7) On August 15, 2000, all certified and equivalent personnel, all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.
- (8) On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.

Section 106. KRS 18A.450 is amended to read as follows:

Nothing in KRS 18A.400 to 18A.450 shall prohibit the commissioner of the Department of Workforce Investment or the commissioner of the Department of Kentucky State Police from developing pilot programs consistent with the provisions of KRS 18A.400 to 18A.450. To the extent that pilot programs are approved by these agencies, in no event shall the total number employees participating in these programs statewide exceed twenty percent (20%) of the permanent, full-time state employees employed on July 15, 1994.

Section 107. KRS 21A.090 is amended to read as follows:

- (1) At the request of the Chief Justice, the Governor may provide through the Department of Kentucky State Police such security personnel and services for the Supreme Court and Court of Appeals as shall be necessary.

- (2) When the Chief Justice, in his discretion, believes that local law enforcement personnel should be supplemented or superseded by the State Police, the Governor may provide through the Department of Kentucky State Police the necessary security personnel and services for any person or facility in the Court of Justice.
- (3) Department of Kentucky State Police officers serving the Court of Justice pursuant to subsection (1) or (2) of this section shall have statewide authority when performing any duty related to the Court of Justice.

Section 108. KRS 23A.206 is amended to read as follows:

- (1) For the purposes of this section:
 - (a) "Local government" means a city, county, charter county, urban-county, or consolidated local government; and
 - (b) "Police department" means a police department created by a local government which employs one or more officers certified pursuant to KRS 15.380 to 15.404.
- (2) In criminal cases a fee of twenty dollars (\$20) shall be added to the costs imposed by KRS 23A.205 that the defendant is required to pay.
- (3) The circuit clerk shall pay the funds from fees collected under this section to the Finance and Administration Cabinet pursuant to KRS 23A.215 for distribution as provided in subsection (5) of this section to local governments with police departments or local governments that contract for police services, and to counties with fiscal responsibilities for jails or the transporting of prisoners.
- (4) All funds distributed to local governments shall be used for payment of expenses for operation of the local government's police department or contracted police services. All funds distributed to counties with fiscal responsibilities for jails or the transporting of prisoners shall be used for the payment of costs associated with the housing or transporting of prisoners.
- (5) Payments shall be distributed quarterly by the Finance and Administration Cabinet beginning October 1, 2004, as follows:
 - (a) Thirty percent (30%) of the total shall be distributed equally to all local governments with police departments or that contract for police services;
 - (b) Fifty percent (50%) of the total shall be distributed to local governments with police departments or local governments that contract for police services on a per capita basis according to the number of certified police officers employed by the police department on July 1 of each year or providing services to the local government pursuant to a contract on July 1 of each year. For purposes of this subsection, each local government that contracts for police services shall be considered to employ one (1) police officer for each sixty thousand dollars (\$60,000) it expends during each fiscal year for police services under a written contract; and
 - (c) Twenty percent (20%) of the total shall be distributed equally to counties with fiscal responsibilities for jails or the transporting of prisoners.
- (6) On or before August 1 of each year, the Justice and Public Safety Cabinet shall certify to the Finance and Administration Cabinet the number of certified police officers employed by each local government.
- (7) On or before August 1 of each year, each local government contracting for police services shall certify to the Finance and Administration Cabinet the amount of money expended for police services under a written contract during the previous fiscal year.
- (8) The Finance and Administration Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A deemed necessary for the administration of this section.

Section 109. KRS 24A.176 is amended to read as follows:

- (1) For the purposes of this section:
 - (a) "Local government" means a city, county, charter county, urban-county, or consolidated local government; and
 - (b) "Police department" means a police department created by a local government which employs one (1) or more officers certified pursuant to KRS 15.380 to 15.404.
- (2) In criminal cases a fee of twenty dollars (\$20) shall be added to the costs imposed by KRS 24A.175 that the defendant is required to pay.
- (3) The circuit clerk shall pay the funds from fees collected under this section to the Finance and Administration Cabinet pursuant to KRS 24A.175 for distribution as provided in subsection (5) of this section to local governments with police departments or local governments that contract for police services, and to counties with fiscal responsibilities for jails or the transporting of prisoners.
- (4) All funds distributed to local governments shall be used for payment of expenses for operation of the local government's police department or contracted police services. All funds distributed to counties with fiscal responsibilities for jails or the transporting of prisoners shall be used for the payment of costs associated with the housing or transporting of prisoners.
- (5) Payments shall be distributed quarterly by the Finance and Administration Cabinet beginning October 1, 2004, as follows:
 - (a) Thirty percent (30%) of the total shall be distributed equally to all local governments with police departments or local governments that contract for police services;
 - (b) Fifty percent (50%) of the total shall be distributed to local governments with police departments on a per capita

basis according to the number of certified police officers employed by the police department on July 1 each year or providing services to the local government pursuant to a contract on July 1 of each year. For purposes of this subsection, each local government that contracts for police services shall be considered to employ one (1) police officer for each sixty thousand dollars (\$60,000) it expends during each fiscal year for police services under a written contract; and

- (c) Twenty percent (20%) of the total shall be distributed equally to counties with fiscal responsibilities for jails or the transporting of prisoners.
- (6) On or before August 1 of each year, the Justice and Public Safety Cabinet shall certify to the Finance and Administration Cabinet the number of certified police officers employed by each local government.
- (7) On or before August 1 of each year, each local government contracting for police services shall certify to the Finance and Administration Cabinet the amount of money expended for police services under a written contract during the previous fiscal year.
- (8) The Finance and Administration Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary for the administration of this section.

Section 110. KRS 27A.080 is amended to read as follows:

- (1) The Administrative Office of the Courts shall be the primary repository of court records of juveniles charged with, arrested for, and against whom complaints have been filed, involving status offenses, public offenses, and youthful offender proceedings, together with all court records of the handling and disposition of those cases, and shall keep and maintain these records.
- (2) The Administrative Office of the Courts shall make juvenile records available to the agencies and persons specified by law.
- (3) All courts, law enforcement agencies, prosecutors, the Department of Juvenile Justice, the Cabinet for Health and Family Services, the Justice and Public Safety Cabinet, except the Department of Public Advocacy, and other agencies holding records coming within the purview of subsection (1) of this section shall make them available to the Administrative Office of the Courts in the manner and at the times specified by the Administrative Office of the Courts.

Section 111. KRS 27A.090 is amended to read as follows:

- (1) In any instance that the Justice and Public Safety Cabinet is required by statute to conduct a criminal records or background check, the Justice Cabinet may contract with the Administrative Office of the Courts to perform that service.
- (2) (a) Except as provided in paragraph (b) of this subsection, the Administrative Office of the Courts shall set a reasonable fee for a criminal records check conducted by the office in an amount no greater than the actual cost of conducting that criminal records check.
- (b) When another statute sets the dollar amount of the fee charged for a criminal records check conducted by the Administrative Office of the Courts, the office shall charge that fee.
- (3) The Administrative Office of the Courts shall be required to accept a criminal records check request only when the request is made:
 - (a) By letter, electronic mail, or facsimile transmission; or
 - (b) In person.
- (4) The Administrative Office of the Courts may establish an escrow account for a person who frequently requests that the office conduct criminal records checks.

Section 112. KRS 27A.092 is amended to read as follows:

- (1) The Administrative Office of the Courts shall support the responsibilities of the Department of Kentucky State Police in the administration of KRS 237.110 by providing information:
 - (a) Possessed by the courts with regard to the suitability of an applicant for a license under KRS 237.110; and
 - (b) Possessed by the courts which may result in the revocation or suspension of a license issued pursuant to KRS 237.110.
- (2) The Administrative Office of the Courts shall transmit information regarding a licensee which may result in the revocation or suspension of a license issued pursuant to KRS 237.110 as soon as practicable.
- (3) The Administrative Office of the Courts shall not conduct a National Instant Criminal Background Check System (NICS) check for the Department of Kentucky State Police.
- (4) For purposes of conducting the continual background check on licensees pursuant to KRS 237.110, the Department of Kentucky State Police may provide a list of licensees to the Administrative Office of the Courts. The list of persons holding a license pursuant to KRS 237.110 shall be held confidential by the Administrative Office of the Courts and shall be used only for purposes specified in this section and KRS 237.110. Information regarding licensees or applicants for a license shall be transmitted only to the Department of Kentucky State Police and shall not be distributed to any other person or organization within or without the Administrative Office of the Courts or the Court of Justice. The provisions of this section shall not be construed to prohibit or limit the distribution of information to or about any person which is authorized to be distributed by law, but the fact that the person is an applicant for or holds a license pursuant to KRS

237.110 shall not be distributed.

Section 113. KRS 27A.300 is amended to read as follows:

The Administrative Office of the Courts shall, in cooperation with the Department of Kentucky State Police, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Department of Corrections, be responsible for the recording of those data elements that are needed for development of the centralized criminal history record information system:

- (1) The database shall at a minimum contain the information contained in KRS 27A.310 to 27A.440;
- (2) The Administrative Office of the Courts shall provide access to the Department of Kentucky State Police, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Department of Corrections to its database; and
- (3) The Administrative Office of the Courts shall, where the number is known, assign the same identification number or other variable to each person whose name appears in the database.

Section 114. KRS 29A.180 is amended to read as follows:

- (1) The sheriff, city police, or city marshal, as appropriate, shall be responsible for meals, housing, and other incidental needs of grand jurors and petit jurors in Circuit Court and in District Court when the jurors are kept overnight or otherwise sequestered when ordered to do so by the judge of the court for which the jurors were summoned. The expenses for these services shall be borne by the Finance and Administration Cabinet and the officer shall be reimbursed in accordance with administrative regulations issued by the Finance and Administration Cabinet, pursuant to KRS Chapter 13A.
- (2) The sheriff, city police, or city marshal, as appropriate, shall be responsible for the transportation of jurors and other authorized persons to views of the scene or other locations authorized by the court pursuant to KRS 29A.310. In criminal cases the expenses for these services shall be borne by the Finance and Administration Cabinet and the sheriff shall be reimbursed in accordance with administrative regulations issued by the Finance and Administration Cabinet, pursuant to KRS Chapter 13A. Excepting views conducted under the Eminent Domain Act of Kentucky, in civil cases these expenses shall be paid by the party requesting the viewing.
- (3) The sheriff, city police, or city marshal, as appropriate, shall be responsible for providing any specialized security personnel, equipment, and services which the judge, with the consent of the Chief Justice, shall deem necessary for the conduct of a trial in which the judge believes that special security precautions are necessary or desirable. The expenses for these services shall be borne by the Finance and Administration Cabinet and the officer shall be reimbursed in accordance with administrative regulations issued by the Finance and Administration Cabinet, pursuant to KRS Chapter 13A. In such cases, the judge may also request the Chief Justice to provide the services of the Department of Kentucky State Police to ensure proper security precautions relating to the case.

Section 115. KRS 31.010 is amended to read as follows:

There is hereby established as an independent agency of state government, attached for administrative purposes to the Justice and Public Safety~~[Environmental and Public Protection]~~ Cabinet, the Department of Public Advocacy, in order to provide for the establishment, maintenance, and operation of a state sponsored and controlled system for:

- (1) The representation of indigent persons accused of crimes or mental states which may result in their incarceration or confinement; and
- (2) The pursuit of legal, administrative, and other appropriate remedies to insure the protection of the rights of persons with disabilities. For the purposes of this chapter, "persons with disabilities" shall refer to those persons eligible for protection and advocacy services under Public Laws 99-319, 102-569, 103-218, 106-170, and 106-402 as amended and any other federal enabling statute hereafter enacted that defines the eligible client base for protection and advocacy services.

Section 116. KRS 31.015 is amended to read as follows:

- (1) (a) The Public Advocacy Commission shall consist of the following members, none of whom shall be a prosecutor, law enforcement official, or judge, who shall serve terms of four (4) years, except the initial terms shall be established as hereafter provided:
 1. Two (2) members appointed by the Governor;
 2. One (1) member appointed by the Governor. This member shall be a child advocate or a person with substantial experience in the representation of children;
 3. One (1) member who is the executive director of the Office of Legislative and Intergovernmental Services~~[Criminal Justice Council]~~ of the Justice and Public Safety Cabinet;
 4. Two (2) members appointed by the Kentucky Supreme Court;
 5. Two (2) members, who are licensed to practice law in Kentucky and have substantial experience in the representation of persons accused of crime, appointed by the Governor from a list of three (3) persons submitted to him for each individual vacancy by the board of governors of the Kentucky Bar Association;
 6. The dean, ex officio, of each of the law schools in Kentucky or his designee; and
 7. One (1) member appointed by the Governor from a list of three (3) persons submitted to him or her by the joint advisory boards of the Protection and Advocacy Division of the Department of Public Advocacy.
- (b) Any member of the commission serving prior to July 15, 2002, shall serve until the expiration of his or her current

term of office. Subsequent appointments shall be for a term of four (4) years from the date of expiration of the term for which his or her predecessor was appointed.

- (2) At the first meeting of the commission, a drawing by lot shall be conducted to determine the length of each original member's term. Initially there shall be four (4) two (2) year terms, four (4) three (3) year terms, and four (4) four (4) year terms. Vacancies in the membership of the commission shall be filled in the same manner as original appointments. Appointments to fill vacancies occurring before the expiration of a term shall be for the remainder of the unexpired term.
- (3) The commission shall first meet at the call of the Governor and thereafter as the commission shall determine on a regular basis, but at least quarterly, and shall be presided over by a chairperson elected by its members for a one (1) year term. A majority of commission members shall constitute a quorum, and decisions shall require the majority vote of those present; except that a recommendation to the Governor pertaining to the appointment, renewal of the appointment, or removal of the public advocate shall require a majority vote of the commission. Each member of the commission shall have one (1) vote, and voting by proxy shall be prohibited.
- (4) The public advocate shall, upon appointment or renewal, be an ex officio member of the commission without the power to vote, shall serve as secretary of the commission, and shall be entitled to attend and participate in all meetings of the commission except discussions relating to renewal of his term or his removal.
- (5) Commission members shall be reimbursed for reasonable and necessary expenses incurred while engaged in carrying out the duties of the commission and shall receive one hundred dollars (\$100) per day for each meeting attended unless prohibited by law from receiving such compensation.
- (6) The commission shall:
 - (a) Receive applications, interview, and recommend to the Governor three (3) attorneys as nominees for appointment as the public advocate;
 - (b) Assist the public advocate in drawing up procedures for the selection of his staff;
 - (c) Review the performance of the public advocacy system and provide general supervision of the public advocate;
 - (d) Assist the Department of Public Advocacy in ensuring its independence through public education regarding the purposes of the public advocacy system; and
 - (e) Review and adopt an annual budget prepared by the public advocate for the system and provide support for budgetary requests to the General Assembly.
- (7) In no event shall the commission or its members interfere with the discretion, judgment, or advocacy of employees of the Department of Public Advocacy in their handling of individual cases.

Section 117. KRS 32.070 is amended to read as follows:

Beginning July 1, 1976, or at such earlier date as may be fixed as hereinafter provided, grand jurors, petit jurors and persons summoned for jury service in Circuit Court eligible for payment of the compensation designated in KRS 29A.170(1) shall be paid, in addition thereto, the sum of seven dollars and fifty cents (\$7.50) per day as reimbursement of expenses incurred, which sum is hereby determined to be the equivalent of the minimum daily expenses reasonably to be incurred by such juror or person. Payment of such reimbursement for expenses may be made beginning as of such date prior to July 1, 1976, but not prior to July 1, 1974, as may be fixed by the Governor upon recommendation of the secretary of justice and public safety if and to the extent that prior to July 1, 1976, the Commonwealth of Kentucky is awarded grant funds by the Law Enforcement Assistance Administration of the United States Department of Justice on a matching basis of not less than ninety percent (90%) federal funds and ten percent (10%) state funds which grant funds are sufficient to pay the full cost of the reimbursement of expenses, and of the administrative expenses related thereto, authorized by this section from the date so fixed through June 30, 1976. Eligible state funds appropriated for the 1974-1976 biennium may be used for matching purposes so long as such use does not reduce the level of services provided in the executive budget for that biennium.

Section 118. KRS 35.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "National Guard" means the Kentucky Army National Guard and the Kentucky Air National Guard;
- (2) "Active militia" means a volunteer defense unit other than the National Guard;
- (3) "Officer" means a commissioned officer, including a warrant officer;
- (4) "Superior commissioned officer" means a commissioned officer superior in rank or command;
- (5) "Enlisted person" means any person who is serving in an enlisted grade in any force of the National Guard or active militia;
- (6) "State active duty" means full-time military duty in the active service of the state under an order of the Governor, including travel to and from the duty;
- (7) "Military court" means a court-martial, a court of inquiry, a provost court, or a military commission;
- (8) "Military judge" means an official of general and special courts-martial detailed in accordance with KRS 35.125;
- (9) "Subject person" means person subject to this chapter;

- (10) "Code" means this chapter;
- (11) "Commissioned officer" includes a commissioned warrant officer;
- (12) "Commanding officer" includes only commissioned officers;
- (13) "Grade" means a step or degree in a graduated scale of office or military rank that is established by law or regulation;
- (14) "Rank" means order of precedence among members of the National Guard or active militia;
- (15) "Duty status" includes state active duty and any other type of state military duty, including travel to and from the duty;
- (16) "State judge advocate" means the commissioned officer responsible for supervising the administration of military justice in the National Guard or active militia;
- (17) "Accuser" means a person who signs and swears to charges, any person who directs that charges normally be signed and sworn to by another, and any person who has an interest other than an official interest in the prosecution of the accused;
- (18) "Military" refers to any or all of the Armed Forces;
- (19) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being or a successor in command; and
- (20) "Peace officer" as used in this chapter means any sheriff, deputy sheriff, constable, deputy constable, sworn police officer, sworn enforcement officer of the Department of Kentucky State Police or other duly authorized state law enforcement agency, and other persons with similar authority to make arrests under the provisions of the Kentucky Revised Statutes.

Section 119. KRS 36.255 is amended to read as follows:

- (1) The Kentucky Community Crisis Response Board is hereby created as a separate administrative body of state government within the meaning of KRS Chapter 12 and attached for administrative purposes to the Department of Military Affairs.
- (2) The membership of the board shall consist of the following:
 - (a) The commissioner of the Department for Mental Health and Mental Retardation Services, or the commissioner's designee;
 - (b) The commissioner of the Department for Public Health, or the commissioner's designee;
 - (c) The commissioner of the Department of Education, or the commissioner's designee;
 - (d) The commissioner of the Department of Kentucky State Police, or the commissioner's designee;
 - (e) The Kentucky state fire marshal, or the fire marshal's designee;
 - (f) The executive director of the Division of Emergency Management, or the executive director's designee;
 - (g) The Attorney General, or the Attorney General's designee;
 - (h) One (1) representative of local community crisis response teams appointed by the Governor;
 - (i) Four (4) members appointed by the Governor to represent mental health disciplines;
 - (j) Two (2) members appointed by the Governor to represent emergency services disciplines;
 - (k) One (1) member who is a mental health professional licensed for independent clinical practice, to be appointed by the Governor. The licensed mental health professional member shall serve as clinical director for the board;
 - (l) One (1) member, appointed by the Governor, from a statewide chaplain's association involved in emergency services, who is trained in grief counseling and has experience in crisis response;
 - (m) One (1) member from the Kentucky Chapter of the American Red Cross; and
 - (n) The commissioner of the Department for Community Based Services or the commissioner's designee.
- (3) All board members appointed pursuant to subsection (2)(h) to (2)(l) of this section shall be approved members of the existing community crisis response team.
- (4) All board members appointed pursuant to subsection (2)(h) to (2)(l) of this section shall have demonstrated a commitment to the provision of community crisis response services.
- (5) The members of the board appointed by the Governor shall serve for two (2) years and may be reappointed for one (1) additional consecutive two (2) year term. All vacancies in appointed members' terms shall be filled by appointment of the Governor for the remainder of the unexpired term.
- (6) The board shall elect annually from its membership a chairperson and shall establish other officers and committees as needed to execute the duties of the board.
- (7) The board shall meet at least quarterly, and a majority of the members shall constitute a quorum for the transaction of the board's business.
- (8) Except for hired and appointed staff, no board member or team member shall receive compensation. However, board members and crisis response team members may receive reimbursement for expenses incurred in the course of providing crisis response services or executing the duties of the board, consistent with state policy governing the reimbursement of state employees for food, travel, and lodging. Except as provided for in KRS 36.260, nothing in the provisions of KRS 36.250 to 36.270 shall be construed to create liability of a private party for expenses incurred or reimbursed under this

subsection.

Section 120. KRS 36.400 is amended to read as follows:

As used in KRS 36.400 to 36.425, unless the context otherwise requires:

- (1) "Division of Air Transport" includes the Capital City Airport;
- (2) "State aircraft" means aircraft owned by the Commonwealth, leased by the Commonwealth, or otherwise under the control of the Commonwealth and administratively assigned to the Division of Air Transport. It shall also include air charters by the division. However, this shall not include or apply to any and all aircraft assigned to, owned, leased, operated, or controlled by the Department of Kentucky State Police, or otherwise under the control or direction of the Department of Kentucky State Police. The operation, maintenance, scheduling, and care of Department of Kentucky State Police aircraft shall not be included under or affected by KRS 36.400 to 36.425; and
- (3) "Official business" means any activity involving travel in a state aircraft if the activity is reasonably required, expected, or appropriate, considering the nature of the using public official's job responsibilities. The activities shall include, but not be limited to, attendance by officials at nonpartisan ceremonial functions and events where their appearance is normally expected by virtue of their office or where official representation of the Commonwealth is otherwise appropriate, and to nonpolitical flights by the Governor and members of his immediate family when accompanying or representing him.

Section 121. KRS 39E.030 is amended to read as follows:

- (1) The commission shall be composed of not more than twenty-five (25) members and shall be chaired by the director of the Division of Emergency Management of the Department of Military Affairs, who shall also be a member. Other members shall include, but not be limited to, the executive director of the Commission on Fire Protection Personnel Standards and Education or the executive director's designee, representatives of the Environmental and Public Protection Cabinet, the office of the state fire marshal, the Department of Kentucky State Police, the Office of the Attorney General, affected industry, local government, health services, environmental interests, and other persons who have technical expertise in the emergency response field as the Governor deems appropriate.
- (2) Members of the commission shall be appointed by the Governor. All appointments shall be for a term of two (2) years. Members shall serve until their successors are appointed and qualified and shall be eligible for reappointment.
- (3) The commission shall meet not less than semi-annually, or as convened by the chairman.
- (4) If a member misses three (3) consecutive meetings of the full commission or three (3) meetings in two (2) consecutive years, the position shall be declared vacant by the commission. In these cases, the Governor shall make an appointment to fill the unexpired term.
- (5) The presence of thirteen (13) members shall constitute a quorum and actions taken at these meetings shall be considered as actions of the full commission.
- (6) Members of the commission shall not receive a salary for serving on the commission, but travel and per diem may be paid if funds are appropriated or otherwise made available for these purposes.

Section 122. KRS 39F.180 is amended to read as follows:

- (1) All 911 centers and dispatch centers, law enforcement agencies, law enforcement dispatchers, fire departments, rescue squads, emergency medical service agencies, and emergency management agencies shall report the information required to be reported by administrative regulation, for all reports of persons missing, lost, or overdue, if a search for the lost person has lasted for more than two (2) hours to:
 - (a) The local emergency management director; and
 - (b) The local search and rescue coordinator for the jurisdiction in which the person is reported missing.
- (2)
 - (a) Any search for a missing minor, as that term is defined in KRS 2.015, shall be reported to the Department of Kentucky State Police by the person or organization to whom the missing minor is reported.
 - (b) A search for a person who is known or reported to have an organic brain disorder, including but not limited to Alzheimer's disease, shall immediately be reported to the local emergency management director, local search and rescue coordinator if different from the local emergency manager, and the duty officer of the Division of Emergency Management by the person managing the search or by the organization conducting the search. The provisions of this section do not apply to any licensed long-term health care provider conducting a search for a missing resident until the provider requests a search by a person or organization specified in subsection (1) of this section.
 - (c) The making of this report does not relieve the person or organization from the duty to make other notifications and reports required in this section.
- (3) Any search and rescue mission which has lasted four (4) hours without the subject being located, shall be immediately reported to the duty officer of the Division of Emergency Management by telephone or radio.
- (4) The results of each lost, missing, or overdue person report or search mission required to be reported under subsections (1) to (3) of this section shall be reported to the division and the local director on forms provided by the division and containing the information required by administrative regulation. The report shall be filed within twenty (20) days after:

- (a) The search and rescue mission is discontinued; or
 - (b) The victim has not been found and a decision is made to keep the case open or continue searching on a limited basis, whichever occurs earlier.
- (5) Each agency required to notify a local emergency management director or the division of a report of a missing person, or a search mission pursuant to this section shall develop a written standard operating procedure for handling and reporting requests to search for missing, lost, or overdue persons. This standard operating procedure shall be a public record.
- (6) The contents of reports, information to be conveyed upon notification, and other matters relating to the administration of this section and the securing of information required hereby shall be specified by the division by administrative regulations.
- (7) There is no requirement in Kentucky to delay the search for or rescue of any lost, missing, or overdue person. Any person who is reported lost, missing, or overdue, adult or child, may be searched for immediately by any emergency management, fire, law enforcement, emergency medical services, search and rescue, rescue squad, or other similar organization to which a missing or overdue person is reported. No public safety answering point, emergency dispatch center, or 911 center shall delay any call reporting a person lost, overdue, or missing to the organization specified in the county search and rescue annex of the county emergency management plan as responsible for searching for lost, missing, or overdue persons.

Section 123. KRS 42.320 is amended to read as follows:

- (1) There is hereby established the court cost distribution fund, which is created to provide a central account into which the court costs collected by all circuit clerks, under KRS 23A.205(1) and 24A.175(1), shall be paid.
- (2) The fund shall be administered by the Finance and Administration Cabinet, which shall make monthly disbursements from the fund according to the following schedule:
- (a) Forty-nine percent (49%) of each court cost shall be paid into the general fund;
 - (b) Ten and eight-tenths percent (10.8%) of each court cost, up to five million four hundred thousand dollars (\$5,400,000), shall be paid into the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority under KRS 441.605 to 441.695;
 - (c) Six and one-half percent (6.5%) of each court cost, up to three million two hundred fifty thousand dollars (\$3,250,000), shall be paid into the spinal cord and head injury research trust fund created in KRS 211.504;
 - (d) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars (\$2,750,000), shall be paid into the traumatic brain injury trust fund created in KRS 211.476;
 - (e) Five percent (5%) of each court cost, up to two million five hundred thousand dollars (\$2,500,000), shall be paid into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerks to hire additional deputy clerks and to enhance deputy clerk salaries;
 - (f) Three and one-half percent (3.5%) of each court cost, up to one million seven hundred fifty thousand dollars (\$1,750,000), shall be paid to a special trust and agency account that shall not lapse for the Department of Public Advocacy;
 - (g) Three and four-tenths percent (3.4%) of each court cost, up to one million seven hundred thousand dollars (\$1,700,000), shall be paid into the crime victims' compensation fund created in KRS 346.185;
 - (h) Seven-tenths of one percent (0.7%) of each court cost, up to three hundred fifty thousand dollars (\$350,000), shall be paid to the Justice *and Public Safety* Cabinet to defray the costs of conducting record checks on prospective firearms purchasers pursuant to the Brady Handgun Violence Prevention Act and for the collection, testing, and storing of DNA samples;
 - (i) Ten and one-tenth percent (10.1%) of each court cost, up to five million fifty thousand dollars (\$5,050,000), deposited in the fund shall be paid to the county sheriff in the county from which the court cost was received; and
 - (j) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars (\$2,750,000), deposited in the fund shall be paid to the county treasurer in the county from which the court cost was received and shall be used by the fiscal court in that county for the purposes of defraying the costs of operation of the county jail and the transportation of prisoners.
- (3) Any moneys remaining in the fund after the monthly disbursements in subsection (2) of this section shall be paid into the general fund.
- (4) Any moneys collected above the prescribed amount shall be paid into the general fund.

Section 124. KRS 44.045 is amended to read as follows:

- (1) A passenger motor vehicle or vehicles may be purchased by the Finance and Administration Cabinet for the use of the Governor and the Lieutenant Governor.
- (2) Motor vehicles, including passenger motor vehicles, may be purchased by the Finance and Administration Cabinet as are deemed necessary by the secretary of the Finance and Administration Cabinet or by the secretary of the Transportation Cabinet for the discharge of the authorized duties and functions of the various agencies of the state. The vehicles shall be used for official purposes only, and for no other purposes. The assignment of passenger motor vehicles to specific

individuals shall be discouraged, but may be made upon approval by the secretary of the Finance and Administration Cabinet of a written request to make the assignment by the head of the agency involved.

- (3) All motor vehicles purchased pursuant to this section shall be issued official license plates and shall bear on one (1) door on each side the great seal of the Commonwealth, and the words "For official use only." It shall not be necessary that the vehicles purchased pursuant to subsections (1), (4), and (5) of this section bear the seal and the words.
- (4) The Revenue and Justice and Public Safety Cabinets and the Department of Law~~[and the Crime Commission]~~ may, upon approval by the secretary of the Finance and Administration Cabinet of a written request by the head of the agency involved, register a vehicle or vehicles under KRS 186.020 and be issued regular license plates. The vehicles shall be used for investigatory purposes only, and for no other purposes.
- (5) The Administrative Office of the Courts may register a vehicle or vehicles used by Justices and Judges of the Supreme Court and Court of Appeals under KRS 186.020 and be issued regular license plates.
- (6) The secretary of the Transportation Cabinet may adopt administrative regulations pursuant to KRS Chapter 13A necessary to govern the use of those state-owned vehicles acquired pursuant to the provisions of this section.
- (7) Any person violating subsections (2) and (4) of this section shall, on conviction thereof, be subject to the penalties prescribed in KRS 44.990.

Section 125. KRS 45.239 is amended to read as follows:

- (1) The Court of Justice shall initiate, by October 1, 2004, fully implement by October 1, 2005, and thereafter maintain a system for tracking and identifying debts.
- (2) The Court of Justice shall establish and operate a system for collecting debt.
- (3) In establishing the systems required by this section, the Court of Justice shall consider technology that could assist in the accurate, timely, and efficient delivery of payments of debts.
- (4) The Court of Justice, Justice and Public Safety Cabinet, and the Department of Revenue shall collaborate to implement a system, if feasible, to identify and collect debts in existence prior to the implementation date of the system required by subsection (1) of this section. Confidential information shared among these entities to identify and collect debts shall not be divulged to any unauthorized person. Debts collected under this subsection shall be reported annually and designated separately as part of the report required pursuant to KRS 45.238 beginning on October 1, 2005, and ending with the report filed on or before October 1, 2009.
- (5) The Court of Justice, Justice and Public Safety Cabinet, and Department of Revenue shall collaborate to implement a system, if feasible, to identify and collect liquidated debts in existence prior to the implementation date of the system required by subsection (1) of this section. Confidential information shared among these entities to identify and collect debts shall not be divulged to any unauthorized person. Debts collected under this subsection shall be reported annually to the Legislative Research Commission beginning on October 1, 2005, and ending with the report filed on or before October 1, 2009.

Section 126. KRS 45.253 is amended to read as follows:

- (1) Revolving accounts may be established by appropriation in a branch budget bill to finance activities which are self-supporting in whole or in part.
- (2) Trust and agency accounts may be established by a branch budget bill to receive and disburse contributions, gifts, donations, devises, and federal appropriations, and, when authorized by law, by depositing all of the fees (which include fees for maintenance in state institutions, incidental fees, tuition fees, fees for board and room, athletics, and student activities), rentals, admittance, sales, licenses collected by law, subventions, and other miscellaneous receipts of budget units.
- (3) The head of the budget unit or other responsible fiscal agent of the unit for which a revolving, trust, or agency account has been established shall deposit with the State Treasury all receipts of the character above described, and the Finance and Administration Cabinet shall credit all receipts to the budget unit and shall keep separate accounting for each account so established.
- (4) The amounts credited to any revolving, trust, or agency account so provided, shall be held available for disbursement for the purpose provided by law and shall not be diverted to any other purpose. Revolving, trust, or agency accounts shall be subject to withdrawal from the State Treasury by the head of each budget unit when actually needed, on requisition to the Finance and Administration Cabinet in the same manner provided by law as other state funds are withdrawn. Funds received from the federal government in the form of grants or otherwise may be expended for the purpose intended even though received in a fiscal year other than that in which the related original encumbrance or expenditure was incurred. Trust and agency funds shall be allotted before an expenditure is made; and the secretary of the Finance and Administration Cabinet may withhold allotment of general fund appropriations to the extent trust and agency funds are available.
- (5) Subject to prior approval by the secretary of the Finance and Administration Cabinet, the Chief Justice, and the Legislative Research Commission for their respective branches, any budget unit which, as an incident to its authorized duties and functions, furnishes requested services or materials to any persons outside state government, where such services or

materials are not required by law to be furnished gratuitously, may charge such persons an amount not to exceed the total expense to the budget unit of the services or materials furnished. The receipts from the approved charges shall be credited to the surplus account of the general fund. Payroll deductions for the Department of Kentucky State Police legal fund shall be made without any service fees or charges.

- (6) The Commonwealth Office of Technology may charge any agency of local government an amount, not to exceed the total expense to the department, for services rendered or materials furnished at the request of the local government agency, unless the services or materials are required by law to be furnished gratuitously. The receipts from the authorized charges shall be deposited in the State Treasury and credited to the trust and agency fund, the Commonwealth Office of Technology's operating account.
- (7) All receipts which accrue as the result of the Commonwealth Office of Technology's providing on-line computer access to public records by nongovernment entities shall be deposited in the State Treasury and credited to the trust and agency fund, the Commonwealth Office of Technology's operating account.

Section 127. KRS 56.491 is amended to read as follows:

- (1) No state agency shall have power or authority to make plans and specifications, provide public notice of invitations for bids, let contracts, or incur any financing commitments, either in the way of a charge against public funds or in the way of negotiations for issuance of revenue bonds, for any capital construction projects involving the improvement of lands or the construction, alteration, reconstruction, or major repair of any building or other structure, or sewage disposal or water supply system, requiring the expenditure of more than two hundred thousand dollars (\$200,000) without first securing the approval of the Finance and Administration Cabinet.
- (2) The state agency seeking the approval shall submit to the Finance and Administration Cabinet a general description of the proposed project, with the detailed information the cabinet may require. Review of construction plans for conformance with the Uniform State Building Code shall be conducted by the Office of Housing, Buildings and Construction. The Finance and Administration Cabinet shall not approve any project requiring its approval in any instance if it finds that: the project is not needed; the proposed method of financing is not sound; the project will exceed the amount of the funds available therefor; the work contemplated will be insufficient to accomplish the purpose of the project; or after providing for the ordinary recurring expenses of government and debt service and for payments under existing allotments for extraordinary expenses and capital outlay, cash will not be available in the State Treasury to promptly pay for the work during the biennium, or except as provided in subsection (5) of this section, that the work is to be done by employees of the agency.
- (3) The finding of the Finance and Administration Cabinet shall be final, except in cases where the issuance and sale of bonds is proposed, in which cases the cabinet shall submit its findings to the commission for final approval, modification, or disapproval.
- (4) Any capital construction project, the total cost of completion of which the Finance and Administration Cabinet determines will exceed two hundred thousand dollars (\$200,000), shall be contracted for on a competitive bid basis, and the execution of the contracts shall be approved and authorized by the cabinet. When a capital construction project has been approved as provided in this section, in whole or in part, the cabinet shall prepare the plans and specifications, provide public notice of invitations for bids, award the contracts, supervise the construction, and handle the financial negotiations on behalf of the requesting state agency; or with prior written approval, the cabinet may authorize a state agency to do so with delegated authority of the cabinet.
- (5) A capital construction project, the total cost of completion of which the Finance and Administration Cabinet determines will not exceed two hundred thousand dollars (\$200,000), may be performed by the employees of the requesting agency or by individuals hired specifically for the project who shall be exempt from the requirements of KRS Chapter 18A, if the project is approved and authorized by the cabinet. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the cabinet as defined in KRS Chapter 45A.
- (6) This section shall not apply to capital outlays to the Department of Highways for roads and bridges.
- (7) This section shall not apply to capital outlays by the Justice and Public Safety Cabinet for repair, maintenance, improvement, or expansion of present correctional facilities on which projects inmates are used. Any capital construction project to be performed by the Justice and Public Safety Cabinet shall be approved and authorized by the Finance and Administration Cabinet.
- (8) This section shall not apply to surveys capable of being performed by employees of the Department of Fish and Wildlife Resources. Boundary surveys or surveys involving property lines shall be performed by or under the supervision of an employee possessing a professional land surveyor license.

Section 128. KRS 61.315 is amended to read as follows:

- (1) As used in this section, "police officer" means every paid police officer, sheriff, or deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, elected to office, or employed by any county, airport board created pursuant to KRS Chapter 183, city, or by the state; "firefighter" means every paid firefighter or volunteer firefighter who is employed by or volunteers his or her services to the state, airport board created

pursuant to KRS Chapter 183, any county, city, fire district, or any other organized fire department recognized, pursuant to KRS 95A.262, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth and shall include qualified civilian firefighters employed at Kentucky-based military installations.

- (2) The spouse of any police officer, sheriff, deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, firefighter, or member of the Kentucky National Guard on state active duty pursuant to KRS 38.030, or a member of a state National Guard or a Reserve component on federal active duty who names Kentucky as home of record for military purposes, whose death occurs on or after July 1, 2002, as a direct result of an act in the line of duty shall receive a lump-sum payment of eighty thousand dollars (\$80,000) if there are no surviving children, which sum shall be paid by the State Treasurer from the general expenditure fund of the State Treasury. If there are surviving children and a surviving spouse, the payment shall be apportioned equally among the surviving children and the spouse. If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the State Treasurer shall:
- (a) Pay thirty-five thousand dollars (\$35,000) to the surviving children; and
 - (b) Hold forty-five thousand dollars (\$45,000) in trust divided into equal accounts at appropriate interest rates for each surviving child until the child reaches the age of eighteen (18) years.

If a child dies before reaching the age of eighteen (18) years, his or her account shall be paid to his or her estate. If there are no surviving children, the payment shall be made to any parents of the deceased.

- (3) The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer firefighters, including, but not limited to, defining when a firefighter has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.
- (4) The Justice and Public Safety Cabinet may promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, including, but not limited to, defining when a police officer has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.
- (5) The Department of Corrections shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to correctional employees, including, but not limited to, defining which employees qualify for coverage and which circumstances constitute death in the line of duty.
- (6) The benefits payable under this section shall be in addition to any benefits now or hereafter prescribed under any police, sheriff, firefighter's, volunteer firefighter's, or National Guard or Reserve retirement or benefit fund established by the federal government or by any state, county, or any municipality.
- (7) Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

Section 129. KRS 61.362 is amended to read as follows:

- (1) Any public police department, sheriff's office, or the Department of Kentucky State Police may, upon written agreement with a residential property owner or a residential property owners' association, patrol the roadways and parking lots of private residential communities within the jurisdiction of the public police department, sheriff's office, or the Department of Kentucky State Police and enforce the traffic and motor vehicle laws of the Commonwealth of Kentucky and local traffic and motor vehicle ordinances, on that residential private property.
- (2) This section shall not permit a public police department, sheriff's office, or the Department of Kentucky State Police to enforce the private rules or regulations of the residential property owner.
- (3) This section shall not limit any peace officer from coming on residential private property for the enforcement of the law, provided that the entry upon residential private property is consistent with the provisions of the Constitution of the United States, the Constitution of Kentucky, the Kentucky Revised Statutes, and applicable court decisions.

Section 130. KRS 61.387 is amended to read as follows:

- (1) All conspicuously marked motor vehicles used by the Department of Kentucky State Police, sheriffs' departments, county police, urban-county police, and city police for transporting prisoners, which are conspicuously marked as law enforcement vehicles, shall be equipped with a screen or other protective device between the area where prisoners are transported and the driver of the vehicle, and the area in which the prisoner is enclosed shall be equipped so that the doors and windows cannot be opened from the inside of the vehicle.
- (2) Subsection (1) of this section shall not apply to vehicles used for investigative purposes nor to special purpose vehicles not normally used for the transportation of prisoners.

Section 131. KRS 61.553 is amended to read as follows:

A Kentucky Employees Retirement System member's work performed in the Department of Kentucky State Police or its

predecessor agency, the State Highway Patrol, prior to July 1, 1956, shall be creditable as prior service in the Kentucky Employees Retirement System if the member has not received prior service credit in the State Police Retirement System for such period of work. The purpose of this section is to grant prior service credit to state employees who cannot obtain such credit under the State Police Retirement System because of the maximum State Police employment age established by KRS 16.520.

Section 132. KRS 61.900 is amended to read as follows:

As used in KRS 61.902 to 61.930:

- (1) "Commission" means a commission issued to an individual by the secretary of justice and public safety, entitling the individual to perform special law enforcement duties on public property;
- (2) "Council" means the Kentucky Law Enforcement Council;
- (3) "Cabinet" means the Justice and Public Safety Cabinet;
- (4) "Public property" means property currently owned or used by any organizational unit or agency of state, county, city, metropolitan government, or a combination of these. The term shall include property currently owned or used by public airport authorities;
- (5) "Secretary" means the secretary of the Justice and Public Safety Cabinet;
- (6) "Special law enforcement officer":
 - (a) Means one (1) whose duties include the protection of specific public property from intrusion, entry, larceny, vandalism, abuse, intermeddling, or trespass;
 - (b) Means one (1) whose duties include the prevention, observation, or detection of, or apprehension for, any unlawful activity on specific public property;
 - (c) Means one (1) whose special duties include the control of the operation, speed, and parking of motor vehicles, bicycles, and other vehicles, and the movement of pedestrian traffic on specific public property;
 - (d) Means one (1) whose duties include the answering of any intrusion alarm on specific public property;
 - (e) Shall include the Capitol police, the Capital Plaza police, public school district security officers, public airport authority security officers, and the officers of the other public security forces established for the purpose of protecting specific public property; and
 - (f) Shall not include members of a lawfully organized police unit or police force of state, county, city, or metropolitan government, or a combination of these, who are responsible for the detection of crime and the enforcement of the general criminal law enforcement of the state; it shall not include any of the following officials or officers:
 1. Sheriffs, sworn deputy sheriffs, city marshals, constables, sworn deputy constables, and coroners;
 2. Auxiliary and reserve police appointed under KRS 95.160 or 95.445, or citation and safety officers authorized by KRS 83A.087 and 83A.088;
 3. State park rangers and officers of the Division of Law Enforcement within the Department of Fish and Wildlife Resources;
 4. Officers of the Transportation Cabinet responsible for law enforcement;
 5. Officers of the Department of Corrections responsible for law enforcement;
 6. Fire marshals and deputy fire marshals;
 7. Other officers not mentioned above who are employed directly by state government and are responsible for law enforcement;
 8. Federal peace officers;
 9. Those campus security officers who are commissioned under KRS 164.950;
 10. Private security guards, private security patrolmen, and investigators licensed pursuant to state statute; and
 11. Railroad policemen covered by KRS 277.270 and 277.280; and
- (7) "Sworn public peace officer" means one (1) who derives plenary or special law enforcement powers from, and is a full-time employee of, the federal government, the Commonwealth, or any political subdivision, agency, department, branch, or service of either, or of any municipality.

Section 133. KRS 61.902 is amended to read as follows:

The secretary of the Justice and Public Safety Cabinet may commission special law enforcement officers, for such time as he or she deems necessary, to protect and to enforce the law on public property. Upon application of a unit or agency of state, county, city or metropolitan government, the secretary may appoint those persons recommended by the unit or agency who satisfy the requirements of KRS 61.900 to 61.930.

Section 134. KRS 61.904 is amended to read as follows:

KRS 61.900 to 61.930 shall be administered by the secretary, or by any agency within the ~~Justice~~ cabinet designated by the secretary and acting under his authority. The secretary shall ~~make,~~ promulgate~~;~~ and enforce such administrative~~rules, orders,~~ regulations~~, and instructions~~ as may be reasonable and necessary to carry out the provisions of KRS 61.900 to 61.930. The

secretary may appoint such employees, and delegate such duties to the same, as he or she, in his or her sound discretion, deems appropriate.

Section 135. KRS 62.160 is amended to read as follows:

- (1) The state officers elected by the voters of the state at large, except the Governor and the Lieutenant Governor, the heads of departments, offices, and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth, the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.

- (2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	\$10,000
Attorney General	10,000
State Treasurer	300,000
Secretary for economic development	10,000
Commissioner of Agriculture	10,000
Secretary for education	10,000
Auditor of Public Accounts	25,000
Adjutant general	10,000
Secretary of finance and administration	100,000
Commissioner of revenue	50,000
Secretary of transportation	50,000
Commissioner of highways	50,000
Secretary of justice <u>and public safety</u>	50,000
Secretary of corrections	25,000
Commissioner for public health services	10,000
Commissioner of labor	5,000
Commissioner for natural resources	50,000
State librarian	5,000
Executive director of alcoholic beverage control	10,000
Executive director of financial institutions	25,000
Secretary for environmental and public protection	10,000
Executive director of insurance	50,000
Commissioner of vehicle regulation	10,000
Commissioner of fish and wildlife resources	5,000
Secretary for health and family services	20,000
Commissioner of environmental protection	10,000
Commissioner of public protection and regulation	10,000
Secretary of commerce	25,000
Commissioner for community based services	20,000
Member of the Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000
Member of Kentucky Board of Tax Appeals	10,000
Associate member of Alcoholic Beverage Control Board	5,000
Commissioner of local government	100,000

Section 136. KRS 62.170 is amended to read as follows:

- (1) The secretary of the Finance and Administration Cabinet shall secure, except for state officers required by KRS 62.160 to file bond, blanket bonds, with or without cosureties, written on a blanket position form, to cover all other officers, employees, or deputies of the Commonwealth of Kentucky, including all judges, clerks, and employees of the Court of

Justice, including all other members of boards or commissions or employees of those boards or commissions, and including all superintendents, receivers, or employees of penal or eleemosynary institutions managed or directed by the Justice and Public Safety Cabinet, the Cabinet for Health and Family Services, or any other department or agency of the Commonwealth of Kentucky. Nothing in this paragraph shall be deemed to prohibit the securing of any such blanket position bond on a departmental, board, commission, agency, or institutional basis.

- (2) The secretary of the Finance and Administration Cabinet may secure one (1) or more excess blanket bonds, with or without cosureties, to cover selected groups of persons covered by the bond or bonds required in the preceding paragraph to provide additional coverage which he or she may deem necessary by the exposures indicated in accordance with the duties and responsibilities indicated by the personnel classification schedules of the Personnel Cabinet and, for Court of Justice officers and personnel, by the Administrative Office of the Courts and in accordance with the amounts of money and property handled by the respective officers and employees.
- (3) Such bond or bonds shall be written by and participated in only by insurance companies licensed by the Office of Insurance to do business in this state and shall be countersigned by a duly authorized licensed resident agent of the company. The bonds may be written with or without cosureties. Further, the bonds are to be a percentage of the total risks, the Office of Insurance to approve the amount of the risk written by any one (1) company.
- (4) The penal amount of the bond secured pursuant to this section shall be fixed by the secretary of the Finance and Administration Cabinet in accordance with the duties and responsibilities indicated by the personnel classification schedules of the Personnel Cabinet and, for Court of Justice officers and personnel, by the Administrative Office of the Courts, and in accordance with the amounts of money and property handled by the respective officers and employees.

Section 137. KRS 64.090 is amended to read as follows:

- (1) Sheriffs may charge and collect the following fees from the Commonwealth and any of its agencies, including the Department of Kentucky State Police, when the source of payment is not otherwise specified, if the Commonwealth, any of its agencies, or the Department of Kentucky State Police makes a request that the sheriff perform any of the following:
 - (a) Executing and returning process \$20.00;
 - (b) Serving an order of court and return 3.00;
 - (c) Summoning or subpoenaing each witness, fee to be paid by requester
to sheriff before service 10.00;
 - (d) Summoning an appraiser or reviewer 2.00;
 - (e) Attending a surveyor, when ordered by a
court, per deputy or sheriff assigned 20.00;
 - (f) Taking any bond that he is authorized or
required to take in any action 5.00;
 - (g) Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a delivery bond
given and not complied with, six percent (6%) on the first three hundred dollars (\$300) and three percent (3%) on
the residue; when he or she levies an execution or distress warrant, and the defendant replevies the debt, or the writ
is stayed by legal proceedings or by the order of the plaintiff, half of the above commissions, to be charged to the
plaintiff and collected as costs in the case;
 - (h) Taking a recognizance of a witness 3.00;
 - (i) Levying an attachment 5.00;
 - (j) When property attached is sold by an officer other than the officer levying the attachment, the court shall, in the
judgment, make the officer an additional and reasonable allowance for levying the attachment, and the fee of the
officer selling the property shall be lessened by that sum. Reasonable charges for removing and taking care of
attached property shall be allowed by order of court;
 - (k) Summoning a garnishee 3.00;
 - (l) Summoning a jury in a misdemeanor case, attending the trial, and
conducting the defendant to jail, to be paid by the party
convicted 8.00;
 - (m) Serving process or arresting the party in
misdemeanor cases, to be paid by the plaintiff 30.00;
 - (n) Serving an order or process of revivor 3.00;
 - (o) Executing a writ of possession against each tenant or defendant 7.00;
 - (p) Executing a capias ad satisfaciendum, the same commission as collecting money on execution. If the debt is not
paid, but stayed or secured, half commission;
 - (q) Summoning and attending a jury in a case of forcible entry and

- detainer, besides fees for summoning witnesses 8.00;
- (r) Collecting militia fines and fee-bills, ten percent (10%), to be deducted out of the fee-bill or fine;
- (s) Levying for a fee-bill 3.00;
- (t) Serving a notice 2.00;
- (u) Serving summons, warrants or process of arrest in cases of
children born out of wedlock 6.00;
- (v) Serving a civil summons in a nonsupport case 10.00;
- (w) Serving each order appointing surveyors of
roads, to be paid out of the county levy 5.00;
- (x) Serving each summons or order of court in applications concerning
roads, to be paid out of the county levy if the road is established,
and in all other cases to be paid by the applicant 5.00;
- (y) Like services in cases of private passways to
be paid by the applicant 5.00;
- (z) Executing each writ of habeas corpus, to be
paid by the petitioner 3.00;
- (aa) All services under a writ issued under
KRS 381.460 to 381.570 10.00; and
- (bb) For services in summoning grand and petit jurors and performing his or her duties under KRS Chapter 29A the
sheriff shall be allowed, for each person so summoned, and paid out of the State Treasury for constructive service
the sum of \$1.50 and for personal service the sum of \$3.00.

- (2) Sheriffs may charge and collect a fee of forty dollars (\$40) from any person not requesting the service of the sheriff on
behalf of the Commonwealth, any of its agencies, or the Department of Kentucky State Police for the services provided in
subsection (1) of this section where a percentage, commission, or reasonable fee is not otherwise allowed. If a percentage,
commission, or reasonable fee is allowed, that amount shall be paid. If payment is specified from a person other than the
person who requested the service, then the person specified shall be responsible for payment.

Section 138. KRS 64.185 is amended to read as follows:

- (1) Coroners shall receive out of the county or urban-county treasury, whichever is appropriate, the monthly compensation the
fiscal court of each county shall fix, subject to the following minimums:

	County Population	Monthly Minimum Compensation
(a)	10,000 or less	\$ 200
(b)	10,001 to 20,000	300
(c)	20,001 to 40,000	350
(d)	40,001 to 60,000	400
(e)	60,001 to 100,000	450
(f)	100,001 to 150,000	800
(g)	150,001 or more	1,000

Coroners who hold a current certificate of continuing education, issued jointly by the Department of Criminal Justice
Training, Justice and Public Safety Cabinet, and the Office~~[Division]~~ of the Kentucky State Medical
Examiner~~[Examiners Office]~~, Justice and Public Safety Cabinet, shall be paid the following minimum monthly
compensation set forth in this subsection in recognition of the training:

	County Population	Monthly Minimum Compensation
(a)	10,000 or less	\$ 400
(b)	10,001 to 20,000	500
(c)	20,001 to 40,000	650
(d)	40,001 to 60,000	750
(e)	60,001 to 100,000	850
(f)	100,001 to 150,000	1,100
(g)	150,001 or more	1,300

- (2) Deputy coroners, who hold a current certificate of continuing education, as described in subsection (1) of this section, shall receive out of the county or urban-county treasury, whichever is appropriate, the monthly compensation the fiscal court of each county shall fix, subject to the following minimums:

	County Population	Monthly Minimum Compensation
(a)	10,000 or less	\$200
(b)	10,001 to 20,000	250
(c)	20,001 to 40,000	275
(d)	40,001 to 60,000	300
(e)	60,001 to 100,000	400
(f)	100,001 to 150,000	900
(g)	150,001 or more	1,100

- (3) The fiscal court of any county, urban-county, or charter county government, may compensate coroners and deputy coroners an additional amount of up to three hundred dollars (\$300) per month as an expense allowance.
- (4) The initial course of continuing education required under subsection (1) of this section shall consist of a basic training course prescribed by the Justice and Public Safety Cabinet. Annually thereafter the coroner shall attend and successfully complete at least eighteen (18) hours of approved training in order to be compensated in accordance with subsection (1) of this section.
- (5) If a deputy coroner assumes the office of coroner after receiving the training stipulated in this section, the deputy coroner shall be compensated in accordance with the compensation schedule set forth in subsection (1) of this section.
- (6) The number of deputy coroners in a county shall not exceed one (1) for each twenty-five thousand (25,000) inhabitants, or fraction thereof, according to the most recent federal census, but every coroner may, subject to fiscal court approval, appoint two (2) deputy coroners, regardless of population.

Section 139. KRS 65.133 is amended to read as follows:

- (1) Each local law enforcement agency and the Department of Kentucky State Police shall each have the responsibility for enforcing the provisions of sex offender registration laws.
- (2) Law enforcement agencies may enter into written agreements for joint investigation and enforcement of violations of sex offender registration laws. These agreements may include other local law enforcement agencies and may include the Department of Kentucky State Police.

Section 140. KRS 65.7623 is amended to read as follows:

- (1) There is hereby created the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky, the "CMRS Board," consisting of ten (10) members, appointed by the Governor as follows: two (2) members shall be employed by or representative of the interest of CMRS providers, of which, one (1) shall be a representative of a Tier III CMRS provider; one (1) member shall be a mayor of a city of the first or second class or urban-county government or his or her designee containing a public safety answering point; one (1) member shall be appointed from a list of local exchange landline telephone companies' representatives submitted by the Kentucky Telephone Association; one (1) member shall be a director of a certified public safety answering point operated by a local governmental entity or a consolidated group of local governmental entities appointed from lists of candidates submitted to the Governor by the Kentucky Firefighters Association, the State Association of Chiefs of Police, and the Kentucky Ambulance Providers Association; two (2) members shall be appointed from lists of candidates submitted to the Governor by the Kentucky Emergency Number Association and the Association of Public Communications Officials; and one (1) member shall be a director of a certified public safety answering point operated by a local government entity or a consolidated group of local governmental entities. The commissioner of the Department of Kentucky State Police, or the commissioner's designee, and the CMRS emergency telecommunications administrator also shall be members of the board. Any vacancy on the board shall be filled in the same manner as the original appointment.
- (2) The commissioner and administrator shall serve by virtue of their office. The other members shall be appointed no later than August 15, 1998, for a term of four (4) years and until their successors are appointed and qualified, except that of the first appointments, one (1) shall be for a term of one (1) year, one (1) shall be for a term of two (2) years, one (1) for a term of three (3) years, and two (2) shall be for a term of four (4) years. Any member missing three (3) consecutive meetings may be removed by a majority vote of the remaining voting members.
- (3) In addition to the administrator, the Kentucky Office of Homeland Security shall provide staff services and carry out administrative duties and functions as directed by the board. The board shall be attached to the Kentucky Office of Homeland Security for administrative purposes only and shall operate as an independent entity within state government.
- (4) The board members shall serve without compensation but shall be reimbursed in accordance with KRS 45.101 for expenses incurred in connection with their official duties as members of the board.
- (5) All administrative costs and expenses incurred in the operation of the board, including payments under subsection (4) of

this section, shall be paid from that portion of the CMRS fund that is authorized under KRS 65.7631 to be used by the board for administrative purposes.

Section 141. KRS 67.592 is amended to read as follows:

- (1) The county judge/executive shall designate the sheriff of the county, or, if there is a county police department, may designate the chief of the county police, as custodian of all property:
 - (a) Alleged to be or suspected of being the proceeds of crime;
 - (b) Alleged to be or suspected of having been used to facilitate the commission of a crime;
 - (c) Which is subject to confiscation or forfeiture, excluding property subject to forfeiture pursuant to KRS Chapter 218A, or both, under any provision of the Kentucky Revised Statutes;
 - (d) Which is taken from the person of a prisoner, except for any personal property that may be in the custody of a prisoner upon his or her admission to jail, in which case all property which he or she is not permitted to retain upon admission to jail shall be placed in the custody of the jailer;
 - (e) Which is lost or abandoned and taken into custody by any peace officer, or the courts; or
 - (f) Which is taken from persons supposed to be insane, intoxicated, or otherwise incapable of taking care of themselves.
- (2) Any peace officer, except for the Department of Kentucky State Police, or court having custody of the property shall, as soon as practicable, deliver it into the custody of the property clerk.
- (3) The sheriff or chief of county police designated as custodian of property shall appoint from persons on his or her staff, or may employ, a person to serve as property clerk and other persons necessary as deputy property clerks.
- (4) All the property shall be particularly described and registered by the property clerk, or his or her deputy, in a book kept for that purpose, containing the name of the owner, if ascertained, the place where found, the name of the person from whom it was taken, with the general circumstances of its receipt, the name of the officer recovering the property, the names of all claimants to the property, and any final disposition of the property. The property clerk shall advertise the property, if it is not the subject of a forfeiture proceeding, as to the amount and disposition of the property.
- (5) The fiscal court of the county may prescribe regulations in regard to the duties of the property clerk and his or her deputies, and require security for the faithful performance of the duties imposed by this section.
- (6) All animals stolen, strayed, lost, or confiscated that come into the possession of the property clerk shall be sent to an animal shelter located within the county, if there is one, or if there is none to an animal shelter in another county.
- (7) No property shall be delivered to the property clerk or his or her deputy except as provided in this section.
- (8) No property shall be disposed of by the property clerk or his or her deputy except in the manner prescribed by law.
- (9) The provisions of this section shall apply in all unincorporated areas of a county and in all cities which do not appoint a property custodian pursuant to KRS 95.845.

Section 142. KRS 72.210 is amended to read as follows:

In enacting legislation establishing an Office of the~~a Division of~~ Kentucky State Medical Examiner~~Examiners Office~~ for the Commonwealth of Kentucky, it is not the intention of the General Assembly to abolish or interfere with the coroner in his role as a constitutionally elected peace officer. It is the intention of the General Assembly for the office to aid, assist, and complement the coroner in the performance of his duties by providing medical assistance to him in determining causes of death.

Section 143. KRS 72.220 is amended to read as follows:

The Justice and Public Safety Cabinet shall, within budgetary limitation, provide medical assistance to coroners in investigating deaths; provide or contract for laboratory facilities for performing autopsies and investigations pursuant to KRS 72.210 to 72.275; provide for the keeping of reports of all investigations and examinations; and provide such other functions and duties as may be specified in KRS 72.210 to 72.275 or in the administrative~~rules and~~ regulations of the secretary of justice and public safety.

Section 144. KRS 72.225 is amended to read as follows:

An advisory commission is hereby established to act in a general advisory capacity to the medical examiner services. The commissioner of the Department of Kentucky State Police, the commissioner of criminal justice training, the secretary of justice and public safety, and the secretary for health and family services shall be ex officio members of the advisory commission. The secretary of justice and public safety shall appoint five (5) additional members for terms of four (4) years each or until their successors are appointed and qualify. Members of the advisory commission shall receive no compensation for their services but shall be repaid their actual expenses incurred in attending meetings.

Section 145. KRS 72.235 is amended to read as follows:

The Justice and Public Safety Cabinet may establish or contract for physical facilities for the conduct of post-mortem and other necessary examinations. The cabinet may employ, by contract or otherwise, pathologists, toxicologists and other ancillary, technical and administrative personnel to perform autopsies and such other pathological, chemical and other studies and examinations as may be deemed necessary. Such studies and examinations may be performed in another state if deemed to be in the best interest of the Commonwealth by the chief medical examiner or the certified coroner or deputy coroner and the reports

thereof shall have the same validity and admissibility in evidence as those performed within this state when duly certified by the chief medical examiner of the cabinet or by a certified coroner or deputy coroner.

Section 146. KRS 72.240 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet may employ a board certified forensic pathologist as the chief medical examiner who shall administer the Office~~[Division]~~ of the Kentucky State Medical Examiner~~[Examiners-Office]~~ and one (1) associate chief medical examiner for the Commonwealth.~~[The chief medical examiner and the associate chief medical examiner shall be affiliated with the state medical schools.]~~
- (2) The Justice and Public Safety Cabinet may employ physicians licensed to practice medicine in Kentucky as county or district medical examiners to carry out the provisions of KRS 72.210 to 72.275 within the counties or district to which they are assigned by the medical examiner section. The cabinet may designate county or district health officers as county or district medical examiners and may authorize additional compensation therefor.

Section 147. KRS 72.255 is amended to read as follows:

The secretary of justice and public safety shall adopt administrative~~[rules and]~~ regulations to carry out the provisions of KRS Chapter 72 including but not limited to the adoption of forms, fees for examinations, certification requirements, reports of medical examiners and certified coroners, and other costs incidental to the administration of this chapter. The advisory commission provided for in KRS 72.225 shall review and may recommend new regulations or changes in the regulations provided for in this section.

Section 148. KRS 72.260 is amended to read as follows:

The secretary of justice and public safety is authorized to establish a schedule of fees for issuing duplicate records of investigations, examinations, autopsies, and other records; provided, however, that one (1) copy shall be provided free of charge to the coroner and either the county or Commonwealth's attorney concerned.

Section 149. KRS 72.275 is amended to read as follows:

Anyone participating in good faith pursuant to KRS 72.210 to 72.275 or the administrative~~[rules and]~~ regulations of the secretary of justice and public safety shall have immunity from any civil liability that might otherwise be incurred or imposed.

Section 150. KRS 72.400 is amended to read as follows:

In enacting legislation relating to coroners, the General Assembly recognizes that the coroner is an elected constitutional peace officer. The General Assembly also recognizes that the ascertainment of the cause and manner of death in cases in which the coroner has jurisdiction is an essential governmental service. It is the intent of KRS 72.410 to 72.470 to encourage the coroner to participate in approved training sessions to improve his skills for the Commonwealth and to cooperate with the Office~~[Division]~~ of the Kentucky State Medical Examiner~~[Examiners-Office]~~ administered by the Justice and Public Safety Cabinet.

Section 151. KRS 72.405 is amended to read as follows:

As used in KRS 72.410 to 72.470, unless the context clearly indicates otherwise:

- (1) "Coroner ordered autopsy" means an autopsy ordered by the coroner having jurisdiction and performed by a pathologist pursuant to such authorization in order to ascertain the cause and manner of death in a coroner's case. In the event the pathologist deems it necessary, he may submit the appropriate specimen to a qualified chemist or toxicologist for analysis to assist him in ascertaining the cause of death in a coroner's case.
- (2) "Coroner's case" means a case in which the coroner has reasonable cause for believing that the death of a human being within his county was caused by any of the conditions set forth in KRS 72.025.
- (3) "Inquest" means an examination ordered by the coroner, or in his absence, ordered by a deputy coroner, into the causes and circumstances of any death which is a coroner's case by a jury of six (6) residents of the county impaneled and selected by the coroner to assist him in ascertaining the cause and manner of death.
- (4) "Post-mortem examination" means a physical examination of the body by a medical examiner or by a coroner or deputy coroner who has been certified by the Justice and Public Safety Cabinet and may include an autopsy performed by a pathologist or other appropriate scientific tests administered to determine cause of death.
- (5) "Certified coroner" or "certified deputy coroner" means a coroner or deputy coroner who has been certified by the Justice and Public Safety Cabinet to have successfully completed both the basic training course and annual inservice training course required by KRS 72.415, except that a deputy coroner shall be certified without completion of training courses required by KRS 72.415 if he is a licensed physician. The secretary of justice and public safety may waive the requirement for basic training and certify a coroner during the eighteen (18) month period after July 15, 1982, if the advisory commission set forth in KRS 72.225 certifies to the secretary after a thorough review that the experience and knowledge of the specific coroner is such that he is qualified to be a certified coroner without taking the basic training.

Section 152. KRS 72.410 is amended to read as follows:

- (1) The coroner of each county shall investigate the cause and manner of all deaths that are defined by KRS 72.405 as a coroner's case.
- (2) The coroner may, in his sound discretion, when investigating a coroner's case, request the assistance of the district medical examiner and the Office~~[Division]~~ of the Kentucky State Medical Examiner~~[Examiners-Office]~~, order an autopsy, and

2007 Regular Session

hold an inquest.

- (3) (a) Upon notification of the death of a child under the age of eighteen (18) years which meets the criteria for a coroner's case as defined in KRS 72.405 and 72.025, the coroner shall as soon as practicable contact the local office of the Department for Community Based Services, law enforcement agencies with local jurisdiction, and the local health department to determine the existence of relevant information concerning the case.
- (b) Any agency of the state or any other agency, institution, or facility providing services to the child or the child's family, shall provide to the coroner upon his or her request the cooperation, assistance, and information to enable the coroner to comply with the provisions of this chapter. This section shall not be deemed to abrogate the attorney-client nor the clergy-penitent privilege or the confidentiality of records provided by KRS 311.377(2). If other privileged or confidential records are disclosed to the coroner pursuant to this section, the records shall remain confidential or privileged and shall not be disclosed except as authorized by this section, to the state or local child fatality response team, or as otherwise required by law.

Section 153. KRS 72.415 is amended to read as follows:

- (1) For the purpose of enforcing the provisions of KRS 72.410 to 72.470, coroners and deputy coroners shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon public or private premises for the purpose of making investigations, to seize evidence, to interrogate persons, to require the production of medical records, books, papers, documents, or other evidence, and to impound vehicles involved in vehicular deaths, employ special investigators and photographers, and to expend funds for the purpose of carrying out the provisions of KRS 72.410 to 72.470. The fiscal court or urban-county government shall pay all reasonable expenses incurred by the coroner and his deputy in carrying out his responsibilities under the provisions of KRS 72.410 to 72.470.
- (2) No person shall be eligible to hold the office of deputy coroner unless he holds a high school diploma or its recognized equivalent. Every deputy coroner, other than a licensed physician, shall be required as a condition of office to take during every calendar year he or she is in office the training course of at least eighteen (18) hours provided by the Department of Criminal Justice Training or other courses approved by the Justice and Public Safety Cabinet after having completed the basic training course the first year of employment. The training course shall include material developed by the cabinet and approved by the Cabinet for Health and Family Services on the human immunodeficiency virus infection and acquired immunodeficiency syndrome. The material shall include information on known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change.

Section 154. KRS 72.460 is amended to read as follows:

The cost of autopsies shall be paid for by the fiscal court; provided, however, that the Justice and Public Safety Cabinet, Office~~[Division]~~ of the Kentucky State Medical Examiner~~[Examiners Office]~~, may contract with pathologists and toxicologists and chemists and pay for such autopsies within the budgetary limitations of funds appropriated by the General Assembly for this purpose.

Section 155. KRS 95.435 is amended to read as follows:

- (1) The police department in cities of the second class, and urban-county government shall take charge of property, within their jurisdiction, alleged to be or suspected of being the proceeds of crime, property taken from the person of a prisoner, lost or abandoned property taken into the custody of any member of the police force or criminal court, and property taken from persons supposed to be insane, intoxicated or otherwise incapable of taking care of themselves. The officer or court having custody of such property shall as soon as practicable deliver it into the custody of the police department.
- (2) All such property shall be particularly described and registered by the police department in a book kept for that purpose, containing the name of the owner, if ascertained, the place where found, the name of the person from whom taken, with the general circumstances, the date of its receipt, the name of the officer recovering the property, the names of all claimants thereto, and any final disposition of the property. The police department shall advertise the property pursuant to KRS Chapter 424 for the information of the public as to the amount and disposition of the property.
- (3) If any property in the custody of the police department is desired as evidence in any criminal court, such property shall be delivered to any officer who presents an order to that effect from the court. Such property shall not be retained in the court but shall be returned to the police department.
- (4) All property except firearms that remains in the custody of the police department for three (3) months, without any lawful claimant thereto, may be sold at public auction in a suitable room designated for that purpose after having been advertised pursuant to KRS Chapter 424. The proceeds of such sales shall be paid into the police and firefighters' pension fund of said city or urban-county government. Firearms shall be transferred to the Department of Kentucky State Police within ninety (90) days of abandonment, confiscation, release of the weapon as evidence, or forfeiture by a court, whichever occurs later.

Section 156. KRS 95.960 is amended to read as follows:

Funds in the Kentucky Law Enforcement Foundation Program Fund may be utilized by the Department of Criminal Justice Training to reimburse cities, urban-counties, or charter counties with regular police departments of ten (10) or fewer officers for the cost of the base salary for each regular, full-time police officer while the officer is obtaining the training required in KRS

95.955. The city, urban-county, or charter county shall show to the satisfaction of the Department of Criminal Justice Training that it will be placed in a situation of undue hardship if the funding is not provided. The secretary of the Justice and Public Safety Cabinet shall promulgate administrative regulations upon the recommendation of the Kentucky Law Enforcement Council to define what constitutes "undue financial hardship" and to otherwise implement this section.

Section 157. KRS 100.361 is amended to read as follows:

- (1) Nothing in this chapter shall apply or affect zoning regulations adopted pursuant to KRS Chapter 183.
- (2) Nothing in this chapter shall impair the sovereignty of the Commonwealth of Kentucky over its political subdivisions. Any proposal affecting land use by any department, commission, board, authority, agency, or instrumentality of state government shall not require approval of the local planning unit. However, adequate information concerning the proposals shall be furnished to the planning commission by the department, commission, board, authority, agency, or instrumentality of state government. If the state proposes to acquire, construct, alter, or lease any land or structure to be used as a penal institution or correctional facility, and the proposed use is inconsistent with or contrary to local planning regulations or the comprehensive plan for the area, the secretary of the Justice and Public Safety Cabinet, or his or her designee, shall notify, in accordance with KRS 424.180, the planning commission, the local governing body, who has jurisdiction over the area involved, and the general public of the state's proposals for the area, and he or she shall hold a public hearing on the proposals within the area at least ninety (90) days prior to commencing the acquisition, construction, alteration, or leasing. A final report on the public hearing shall be submitted to the Governor and members of the General Assembly within twenty-five (25) days of the public hearing, and prior to commencing any construction, alteration, acquisition, or leasing of such property or facilities.

Section 158. KRS 117.187 is amended to read as follows:

- (1) The State Board of Elections shall regularly provide special training regarding the election laws and methods of enforcement to all members of county boards of elections, county attorneys, Commonwealth's attorneys, and certain members of the Department of Kentucky State Police.
- (2) The county board of elections shall provide special training before each primary and regular election to all election officers, alternates, and certified challengers regarding their duties and the penalties for failure to perform. Election officers, including alternates, and certified challengers shall attend the training session, unless excused by the county board of elections for reason of illness or other emergency. Any person who fails to attend a training session without being excused shall be prohibited from serving as an election officer or challenger for a period of five (5) years. The training provided by the county board of elections shall include, but not be limited to, the following:
 - (a) Operation of the voting machine or ballot cards;
 - (b) Posting of necessary signs and notices at the polling place;
 - (c) Voter assistance;
 - (d) Maintaining precinct rosters;
 - (e) Confirmation of a voter's identity;
 - (f) Challenge of a voter;
 - (g) Completing changes of address or name at the polling place;
 - (h) Qualifications for voting in a primary election;
 - (i) Electioneering and exit polling;
 - (j) Write-in voting procedures;
 - (k) Persons who may be in the voting room;
 - (l) Election violations and penalties;
 - (m) Assistance which may be provided by law enforcement officers;
 - (n) Election reports;
 - (o) Disability awareness;
 - (p) Provisional voting process; and
 - (q) Election emergency contingency plan.
- (3) The county attorney shall attend the training session for election officers to assist in explaining the duties and penalties for failure to perform.
- (4) Compensation in the minimum amount of ten dollars (\$10) for reimbursement of actual expenses shall be paid by the county to the election officers for attending the training session.

Section 159. KRS 117.237 is amended to read as follows:

- (1) A county board of elections, a clerk, judge/executive, sheriff, fiscal court, the Attorney General, grand jury or the county chairman of either of the two (2) political parties which polled the largest vote in the preceding general election may request that the Department of Kentucky State Police patrol voting precincts in the county during the hours the polls are

open on the day of any primary or regular or special election for the purpose of maintaining order and enforcing the election laws of the state. The Department of Kentucky State Police shall investigate any reported violations of the election laws. Candidates may petition any of the aforementioned officers or bodies to request State Police patrols of county voting precincts.

- (2) The Department of Kentucky State Police shall report the results of their investigation to the appropriate Commonwealth's and county attorneys.

Section 160. KRS 136.392 is amended to read as follows:

- (1) (a) Every domestic, foreign, or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370, or 136.390, shall charge and collect a surcharge of one dollar and fifty cents (\$1.50) upon each one hundred dollars (\$100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether the charges are designated as premiums, assessments, or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to administrative regulations promulgated by the executive director of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth day of each month, each insurer shall report and remit to the Department of Revenue, on forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. Insurers with an annual liability of less than one thousand dollars (\$1,000) for each of the previous two (2) calendar years may report and remit to the Department of Revenue all premium surcharge moneys collected on a calendar year basis on or before the twentieth (20th) day of January of the following calendar year. The funds derived from the premium surcharge shall be deposited in the State Treasury, and shall constitute a fund allocated for the uses and purposes of the Firefighters Foundation Program fund (KRS 95A.220 and 95A.262) and the Law Enforcement Foundation Program fund (KRS 15.430).
- (b) Effective July 1, 1992, the surcharge rate in paragraph (a) of this subsection shall be adjusted by the commissioner of revenue to a rate calculated to provide sufficient funds for the uses and purposes of the Firefighters Foundation Program fund as prescribed by KRS 95A.220 and 95A.262 and the Law Enforcement Foundation Program fund as prescribed by KRS 15.430 for each fiscal year. The rate shall be calculated using as its base the number of local government units eligible for participation in the funds under applicable statutes as of January 1, 1994. To allow the commissioner of revenue to calculate an appropriate rate, the secretary of the Environmental and Public Protection Cabinet and the secretary for the Justice and Public Safety Cabinet shall certify to the commissioner of revenue, no later than January 1 of each year, the estimated budgets for the respective funds specified above, including any surplus moneys in the funds, which shall be incorporated into the consideration of the adjusted rate for the next biennium. As soon as practical, the commissioner of revenue shall advise the executive director of insurance of the new rate and the executive director shall inform the affected insurers. The rate adjustment process shall continue on a biennial basis.
- (2) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the State Treasury as set forth in this section shall be paid by the State Treasurer into the Firefighters Foundation Program fund trust and agency account and the Law Enforcement Foundation Program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the Law Enforcement Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars (\$3,000,000) shall lapse. On and after July 1, 1999, moneys in this account shall not lapse. Money deposited to the Firefighters Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars (\$3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. On and after July 1, 1999, moneys in this account shall not lapse.
- (3) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative, or assessment fire insurance company shall be deposited in the State Treasury, and shall be paid monthly by the State Treasurer into the Firefighters Foundation Program fund trust and agency account as provided in KRS 95A.220 to 95A.262. However, insurance premium surcharge funds collected from policyholders of any mutual company, cooperative, or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1994, shall continue to be paid into the Firefighters Foundation Program fund and the Law Enforcement Foundation Program fund as prescribed.
- (4) No later than July 1 of each year, the Office of Insurance shall provide the Department of Revenue with a list of all

Kentucky-licensed property and casualty insurers and the amount of premium volume collected by the insurer for the preceding calendar year as set forth on the annual statement of the insurer. No later than September 1 of each year, the Department of Revenue shall calculate an estimate of the premium surcharge due from each insurer subject to the insurance premium surcharge imposed pursuant to this section, based upon the surcharge rate imposed pursuant to this section and the amount of the premium volume for each insurer as reported by the Office of Insurance. The Department of Revenue shall compare the results of this estimate with the premium surcharge paid by each insurer during the preceding year, and shall provide the Legislative Research Commission, the Commission on Fire Protection Personnel Standards and Education, the Kentucky Law Enforcement Council, and the Office of Insurance with a report detailing its findings on a cumulative basis. In accordance with KRS 131.190, the Department of Revenue shall not identify or divulge the confidential tax information of any individual insurer in this report.

Section 161. KRS 148.290 is amended to read as follows:

- (1) The commission may enter into agreements with the law enforcement agency of any urban-county or counties in which the State Horse Park is located or in any adjacent county or with the Department of Kentucky State Police for proper policing of the State Horse Park. If authorized to do so by the commission and subject to KRS 61.300, the executive director may commission employees of the park as patrol officers. These patrol officers shall have all the powers of peace officers upon the property of the State Horse Park and the public property and roads traversing or immediately adjacent thereto.
- (2) The commission is authorized to establish by resolution speed limits governing the operation of motor vehicles on horse park property. Notice to the public of such speed limits shall be posted by signs or markings.

Section 162. KRS 154A.080 is amended to read as follows:

- (1) The corporation shall establish and maintain a personnel program for its employees. The corporation may procure benefit programs or group insurance plans and shall provide a retirement plan. Employees of the corporation shall serve at the pleasure of the president who shall determine their compensation and benefits. The employees shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the president. Such personnel actions shall be exempt from the provisions of KRS Chapter 18A. The compensation of officers at the division head level and above shall be exempt from the provisions of KRS 64.640.
- (2) No officer or employee of the corporation shall have a financial interest in any vendor doing business or proposing to do business with the corporation.
- (3) No officer or employee of the corporation with decision-making authority shall participate in any decision involving a retailer with whom the officer or employee has a financial interest of five percent (5%) or more of the total value thereof.
- (4) No officer or employee of the corporation who leaves the employ of the corporation may represent any vendor, lottery retailer, or related entity before the corporation for a period of two (2) years following termination of employment with the corporation.
- (5) A background investigation shall be conducted by the chief security officer of the corporation on every applicant who has reached the final selection process prior to employment by the corporation. Applicants may be fingerprinted as a condition of employment. In addition, all division directors of the corporation and employees of the corporation performing duties primarily related to security matters, prior to employment, shall be subject to a background investigation report conducted by the Department of Kentucky State Police. The Department of Kentucky State Police shall be reimbursed by the corporation for the cost of investigations conducted pursuant to this section. No person who has been convicted of a felony, bookmaking or other forms of illegal gambling, or of a crime involving moral turpitude shall be employed by the corporation. Any employee of the corporation who is or has been convicted of a felony, bookmaking, or any other form of illegal gambling or of a crime involving moral turpitude shall be terminated from employment by the corporation, except that this requirement shall not be interpreted to limit the right of the corporation to terminate the employment of any employee, at will, prior to any conviction.

Section 163. KRS 154A.650 is amended to read as follows:

- (1) The Department of Kentucky State Police shall, at the request of the division of security, perform full criminal background investigations on all potential vendors and potential employees of the corporation at the level of division director and above and at any level within the division of security. The corporation shall reimburse the Department of Kentucky State Police for the actual costs of such investigations.
- (2) The corporation or its division of security shall:
 - (a) Conduct criminal background investigations and credit investigations on all potential retailers and investigate all potential employees of the corporation not referred to in subsection (1) of this section;
 - (b) Supervise ticket validation and lottery drawings;
 - (c) Inspect at times determined solely by the division, the facilities of any vendor in order to determine the integrity of the vendor's product and in order to determine whether the vendor is in compliance with its contract;
 - (d) Report any suspected violations of this chapter to the appropriate Commonwealth's attorney, or the Attorney General and law enforcement agencies; and
 - (e) Upon request, provide assistance to any Commonwealth's attorney, the Attorney General or law enforcement

agency investigating a violation of this chapter.

Section 164. KRS 156.483 is amended to read as follows:

- (1) The State Department of Education shall not employ, in a position which involves supervisory or disciplinary power over a minor, any person who is a violent offender or has been convicted of a sex crime defined in KRS 17.165 as a felony. The Department of Education may employ, at its discretion, persons convicted of sex crimes classified as a misdemeanor. The Department of Education shall request all conviction information for any applicant for employment from the Justice and Public Safety Cabinet prior to employing the applicant.
- (2) Each application form, provided by the Department of Education to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."
- (3) Any request for records under subsection (1) of this section shall be on a form approved by the Justice and Public Safety Cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.
- (4) The provisions of this section shall apply after July 15, 1988, to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor.

Section 165. KRS 156.495 is amended to read as follows:

- (1) The Department of Education shall weekly distribute the names, provided by the Department of Kentucky State Police, of all missing children and children who have been recovered to all public and private schools admitting children in preschool through grade twelve (12).
- (2) Every public and private school in this state shall notify local law enforcement or the Department of Kentucky State Police at its earliest known contact with any child whose name appears on the list of missing Kentucky children.
- (3) The department shall encourage each public and private school to engage in a program whereby the parents of children who are absent from school are notified in person or by telephone to verify if they know that the child is not attending school.

Section 166. KRS 158.032 is amended to read as follows:

- (1) Upon notification by the commissioner of education of a child's disappearance, any school in which the child is currently or was previously enrolled shall flag the record of the child so that when a copy of or information regarding the child's record is requested, the school shall be alerted that the record is that of a missing child. The school shall immediately report to local law enforcement or the Kentucky Department of State Police any request concerning flagged records or any knowledge as to the whereabouts of any missing child.
- (2) Upon notification by the commissioner of education of any missing child who has been recovered, the school shall remove the flag from the child's record.
- (3) Upon enrollment of a student for the first time in any elementary or secondary school, the school shall notify in writing the person enrolling the student that within thirty (30) days the person shall provide either:
 - (a) A certified copy of the student's birth certificate; or
 - (b) Other reliable proof of the student's identity and age, and an affidavit of the inability to produce a copy of the birth certificate.
- (4) Upon the failure of a person enrolling the student to comply with this section, the school shall notify the person in writing that unless he complies within ten (10) days the case shall be referred to the Department of Kentucky State Police or local law enforcement officials for investigation. If compliance is not obtained within the ten (10) day period, the school shall so refer the case.
- (5) Within fourteen (14) days after enrolling a transfer student, each elementary or secondary school shall request directly from the student's previous school a certified copy of the student's record. Any school receiving a request of a student's record which has been flagged as the record of a missing child shall not forward the student's record but shall instead notify local law enforcement or the Department of Kentucky State Police.

Section 167. KRS 158.155 is amended to read as follows:

- (1) If a student has been adjudicated guilty of an offense specified in this subsection or has been expelled from school for an offense specified in this subsection, prior to a student's admission to any school, the parent, guardian, principal, or other person or agency responsible for a student shall provide to the school a sworn statement or affirmation indicating on a form provided by the Kentucky Board of Education that the student has been adjudicated guilty or expelled from school attendance at a public or private school in this state or another state for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs. The sworn statement or affirmation shall be sent to the receiving school within five (5) working days of the time when the student requests enrollment in the new school.
- (2) If any student who has been expelled from attendance at a public or private school in this state for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs requests transfer of his records, those records shall reflect the charges and final disposition of the expulsion proceedings.

- (3) If any student who is subject to an expulsion proceeding at a public or private school in this state for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs requests transfer of his records to a new school, the records shall not be transferred until that proceeding has been terminated and shall reflect the charges and any final disposition of the expulsion proceedings.
- (4) A person who is an administrator, teacher, or other employee of a public or private school shall promptly make a report to the local police department, sheriff, or the Department of Kentucky State Police, by telephone or otherwise, if:
 - (a) The person knows or has reasonable cause to believe that conduct has occurred which constitutes:
 - 1. A misdemeanor or violation offense under the laws of this Commonwealth and relates to:
 - a. Carrying, possession, or use of a deadly weapon; or
 - b. Use, possession, or sale of controlled substances; or
 - 2. Any felony offense under the laws of this Commonwealth; and
 - (b) The conduct occurred on the school premises or within one thousand (1,000) feet of school premises, on a school bus, or at a school-sponsored or sanctioned event.
- (5) A person who is an administrator, teacher, supervisor, or other employee of a public or private school who receives information from a student or other person of conduct which is required to be reported under subsection (1) of this section shall report the conduct in the same manner as required by that subsection.
- (6) Neither the husband-wife privilege of KRE 504 nor any professional-client privilege, including those set forth in KRE 506 and 507, shall be a ground for refusing to make a report required under this section or for excluding evidence in a judicial proceeding of the making of a report and of the conduct giving rise to the making of a report. However, the attorney-client privilege of KRE 503 and the religious privilege of KRE 505 are grounds for refusing to make a report or for excluding evidence as to the report and the underlying conduct.
- (7) Nothing in this section shall be construed as to require self-incrimination.
- (8) A person acting upon reasonable cause in the making of a report under this section in good faith shall be immune from any civil or criminal liability that might otherwise be incurred or imposed from:
 - (a) Making the report; and
 - (b) Participating in any judicial proceeding that resulted from the report.

Section 168. KRS 160.151 is amended to read as follows:

- (1)
 - (a) Beginning with the 2002-2003 school year, a private, parochial, or church school that has voluntarily been certified by the Kentucky Board of Education in accordance with the provisions of KRS 156.160(3) may require a national and state criminal background check on all new certified hires in the school and student teachers assigned to the school. Certified individuals who were employed in another certified position in a Kentucky school within six (6) months of the date of the hire and who had previously submitted to a national and state criminal background check for previous employment may be excluded from further national or state criminal background checks.
 - (b) The national criminal history background check shall be conducted by the Federal Bureau of Investigation. The state criminal history background check shall be conducted by the Department of Kentucky State Police or the Administrative Office of the Courts.
 - (c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation by the Department of Kentucky State Police after a state criminal background check has been conducted. Any fee charged by the Department of Kentucky State Police, the Administrative Office of the Courts, or the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (2) If a school requires a criminal background check for a new hire, the school shall conspicuously include the following disclosure statement on each application or renewal form provided by the employer to an applicant for a certified position: "STATE LAW AUTHORIZES THIS SCHOOL TO REQUIRE A CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT FOR THIS TYPE OF POSITION."
 - (a) For purposes of this subsection, "contractor" means an adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school-affiliated entity, at times when students are present. The term "contractor" includes an employee of a contractor.
 - (b) The school or school board may require a contractor, volunteer, or visitor to submit to a national criminal history check by the Federal Bureau of Investigation and state criminal history background check by the Department of Kentucky State Police or Administrative Office of the Courts. Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested, shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

- (3) (a) A nonpublic school voluntarily implementing the provisions of this chapter may choose not to employ any person who is a violent offender as defined by KRS 17.165(2), has been convicted of a sex crime which is classified as a felony as defined by KRS 17.165(1), or has committed a violent crime as defined in KRS 17.165(3). A nonpublic school may employ, at its discretion, persons convicted of sex crimes classified as a misdemeanor.
- (b) If a school term has begun and a certified position remains unfilled or if a vacancy occurs during a school term, a nonpublic school implementing the provisions of this chapter may employ an individual who will have supervisory or disciplinary authority over minors on probationary status pending receipt of a criminal history background check.
- (c) Employment at a nonpublic school implementing the provisions of this chapter may be contingent on the receipt of a criminal history background check documenting a record as a violent offender, of a sex crime, or of a violent crime as defined in KRS 17.165.
- (d) Nonpublic schools implementing the provisions of this chapter may terminate probationary employment under this section upon receipt of a criminal history background check documenting a record as a violent offender, of a sex crime, or of a violent crime as defined in KRS 17.165.

Section 169. KRS 160.380 is amended to read as follows:

- (1) As used in this section:

- (a) "Contractor" means an adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school-affiliated entity, at times when students are present. The term "contractor" includes an employee of a contractor.
- (b) "Relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.
- (c) "Vacancy" means any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

- (2) (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself or herself to another position within the school district.
- (b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.
- (c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.
- (d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district.
- (e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to marrying a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has at least twenty (20) years of service in school systems may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection.
- (f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially

hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.

- (g)
 1. No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.
 2. No spouse of a principal shall be employed in the principal's school, except:
 - a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district; or
 - b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.
 3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.
 4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.
- (3) No superintendent shall employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor.
- (4)
 - (a) A superintendent shall require a national and state criminal background check on all new certified hires in the school district and student teachers assigned within the district. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check for the previous employment.
 - (b) The superintendent shall require that each new certified hire and student teacher, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation.
 - (c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Department of Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.
 - (d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.
- (5) A superintendent shall require a state criminal background check on all classified initial hires.
 - (a) The superintendent shall require that each classified initial hire submit to a state criminal history background check by the Department of Kentucky State Police. If an applicant has been a resident of Kentucky twelve (12) months or less, the superintendent may require a national criminal history background check as a condition of employment.
 - (b) Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested under the provisions of paragraph (a) of this subsection, shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (6) The superintendent may require a contractor, volunteer, or visitor to submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation. Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested, shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (7)
 - (a) If a school term has begun and a certified or classified position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.
 - (b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.
 - (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.

- (d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.
- (8) (a) Each application or renewal form, provided by the employer to an applicant for a classified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT. UNDER CERTAIN CIRCUMSTANCES, A NATIONAL CRIMINAL HISTORY BACKGROUND CHECK MAY BE REQUIRED AS A CONDITION OF EMPLOYMENT."
- (b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."
- (c) Each application form for a district position shall require the applicant to:
 - 1. Identify the states in which he or she has maintained residency, including the dates of residency; and
 - 2. Provide picture identification.
- (9) The provisions of subsections (4), (5), (6), (7), and (8) of this section shall apply to a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.
- (10) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, when an employee of the school district is charged with any offense which is classified as a felony, the superintendent may transfer the employee to a second position until such time as the employee is found not guilty, the charges are dismissed, the employee is terminated, or the superintendent determines that further personnel action is not required. The employee shall continue to be paid at the same rate of pay he or she received prior to the transfer. If an employee is charged with an offense outside of the Commonwealth, this provision may also be applied if the charge would have been treated as a felony if committed within the Commonwealth. Transfers shall be made to prevent disruption of the educational process and district operations and in the interest of students and staff and shall not be construed as evidence of misconduct.

Section 170. KRS 161.148 is amended to read as follows:

- (1) As used in this section, "volunteers" means adults who assist teachers, administrators, or other staff in public school classrooms, schools, or school district programs, and who do not receive compensation for their work.
- (2) Local school districts may utilize adult volunteers in supplementary instructional and noninstructional activities with pupils under the direction and supervision of the professional administrative and teaching staff.
- (3) Each board of education shall develop policies and procedures that encourage volunteers to assist in school or district programs.
- (4) Each local board of education shall develop and adopt a policy requiring a state criminal records check on all volunteers who have contact with students on a regularly scheduled or continuing basis, or who have supervisory responsibility for children at a school site or on school-sponsored trips. The request for records may be from the Justice and Public Safety Cabinet or the Administrative Office of the Courts, or both, and shall include records of all available convictions as described in KRS 17.160(1). Any request for a criminal records check of a volunteer under this subsection shall be on a form or through a process approved by the Justice and Public Safety Cabinet or the Administrative Office of the Courts. If the cabinet or the Administrative Office of the Courts charges fees, the local board of education shall arrange to pay the cost which may be from local funds or donations from any source including volunteers.
- (5) The local board of education shall provide orientation material to all volunteers who have contact with students on a regularly scheduled or continuing basis, including school policies, safety and emergency procedures, and other information deemed appropriate by the local board of education.
- (6) The provisions of this section shall not apply to students enrolled in an educational institution and who participate in observations and educational activities under direct supervision of a local school teacher or administrator in a public school.

Section 171. KRS 164.2841 is amended to read as follows:

- (1) (a) Any person whose parent or any nonmarried widow or widower whose spouse was a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, firefighter, or volunteer firefighter and who was killed while in active service or training for active service or who died as a result of a service-connected disability shall not be required to pay any matriculation or tuition fee upon admission to any state-supported university, community college, or vocational training institution. The provisions of this subsection shall apply to any firefighter or volunteer firefighter who is killed or dies under the conditions covered in this subsection on July 1, 1989, or thereafter.
- (b) In order to obtain the benefits conferred by paragraph (a) of this subsection, the parent-child relationship shall be shown by birth certificate, adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death shall be evidenced by certification from the records of the Kentucky Justice and Public Safety Cabinet, the

appropriate city or county law enforcement agency which employed the deceased, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.

- (2) (a) Any person whose parent or any nonmarried widow or widower whose spouse was an employee participating in a state-administered retirement system, and not otherwise covered by subsection (1) of this section, and who died as a result of a duty-related injury as described in KRS 61.621 shall not be required to pay any matriculation or tuition fee upon admission to any state-supported university, community college, or vocational training institution.
- (b) In order to obtain the benefits conferred by paragraph (a) of this subsection, the parent-child relationship shall be shown by birth certificate, adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death shall be evidenced by certification from the records of the employing agency or the appropriate retirement system.
- (3) If one so admitted to a state-supported university, community college, or vocational training institution under the provisions of this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of his attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

Section 172. KRS 164.2842 is amended to read as follows:

- (1) (a) The spouse, regardless of age, and any child of a permanently and totally disabled law enforcement officer, firefighter, or volunteer firefighter injured while in active service or in training for active service, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state-supported university, community college, or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.
- (b) For the spouse or child to be entitled to benefits under this section, the disabled law enforcement officer, firefighter, or volunteer firefighter shall be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the Kentucky Justice and Public Safety Cabinet, the appropriate city or county law enforcement agency which employed the disabled, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, or if deceased, the claim to benefits is to be based on the rating held by the law enforcement officer, firefighter, or volunteer firefighter at the time of death. The parent's or spouse's service and rating shall be evidenced by certification from the records of the Kentucky Justice and Public Safety Cabinet, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.
- (c) In the absence of certification of permanent and total disability by the Kentucky Office of Workers' Claims, the Kentucky Justice and Public Safety Cabinet, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, medical evidence showing permanent and total disability or the existence of permanent and total disability for a period of at least thirty (30) days immediately prior to death may be accepted, if this evidence is signed by a physician licensed to practice or an official of an accredited medical hospital.
- (d) The parent-child relationship shall be shown by birth certificate, legal adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence.
- (e) To entitle a spouse or child to benefits under this section the disabled law enforcement officer, firefighter, or volunteer firefighter shall have been a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, firefighter, or volunteer firefighter.
- (2) (a) The spouse, regardless of age, and any child of a person who was an employee participating in a state-administered retirement system and not otherwise covered by subsection (1) of this section and who was disabled as a result of a duty-related injury as described in KRS 61.621, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state-supported university, community college, or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.
- (b) The parent-child relationship shall be shown by birth certificate, legal adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence.
- (3) The marriage of an eligible child shall not serve to deny full entitlement to the benefits provided in this section.

Section 173. KRS 164.970 is amended to read as follows:

- (1) Vehicles used for emergency purposes by the safety and security department of a public institution of higher education shall be considered as emergency vehicles and shall be equipped with blue lights and sirens and shall be operated in

conformance with the requirements of KRS Chapter 189.

- (2) Safety and security officers directly employed by the governing board of public institutions of higher education pursuant to KRS 164.950 to 164.980 shall have the rights accorded to peace officers in cities of the first four (4) classes provided under KRS 527.020, provided the governing board of the public institution of higher education so authorized in writing.
- (3) Safety and security departments of public institutions of higher education may install, maintain, and operate radio systems on police or other radio frequencies under licenses issued by the Federal Communications Commission, or its successor; KRS 432.570 to the contrary notwithstanding.
- (4) Safety and security departments of public institutions of higher education shall comply with the requirements of the Kentucky Revised Statutes and the Justice and Public Safety Cabinet with regard to reporting of criminal and other statistics.

Section 174. KRS 164.955 is amended to read as follows:

- (1) Safety and security officers so appointed shall be peace officers and conservators of the peace. They shall have general police powers including the power to arrest, without process, all persons who within their view commit any crime or misdemeanor. They shall possess all of the common law and statutory powers, privileges, and immunities of sheriffs, except that they shall be empowered to serve civil process to the extent authorized by the employing governing board of the respective institution employing them. Without limiting the generality of the foregoing, such safety and security officers are hereby specifically authorized and empowered, and it shall be their duty:
 - (a) To preserve the peace, maintain order and prevent unlawful use of force or violence or other unlawful conduct on the campuses of their respective institutions, and to protect all persons and property located thereon from injury, harm and damage;
 - (b) To enforce, and to assist the officials of their respective institutions in the enforcement of, the lawful rules and regulations of said institution, and to assist and cooperate with other law enforcement agencies and officers. Provided, however, that such safety and security officers shall exercise the powers herein granted upon any real property owned or occupied by their respective institutions, including the streets passing through and adjacent thereto. Said powers may be exercised in any county of the Commonwealth where the institution owns, uses, or occupies property. Additional jurisdiction may be established by agreement with the chief of police of the municipality or sheriff of the county or the appropriate law enforcement agency in which such property is located, dependent upon the jurisdiction involved.
- (2) Safety and security officers may exercise their powers away from the locations described in subsection (1) of this section only upon the following conditions:
 - (a) When in hot pursuit of an actual or suspected violator of the law; or
 - (b) When authorized to do so pursuant to the agreement authorized by subsection (1) of this section; or
 - (c) When requested to act by the chief of police of the city or county in which the institution's property is located; or
 - (d) When requested to act by the sheriff of the county in which the institution's property is located; or
 - (e) When requested to act by the commissioner~~director~~ of the Department of Kentucky State Police; or
 - (f) When requested to act by the authorized delegates of those persons or agencies listed in (c), (d) or (e) above; or
 - (g) When requested to assist a state, county or municipal police officer, sheriff, or other peace officer in the performance of his lawful duties; or
 - (h) When operating under an interlocal cooperation agreement pursuant to KRS Chapter 65.
- (3) Safety and security officers appointed pursuant to KRS 164.950 to 164.980 shall have, in addition to the other powers enumerated herein, the power to conduct investigations anywhere in this Commonwealth, provided such investigation relates to criminal offenses which occurred on property owned, leased, or controlled by the university. Where desirable and at the discretion of the institution of higher education's police officials, the university safety and security department may coordinate said investigations with any law enforcement agency of this Commonwealth or with agencies of the federal government.
- (4) Safety and security departments created and operated by the governing boards of public institutions of higher education shall, for all purposes, be deemed public police departments and the sworn safety and security officers thereof are, for all purposes, deemed public police officers.
- (5) Nothing in KRS 164.950 to 164.980 shall be construed as a diminution or modification of the authority or responsibility of any city or county police department, the Department of Kentucky State Police, sheriff, constable, or other peace officer either on the property of an institution of higher education or otherwise.

Section 175. KRS 165A.460 is amended to read as follows:

All proprietary schools located or doing business in this state that offer CDL driver training shall be governed by the provisions of this chapter, except for matters governing:

- (1) The curriculum which shall be established by the board in consultation with the Department of Kentucky State Police and the Kentucky Community and Technical College System; and

- (2) The inspection of CDL driver training school facilities which shall be under the authority of the Department of Kentucky State Police pursuant to KRS 165A.475 and 332.095.

Section 176. KRS 165A.465 is amended to read as follows:

- (1) All persons initially applying for a license to operate a CDL driver training school or a license as a CDL driver training instructor, shall be required to undergo a state and national criminal history background check conducted by the Department of Kentucky State Police. Application forms for a license to operate a CDL driver training school or a license as a CDL driver training instructor shall conspicuously state the following: "STATE LAW REQUIRES A STATE AND NATIONAL CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF APPLYING FOR THIS LICENSE. ANY PERSON WHO REFUSES TO SUBMIT TO A CRIMINAL HISTORY BACKGROUND CHECK SHALL NOT BE ELIGIBLE TO APPLY FOR, OR BE ISSUED, A LICENSE TO OPERATE A CDL DRIVER TRAINING SCHOOL OR A LICENSE FOR A CDL DRIVER TRAINING INSTRUCTOR."
- (2) All applicants shall be required to submit to being fingerprinted in accordance with administrative regulations promulgated by the Department of Kentucky State Police under KRS Chapter 13A. If the applicant is a corporation, the fingerprints of all officers shall be required.
- (3) The results of the state and national criminal history background checks shall be sent to the board for review within seventy-two (72) hours. If circumstances prohibit the results from being sent to the board within seventy-two (72) hours, the application shall not be processed further until the results are made available to the board. The board shall inform the applicant if, based upon the criminal history background check, the applicant is either eligible or ineligible to be issued a license to operate a CDL driver training school or a license for a CDL driver training instructor. The board shall promulgate administrative regulations under KRS Chapter 13A specifying the offenses and conditions under which an application shall be denied based upon a criminal history background check.
- (4) Any fee charged by the Department of Kentucky State Police to conduct a criminal history background check shall be paid by the applicant and shall not be refundable if, based upon the background check, the board denies the person the right to be issued a license under this chapter. Any fee charged to conduct a criminal history background check shall be an amount not greater than the actual cost of processing the request and conducting the search.

Section 177. KRS 165A.470 is amended to read as follows:

- (1) A person shall not operate, conduct, maintain, or establish a CDL driver training school unless the person holds a valid current license issued by the board. The following persons shall not be allowed to be connected in any capacity whatsoever with a CDL driver training school:
- (a) Any person whose employment duties in any way relate to the issuance of a motor vehicle operator's license under KRS Chapter 186 or 281A;
 - (b) Any employee of the board, Justice and Public Safety Cabinet, or Department of Kentucky State Police; and
 - (c) Any member of the immediate family of persons identified in paragraphs (a) and (b) of this subsection.
- (2) A person shall not operate, conduct, maintain, or establish a CDL driver training school unless the school has:
- (a) At least one (1) licensed CDL driver training instructor in its employ; and
 - (b) At least one (1) commercial motor vehicle owned or leased in the name of the CDL driver training school that is properly registered in the Commonwealth and that has undergone a safety inspection within the past twelve (12) months.
- (3) A person shall not continue to operate a CDL driver training school if the board has suspended, revoked, canceled, or refused to renew the school's license.
- (4) A person shall not act as an instructor for a CDL driver training school unless the person holds a valid current license as an instructor issued by the board and unless the person is employed by a licensed CDL driver training school.

Section 178. KRS 165A.475 is amended to read as follows:

- (1) Any person seeking a license to operate, conduct, maintain, or establish a CDL driver training school shall apply to the board on forms prepared and furnished by the board. The application shall include the following information:
- (a) The title or name of the school, the names of the owners of the school, and, if the owner is to be a corporation, the names and addresses of the officers of the corporation;
 - (b) Except for corporations, a statement that the owners of the CDL driver training school are each twenty-one (21) years of age or over, are residents of this state, and have been for at least one (1) year next preceding the application for the CDL driver training school license, and are each of good moral character;
 - (c) A description of the established place of business together with the hours during which the CDL driver training school is conducted and a description of the equipment and facilities used in CDL driver training;
 - (d) Evidence of liability insurance coverage of the CDL driver training school, the instructor, and students of the CDL driver training school while operating driver training school equipment. The insurance shall have minimum limits of not less than twenty-five thousand dollars (\$25,000) for bodily injury or death of one (1) person in any one (1) accident and subject to the limit for any one (1) person, fifty thousand dollars (\$50,000) for bodily injury or death

of two (2) or more persons in any one (1) accident and ten thousand dollars (\$10,000) for damage to the property of others in any one accident. Evidence of insurance coverage shall also provide that the insurance coverage shall not be canceled except after ten (10) days prior notice in writing by the carrier to the board. Upon request by an applicant, the board shall review an application and provide a letter to the applicant that a proposed CDL driver training school has met all preliminary requirements for approval, except the provisions of this paragraph. The letter may be used by the applicant to help secure the liability insurance coverage needed under this paragraph to obtain a license to operate a school. A letter provided under this paragraph shall not be construed as approval to perform CDL driver's training or to operate a school.

- (2) Each original application for a license to operate a CDL driver training school and each application for renewal of a license to operate a CDL driver training school shall be accompanied by the payment of a fee of two hundred dollars (\$200) to the board and written proof that the applicant has complied with the criminal history background check required by KRS 165A.465. The application fee charged under this subsection shall not be refundable if, based upon the background check, the board denies the person the right to be issued a license under this chapter.
- (3) The board shall pay the Department of Kentucky State Police to inspect and investigate CDL driver training schools under the requirements of subsection (4) of this section. The payment shall be an amount not greater than the actual cost of conducting the inspection and investigation.
- (4) Upon receipt of an application for a license to operate a CDL driver training school, the board shall request the Department of Kentucky State Police to investigate the person's program and verify the information contained in the application. The Department of Kentucky State Police shall contact the applicant and make an appointment to inspect the school's facilities. At the time of inspection, the Department of Kentucky State Police shall verify that the school meets the standards promulgated as administrative regulations under KRS Chapter 13A for license as a CDL driver training school. Upon request, the standards shall be furnished to the school by the board prior to the visit. If the standards are met, the school shall be licensed to offer instruction on how to operate a commercial motor vehicle including classifications, endorsements, and restrictions.
- (5) Any person seeking a license to act as a CDL driver training instructor shall apply to the board on forms prepared and furnished by the board setting forth that the applicant is twenty-one (21) years of age or older; is of good moral character; is a high school graduate or has the equivalent of a high school education, or has equivalent experience; and holds a current and valid operator's license.
- (6) Each original application for a license as a CDL driver training instructor and each application for renewal of a license as a CDL driver training instructor shall be accompanied by the payment of a fee of twenty dollars (\$20.00) to the board and written proof that the applicant has complied with the criminal history background check required by KRS 165A.465. The application fee charged under this subsection shall not be refundable if, based upon the background check, the board denies the person the right to be issued a license under this chapter.
- (7) In making the determination of good moral character under this section, the board shall consider but shall not be limited to the following:
 - (a) If the applicant has been convicted of a crime;
 - (b) The age of the applicant at the time any criminal conviction was entered;
 - (c) The length of time that has elapsed since the applicant's last criminal conviction; and
 - (d) The relationship of any crime convicted to the ability of the applicant to operate a CDL driver training school.

Section 179. KRS 174.055 is amended to read as follows:

There are hereby transferred to and vested in the secretary and cabinet all functions, powers, duties, funds, personnel, equipment and supplies relating to operators' licenses under provisions of KRS Chapter 186, boats and boating provisions of KRS Chapter 235, financial responsibility provisions of KRS Chapter 189, traffic safety coordinating committee under provisions of KRS Chapter 17, and motor vehicle inspection under provisions of KRS Chapter 189, which said provisions of law have been conferred upon the Department of Public Safety and under the commissioner and other officers and offices of said Department of Public Safety. The examination of applicants under KRS 186.480 shall be retained by the Department of Kentucky State Police.

Section 180. KRS 174.065 is amended to read as follows:

The cabinet shall:

- ~~(1)(a))~~ Assist the Department of Kentucky State Police in coordinating all efforts of the state's various departments and agencies to promote traffic safety and in making recommendations regarding the prevention of unnecessary duplications of these efforts, and~~[-]~~
- ~~(2)(b))~~ Cooperate with all organizations, public or private, in the encouragement and promotion of traffic safety education in all forms~~[-]~~ and~~[-]~~
- ~~(3)(c))~~ Receive, control and expend, in accordance with the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies, grants and funds from either public or private sources.

Section 181. KRS 174.410 is amended to read as follows:

- (1) The secretary shall be responsible for controlling and regulating the movement of all radioactive materials and the

intrastate transport of other hazardous materials transported by all carrier modes within the Commonwealth.

- (2) The secretary, in consultation with the secretary of the Environmental and Public Protection Cabinet and the secretary of the Cabinet for Health and Family Services, shall adopt by reference or in entirety, the Federal Hazardous Materials Transportation Regulations, 49 C.F.R. (1978), as amended, to effectively carry out the intent of KRS 174.400 to 174.425.
- (3) The cabinet and the Justice and Public Safety Cabinet shall cooperate with and assist the Environmental and Public Protection Cabinet in implementing and enforcing the transportation provisions of any state hazardous waste regulations promulgated pursuant to KRS Chapter 224. The specific nature and details of the assistance effort shall be established by a formal cooperative agreement acceptable to the cabinets, and all activities shall occur in accordance with the terms of the agreement. The agreement shall address and include, but not necessarily be limited to, the following items:
 - (a) As a part of routine and periodic transportation checks and inspections, ensure that shipments of hazardous waste do not present a threat to the public or the environment; are accompanied by the required hazardous waste manifest or such other shipping or delivery documents as may be acceptable to the Environmental and Public Protection Cabinet; and comply with applicable shipping standards;
 - (b) Upon receipt of a written request from the secretary or general counsel of the Environmental and Public Protection Cabinet, actively conduct field investigations relating to the illegal, improper, or unauthorized transport of hazardous waste in the state. Such investigations may, at a minimum, include passive and active surveillance, apprehension, and reporting, with the scope and extent of each investigation to be previously agreed to by the involved cabinets;
 - (c) Compile and maintain such necessary records that may normally be required to carry out the provisions of this subsection and shall for minor violations report quarterly, and for major violations report weekly, to the Environmental and Public Protection Cabinet on the status of the interagency hazardous-waste transportation monitoring and enforcement activity for irregularities or violations;
 - (d) Provide any information, evidence, and other support, either in written form or in the form of oral testimony during a legal proceeding or both, as may be required by the Environmental and Public Protection Cabinet to fully carry out its statutory responsibility under the appropriate sections of KRS Chapter 224;
 - (e) The Environmental and Public Protection Cabinet shall, unless specifically agreed otherwise, have primary responsibility for initiating and conducting all legal proceedings arising from the terms and provisions of this subsection; and
 - (f) The Environmental and Public Protection Cabinet shall provide sufficient training, technical assistance, and other support to the appropriate cabinets to prepare representatives of the cabinets to adequately carry out the responsibilities set forth in this subsection.

Section 182. KRS 174.420 is amended to read as follows:

- (1) Any person transporting hazardous materials in the Commonwealth shall carry a copy of the shipping papers required in 49 C.F.R. (1978), as amended, in the transporting vehicle while in the Commonwealth.
- (2) In the event of an accident involving hazardous material, the operator of the vehicle shall:
 - (a) Notify the Department of Kentucky State Police of the accident within one (1) hour, who shall then notify the local jurisdiction and any other appropriate state agency with emergency action responsibility, and
 - (b) Provide the shipping papers to state and local emergency response authorities, and immediately bring to their attention the fact that the vehicle is transporting hazardous materials.
- (3) In addition to the other requirements of this section, any person transporting hazardous wastes shall carry in the transporting vehicle a copy of a manifest in a form approved by the Environmental and Public Protection Cabinet.

Section 183. KRS 175.480 is amended to read as follows:

Every project of the authority shall be open to regular policing by the Department of Kentucky State Police as in the case of other public highways of the Commonwealth.

Section 184. KRS 176.506 is amended to read as follows:

- (1) The Motorcycle Advisory Commission for Highway Safety shall be composed of seven (7) members, appointed as follows:
 - (a) One (1) representative of the Office of Construction and Operations within the Kentucky Transportation Cabinet's Department of Highways, appointed by the Governor;
 - (b) One (1) representative of the Office of Project Development within the Kentucky Transportation Cabinet's Department of Highways, appointed by the Governor;
 - (c) One (1) representative of the Department of Kentucky State Police, appointed by the Governor;
 - (d) Two (2) representatives of the Kentucky Motorcycle Association, to be appointed by the Governor from a list of five (5) nominees selected by the association;
 - (e) One (1) member of the Kentucky Motorcycle Safety Education Advisory Commission, appointed by the Governor; and

2007 Regular Session

- (f) One (1) representative of the Kentucky Association of Highway Contractors, to be appointed by the Governor from a list of five (5) nominees selected by the association.
- (2) Except for initial appointments as provided for in 2003 Ky. Acts ch. 122, sec. 3, members of the Motorcycle Advisory Commission for Highway Safety shall serve a term of four (4) years. Sitting members shall be eligible to succeed themselves.
- (3) Commission members shall receive no compensation for their services, and shall not be compensated for expenses incurred from travel or in connection with the performance of their duties as commission members.
- (4) The commission shall elect its chair and vice chair from its membership.
- (5) The commission shall meet quarterly or upon the call of the chair or the request of the secretary of the Transportation Cabinet.
- (6) A majority of the members of the commission constitutes a quorum and the commission may make recommendations only at meetings where a quorum is present.
- (7) The commission shall keep a record of its meetings and recommendations.
- (8) For administrative purposes, the commission shall be attached to the Transportation Cabinet's Office of the Secretary.

Section 185. KRS 177.074 is amended to read as follows:

- (1) Every road which is part of the state primary system shall be identified by a specific route number or name which shall be designated on the official state road map. In addition to a route number, the secretary:
 - (a) Shall name a road or road segment to comply with the provisions of subsections (2) and (3) of this section; and
 - (b) May, at the secretary's discretion, or subject to the provisions of subsection (4) of this section, name a road or bridge on the state highway system after an individual, historic event, or any other name which may be of significance to the history of this Commonwealth or any of its counties or communities.
- (2) The secretary shall, within thirty (30) days of receipt of a written request by the commissioner of the Department of Kentucky State Police, name a state road or segment of a state road in memory and honor of one (1) or more Kentucky state troopers killed in the line of duty. The written request shall comply with the provisions of subsection (4) of this section and shall include:
 - (a) The trooper's name;
 - (b) The name and address of any living relatives of the trooper, if known;
 - (c) Date and circumstances of the trooper's death; and
 - (d) The route number and current name of the state road where the trooper was killed if applicable, or the route number and current name of the state road closest to the deceased trooper's home.
- (3) The written request required under subsection (2) of this section shall identify the route number, current name of the state road, or milepoints of the specific segment of state road the Department of Kentucky State Police are requesting be named in honor and memory of a state trooper killed in the line of duty. The road or road segment identified in the request shall be either the state road where the trooper was killed, or the state road closest to the deceased trooper's home. The cabinet shall consult with the commissioner of the Department of Kentucky State Police on the design of the road signs naming the state road or road segment in honor and memory of each trooper, and the cabinet shall erect the appropriate highway signs within thirty (30) days of receipt of the written request required under subsection (2) of this section.
- (4) If the road segment identified in the request under subsection (2) of this section has already been named for another individual or organization, either by action of the General Assembly or by order of the secretary, the Department of Kentucky State Police and the cabinet shall consult on and determine an alternate location that is acceptable to both agencies.
- (5) The secretary shall be petitioned by a unit of local government, civic organization, or other interested party before naming a road or bridge on the state primary road system. In addition, the secretary shall be convinced by the petitioner that the person or event that the road or bridge is being named for is of civic or historical significance.
- (6) Except as provided in subsections (9) and (10) of this section, the secretary shall name a road or bridge upon direction by joint resolution of the General Assembly. Upon introduction of a resolution, the secretary shall inform the chairman of the committee to which the resolution is assigned as to whether he or she has been petitioned to name a road or bridge presented in the resolution and if so petitioned, his or her reasons for not taking action on the request.
- (7) If the secretary grants the request to name a road or bridge through petition, the signs to be placed on the roads shall become the responsibility of the petitioner with the design and placement of the signs approved by the department. If the signs are to be placed as a result of a resolution passed by the General Assembly, the responsibility for placement of the signs shall be upon the Department of Highways.
- (8) The Transportation Cabinet may adopt administrative regulations to implement the road and bridge naming program. The administrative regulations shall at a minimum establish basic standards for design and placement of signs or allow the local entity to reimburse the Transportation Cabinet for the cost of manufacturing and installing the signs for which a petition has been granted.

- (9) The new proposed truck bypass around Mayfield, Kentucky, shall be named the "Dick Castleman Bypass," after former State Representative Dick Castleman.
- (10) The bridge on United States Highway 27 over the Kentucky River near Camp Nelson, between Jessamine and Garrard Counties, shall be named the "Lloyd Murphy Memorial Bridge."

Section 186. KRS 177.530 is amended to read as follows:

- (1) Each turnpike project when constructed and opened to traffic shall be maintained and kept in good condition and repair by the department, and shall be operated and maintained by such force of toll-takers and other operating and maintenance employees and, unless policed by the Department of Kentucky State Police as an ordinary incident to the performance of statutory functions, shall be policed by the department by such force of police, as the department may in its discretion employ, and the department may be reimbursed for the cost thereof unless it has previously assumed such cost as provided in KRS 177.480.
- (2) All private property damaged or destroyed in carrying out the powers granted by KRS 177.390 to 177.570 shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of KRS 177.390 to 177.570.
- (3) All counties, cities, towns and other political subdivisions and all public agencies and commissions of the Commonwealth, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the department at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, political subdivisions, agencies or commissions of the Commonwealth may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the department, including public roads and other real property already devoted to public use.
- (4) On or before January 30 in each year the department shall make an annual report of its activities for the preceding calendar year to the Governor and to the General Assembly. Each such report shall set forth a complete operating and financial statement covering its operations during the year. The department shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or operation of the project. Such audits shall be deemed to be public records within the meaning of KRS 61.870(2).
- (5) No officer or employee of the department shall have any interest, direct or indirect, in the sale or purchase of any bonds authorized by KRS 177.390 to 177.570. Violation of this provision is punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one (1) year, or both.
- (6) Any person who uses any turnpike project and fails or refuses to pay the toll provided therefor shall be punished by a fine of not more than one hundred dollars (\$100) or by imprisonment for not more than thirty (30) days, or both, and in addition thereto the department shall have a lien upon the vehicle driven by such person for the amount of such toll and may take and retain possession thereof until the amount of such toll and all charges and penalties in connection therewith shall have been paid.

Section 187. KRS 183.881 is amended to read as follows:

- (1) Safety and security officers so appointed shall be peace officers and conservators of the peace. They shall have general police powers to arrest, without process, all persons who within their view commit any crime or misdemeanor. They shall possess all of the common law and statutory powers, privileges, and immunities of sheriffs, except that they shall be empowered to serve civil process to the extent authorized by the employing airport board. Without limiting the generality of the foregoing, such safety and security officers are hereby specifically authorized and empowered, and it shall be their duty:
 - (a) To preserve the peace, maintain order and prevent unlawful use of force or violence or other unlawful conduct on the airport facility of their respective airport board, and to protect all persons and property located thereon from injury, harm and damage;
 - (b) To enforce, and to assist officials of their respective airport boards in the enforcement of the lawful rules and regulations of said airport board, and to assist and cooperate with the law enforcement agencies and officers.

Provided, however, that such safety and security officers shall exercise the powers herein granted upon any real property owned or occupied by their respective airport boards including the streets passing through and adjacent thereto. Said powers may be exercised in any county of the Commonwealth where the airport board owns, uses, or occupies property. Additional jurisdiction may be established by agreement with the chief of police of the municipality or sheriff of the county or the appropriate law enforcement agency in which such property is located, dependent upon the jurisdiction involved.

- (2) Safety and security officers may exercise their powers away from the locations described in subsection (1) of this section only upon the following conditions:
 - (a) When in hot pursuit of an actual or suspected violator of the law; or
 - (b) When authorized to do so pursuant to the agreement authorized by subsection (1) of this section; or

- (c) When requested to act by the chief of police of the city or county in which the airport board's property is located; or
 - (d) When requested to act by the sheriff of the county in which the airport board's property is located; or
 - (e) When requested to act by the commissioner[director] of the Department of Kentucky State Police; or
 - (f) When requested to act by the authorized delegates of those persons or agencies listed in (c), (d) or (e) above; or
 - (g) When requested to assist a state, county or municipal police officer, sheriff, or other peace officer in the performance of his or her lawful duties; or
 - (h) When operating under an interlocal cooperation agreement pursuant to KRS Chapter 65.
- (3) Safety and security officers appointed pursuant to KRS 183.110 and 183.880 to 183.886 shall have, in addition to the other powers enumerated herein, the power to conduct investigations anywhere in this Commonwealth, provided such investigation relates to criminal offenses which occurred on property owned, leased, or controlled by the airport board. Where desirable and at the discretion of the airport board's police officials, the airport board's safety and security department may coordinate said investigations with any law enforcement agency of this Commonwealth or with agencies of the federal government.
- (4) Safety and security departments created and operated by the airport boards shall, for all purposes, be deemed public police departments and the sworn safety and security officers thereof are, for all purposes, deemed public police officers.
- (5) Nothing in KRS 183.110 and 183.880 to 183.886 shall be construed as a diminution or modification of the authority or responsibility of any city or county police department, the Department of Kentucky State Police, sheriff, constable, or other peace officer either on the property of an airport board or otherwise.

Section 188. KRS 183.884 is amended to read as follows:

- (1) Vehicles used for emergency purposes by the safety and security department of an airport board shall be considered as emergency vehicles and shall be equipped with blue lights and sirens and shall be operated in conformance with the requirements of KRS Chapter 189.
- (2) Safety and security departments of the airport boards may install, maintain, and operate radio systems on police or other frequencies under licenses issued by the Federal Communications Commission, or its successor.
- (3) Safety and security departments of airport boards shall comply with the requirements of the Kentucky Revised Statutes and the Justice and Public Safety Cabinet with regard to reporting of criminal and other statistics.

Section 189. KRS 186.005 is amended to read as follows:

- (1) It is declared to be the policy of this Commonwealth that all commercial vehicles should be regulated, registered, and the laws pertaining thereto be administered by the Transportation Cabinet. Motor vehicles other than commercial vehicles should be registered, regulated, and controlled by the Transportation Cabinet and the Justice and Public Safety Cabinet.
- (2) All motor vehicles registered under the provisions of KRS 186.050(1) shall be on an annual basis and evidenced by a license plate whose registration designation is a combination of three (3) letters of the alphabet and three (3) Arabic numerical digits. These registration plates shall be issued for use during a multiyear period and validated for continued use the following year, or years, by affixing an appropriate insignia of plastic or adhesive material bearing the date of the new year.
- (3) All motor vehicles registered under the provisions of KRS 186.050(3)(a), (4)(a), (5), (6), or (11) shall have registration plates issued for use during a multiyear period and validated for continued use the following year, by affixing an appropriate insignia of plastic or adhesive material bearing the date of the new year.
- (4) The Transportation Cabinet may promulgate regulations and prepare the proper insignia and forms, which forms shall include information required by the Transportation Cabinet.

Section 190. KRS 186.180 is amended to read as follows:

- (1) (a) If the owner loses his or her copy of a registration or transfer receipt, he or she may obtain a duplicate from the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and by filing an affidavit, upon a form furnished by the cabinet. The owner shall pay to the clerk a fee of three dollars (\$3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.
 - (b) When the owner's copy of any registration or transfer receipt shows that the spaces provided thereon for noting and discharging security interests have been exhausted, the owner may apply to the county clerk who issued the receipt in order to obtain a duplicate thereof. The owner shall surrender his or her copy of the current receipt to the clerk and provide proof of insurance on the motor vehicle in compliance with KRS 304.39-080, before a duplicate may be issued. The owner shall pay the clerk a fee of three dollars (\$3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.
 - (c) Any security interest which has been discharged as shown by the records of the clerk or upon the owner's copy of the current receipt shall be omitted from the duplicate receipt to be issued by the clerk.
- (2) If the owner loses a registration plate, he or she shall surrender his or her registration receipt to the county clerk from whom it was obtained and file a written statement as to the loss of the plate. Upon presenting the clerk proof of insurance

on the motor vehicle in compliance with KRS 304.39-080, and upon the payment of the sum of three dollars (\$3) for each plate and a fee of three dollars (\$3) to the clerk for his or her services, the owner shall be issued another registration receipt and a plate or plates which shall bear a different number from that of the lost plate. The clerk shall retain the owner's statement and a copy of the owner's proof of insurance, and shall make a notation on the triplicate copy of the surrendered registration receipt stating the number of the registration receipt replacing it. The original copy of the surrendered receipt shall be forwarded to the cabinet. The cabinet shall forthwith cancel the registration corresponding to the number of the lost plate. The cancellation shall be reported by the cabinet to the commissioner of the Department of Kentucky State Police. Any person finding a lost registration plate shall deliver it to the Transportation Cabinet or to any county clerk for forwarding it to the cabinet.

- (3) If the owner moves from one (1) county into another county of the Commonwealth, he or she may obtain a registration plate bearing the name of the county of residence. In order to obtain a new registration plate, the owner shall surrender his or her current registration receipt and current registration plate to the county clerk. Upon being provided with proof of insurance on the motor vehicle in compliance with KRS 304.39-080, the clerk shall provide the owner with a new registration receipt and plate bearing the county name. The surrendered receipt and plate shall be forwarded to the Transportation Cabinet. The fee for this registration shall be five dollars (\$5) of which the clerk shall be entitled to three dollars (\$3) and the cabinet shall be entitled to two dollars (\$2).
- (4) If the owner's registration is revoked as a result of the provisions set forth in KRS 186A.040, the owner may have his or her registration reinstated by the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of:
 - (a) Insurance on the motor vehicle in compliance with KRS 304.39-080 and by filing an affidavit upon a form furnished by the cabinet; or
 - (b) A valid compliance or exemption certificate in compliance with KRS 224.20-720 or issued under the authority of an air pollution control district under KRS 224.20-760.
- (5) The owner of a motor vehicle that has the vehicle's registration revoked under KRS 186.290 shall pay to the clerk a fee of twenty dollars (\$20), which shall be equally divided between the county clerk and the cabinet.
- (6) On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in KRS 304.39-087, proof of insurance required under this section shall be determined by the county clerk as provided in KRS 186A.042.

Section 191. KRS 186.181 is amended to read as follows:

The secretary of the Transportation Cabinet shall, upon receipt of a report from the Transportation Cabinet or the Department of Vehicle Regulation of a canceled motor vehicle registration plate, cause all members of the Department of Kentucky State Police and such peace officers as he or she may deem necessary, to be notified of the cancellation. It shall be the duty of all members of the Department of Kentucky State Police and of all peace officers to seize any registration plate bearing a canceled number and to report such seizure to the appropriate department.

Section 192. KRS 186.412 is amended to read as follows:

- (1) A person who has attained the age of eighteen (18) years and is under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.
- (2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. The application form shall require the person's:
 - (a) Full legal name and signature;
 - (b) Date of birth;
 - (c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;
 - (d) Sex;
 - (e) Present Kentucky resident address, exclusive of a post office box address alone;
 - (f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;
 - (g) A brief physical description of the applicant;
 - (h) A statement if the person has previously been licensed as an operator in another state;
 - (i) Proof of the person's Kentucky residency, including but not limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and
 - (j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.

- (3) A permanent resident shall present one (1) of the following documents issued by the United States Department of Justice, Immigration and Naturalization Service:
- (a) An I-551 card with a photograph of the applicant; or
 - (b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Justice, Immigration and Naturalization Service has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until ----. Employment authorized."
- (4) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, the person's application for an original operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
- (a) The application form shall be accompanied by the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.
 - (b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.
 - (c) If the cabinet determines the person may be issued an operator's license, the cabinet shall issue the person an official form that the person shall take to the office of the circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license.
 - (d) Except as provided in paragraphs (e) and (f) of this subsection, a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license, or obtain a duplicate operator's license, in the office of the circuit clerk in the county in which the person resides.
 - (e) If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, has not been reviewed by either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
 - (f) If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
- (5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).
- (6) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.
- (7) (a) Except as provided in subsection (8) of this section, the circuit clerk shall issue a color photo personal identification card to any person who is a Kentucky resident and who resides in the county who complies with the provisions of this section and who applies in person in the office of the circuit clerk. An application for a personal identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.

- (b) It shall be permissible for the application form for a personal identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.
 - (c) Every applicant for a personal identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the personal identification card. The personal identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).
 - (d) A personal identification card shall be valid for a period of four (4) years from the date of issuance. Except as provided in this subsection, an initial or renewal personal identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Justice, Immigration and Naturalization Service is issued, or four (4) years, whichever time period is shorter. An initial or renewal personal identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular personal identification card.
 - (e) A personal identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.
- (8) A person may be issued a personal identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary personal identification card. A temporary personal identification shall be renewed annually and may be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.
- (9) The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a color photo personal identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child, or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Department of Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar (\$4) fee for the child identification card. Two dollars (\$2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars (\$2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars (\$4), with two dollars (\$2) of the fee going to the cabinet and two dollars (\$2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.
- (10) If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."
- (11) A citizen of the Commonwealth renewing an operator's license by mail under subsection (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (10) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."
- (12) If a citizen of the Commonwealth has been serving in the United States military and has allowed his operator's license to expire, he shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his license without having to take a written test or road test. A citizen who does not renew his license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired. If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.
- (13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:
- (a) Blood type;

- (b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and
 - (c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195.
- (14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of one dollar (\$1) paid to the circuit clerk, a medical insignia decal that may be affixed to the lower left side of the front windshield of a motor vehicle.
- (15) An operator's license pursuant to this section shall be designated a Class D license.
- (16) A person shall not have more than one (1) license.
- (17) Upon marriage, a woman applying for an operator's license or a color photo personal identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:
- (a) Use her husband's last name;
 - (b) Retain her maiden name;
 - (c) Use her maiden name hyphenated with her husband's last name;
 - (d) Use her maiden name as a middle name and her husband's last name as her last name; or
 - (e) In the case of a previous marriage, retain that husband's last name.
- (18) Upon issuing an operator's license or personal identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.

Section 193. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

- (1) Any person who is not a resident of Kentucky;
- (2) Any person under the age of sixteen (16);
- (3) Any person under the age of eighteen (18) who holds a valid Kentucky instruction permit issued pursuant to KRS 186.450, but who has not graduated from high school or who is not enrolled and successfully participating in school or who is not being schooled at home, except those persons who satisfy the District Court of appropriate venue pursuant to KRS 159.051(3) that revocation of their license would create an undue hardship. Persons under the age of eighteen (18) shall present proof of complying with the requirements of KRS 159.051;
- (4) Any person whose operator's license has been suspended, during the period of suspension, subject to the limitations of KRS 186.442;
- (5) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;
- (6) Any applicant adjudged incompetent by judicial decree;
- (7) Any person who in the opinion of the Department of Kentucky State Police, after examination, is unable to exercise reasonable and ordinary control over a motor vehicle upon the highways;
- (8) Any person who is unable to understand highway warnings or direction signs in the English language;
- (9) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;
- (10) Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;
- (11) Any person who has not filed a correct and complete application attested to in the presence of a person authorized to administer oaths;
- (12) Any person who cannot meet the requirements set forth in KRS 186.411(1) or (3); or
- (13) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186, 187, or 189A until the person has forwarded to the cabinet a reinstatement fee of fifteen dollars (\$15). The fee shall be paid by certified check or money order payable to the State Treasurer who shall deposit five dollars (\$5) of the fee in a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. Ten dollars (\$10) of the fee shall be deposited by the State Treasurer in a trust and agency account to the credit of the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of the individuals are reinstated or to any student who has had his or her license revoked pursuant to KRS 159.051.

Section 194. KRS 186.452 is amended to read as follows:

- (1) Beginning April 1, 2007, a person who is at least sixteen and one-half (16-1/2) years of age may apply for an intermediate license to operate a motor vehicle if the person has:
 - (a) Held an instruction permit a minimum of one hundred eighty (180) days without a violation under KRS 186.450(4), (5), or (6), a conviction for a moving violation under KRS Chapter 189 for which points are assessed by the cabinet, or a conviction for a violation of KRS 189A.010(1); and
 - (b) Presented a statement to the Department of Kentucky State Police signed by a parent or guardian of the applicant attesting that the applicant has completed at least sixty (60) hours of supervised driving experience, including at least ten (10) hours at night, while accompanied by a person who has attained the age of twenty-one (21) years and holds a valid operator's license occupying the seat beside the applicant.
- (2) If an applicant for an intermediate license successfully completes the examinations required under KRS 186.480, the Department of Kentucky State Police shall affix an intermediate license sticker to the instruction permit and report the applicant's new status to the Transportation Cabinet. The Transportation Cabinet shall update the information in its computer system to reflect that the applicant has been granted an intermediate license. An intermediate license shall be valid for two (2) years and may be renewed.
- (3) A person shall have the intermediate license in his or her possession at all times when operating a motor vehicle.
- (4) A person with an intermediate license who is under the age of eighteen (18) years shall not operate a motor vehicle, motorcycle, or moped between the hours of 12 midnight and 6 a.m. unless the person can demonstrate good cause for driving, including emergencies, involvement in school-related activities, or involvement in work-related activities.
- (5) Except when accompanied by a driver training instructor affiliated with a driver training school licensed under KRS Chapter 332 or a public or nonpublic secondary school, a person with an intermediate license who is under the age of eighteen (18) years shall not operate a motor vehicle at any time when accompanied by more than one (1) unrelated person who is under the age of twenty (20) years. A peace officer shall not stop or seize a person nor issue a uniform citation for a violation of this subsection if the officer has no other cause to stop or seize the person other than a violation of this subsection. This subsection shall not apply to any operator of a vehicle registered under the provisions of KRS 186.050(4) who is engaged in agricultural activities.
- (6) A violation under subsection (3), (4), or (5) of this section, a conviction for a moving violation under KRS Chapter 189 for which points are assessed by the cabinet, or a conviction for a violation of KRS 189A.010(1) shall add an additional minimum of one hundred eighty (180) days from the date of the violation before a person who is under the age of eighteen (18) years may apply for an operator's license.

Section 195. KRS 186.480 is amended to read as follows:

- (1) The Department of Kentucky State Police shall examine every applicant for an operator's license as identified in KRS 186.6401, except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless:
 - (a) The applicant is granted written permission by the circuit clerk of the county in which he or she resides to take the examination in another county, and the Department of Kentucky State Police agree to arrange for the examination in the other county; or
 - (b) The applicant is tested using a bioptic telescopic device.
- (2) The examination shall include a test of the applicant's eyesight to ensure compliance with the visual acuity standards set forth in KRS 186.577. The examination shall also include a test of the applicant's ability to read and understand highway signs regulating, warning and directing traffic, the applicant's knowledge of traffic laws and an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle. An applicant for a motorcycle operator's license shall be required to show his or her ability to operate a motorcycle, in addition to other requirements of this section. The provisions of this subsection shall not apply to an applicant who:
 - (a) At the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident; or
 - (b) Is a citizen of the Commonwealth who has been serving in the United States military and has allowed his or her operator's license to expire.
- (3) Any person whose intermediate license or operator's license is denied, suspended, or revoked for cause shall apply for reinstatement at the termination of the period for which the license was denied, suspended, or revoked by submitting to the examination. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.

Section 196. KRS 186.495 is amended to read as follows:

The circuit clerk of each county shall maintain an alphabetical index of all persons to whom operators' licenses and motorcycle operators' licenses have been issued in his county, which index shall be sufficient to enable the prompt locating of the complete license record of each of such persons. Such index shall at all times be available for inspection by the Department of Kentucky

State Police and other officers charged with the duty of enforcing highway laws.

Section 197. KRS 186.510 is amended to read as follows:

The licensee shall have his or her license in his or her immediate possession at all times when driving a motor vehicle and shall display it upon demand to the circuit clerk or examiner, a peace officer, a member of the Department of Kentucky State Police, or a field deputy or inspector of the Department of Vehicle Regulation or Transportation Cabinet or, pursuant to KRS 67A.075 or 83A.088, a safety officer who is in the process of securing information to complete an accident report. It shall be a defense to any charge under this section if the person so charged produces in court an operator's license, issued to him or her before his or her arrest and valid at the time of his or her arrest.

Section 198. KRS 186.577 is amended to read as follows:

- (1) All persons applying for an initial operator's license or an initial instruction permit shall submit to a test of visual acuity and visual field at the time of application.
- (2) Persons whose visual acuity is 20/40 or better without corrective lenses shall not have a restriction placed on their driving privileges. Persons whose visual acuity is 20/40 or better with corrective lenses shall have their driving privileges restricted to mandate the use of the corrective lenses. If a person fails to meet a 20/40 visual acuity standard, the Department of Kentucky State Police shall refer the person to a vision specialist for examination.
- (3) A person referred to a vision specialist by the Department of Kentucky State Police under subsection (2) of this section whose visual acuity is 20/60 or better shall be eligible to test for an instruction permit or operator's license. If corrective lenses were prescribed by the vision specialist, the person's driving privileges shall be restricted to mandate the use of the corrective lenses.
- (4) Persons who meet the requirements of KRS 186.578 and are issued operator's licenses under KRS 186.579 shall have their driving privileges restricted to the use of a bioptic telescopic device.

Section 199. KRS 186.578 is amended to read as follows:

- (1) Applicants accepted to participate in a certified driver training program shall meet the following minimum vision requirements:
 - (a) A distance visual acuity of 20/200 or better, with corrective lenses, in the applicant's better eye;
 - (b) A visual field of at least one hundred twenty (120) degrees horizontally and eighty (80) degrees vertically in the same eye as used in paragraph (a) of this subsection;
 - (c) A distance visual acuity of 20/60 or better using a bioptic telescopic device; and
 - (d) No ocular diagnosis or prognosis that indicates a likelihood that significant deterioration of visual acuity or visual field to levels below the minimum standards outlined in this subsection will occur.
- (2) Upon acceptance into a certified driver training program, an applicant shall be given an examination to test his or her knowledge of the motor vehicle laws of the Commonwealth. This examination may be taken orally. Upon successful completion of this examination, the applicant shall be issued a temporary instruction permit, that shall be valid only when the applicant is accompanied by an employee of a certified driver training program. Temporary instruction permits issued under this section shall be valid for one (1) year from the date of issue.
- (3) An applicant who successfully completes a certified driver training program shall be reexamined by a vision specialist upon completion of the program. The examination shall certify that the applicant continues to meet the visual acuity and visual field standards set forth in subsection (1) of this section.
- (4) An applicant who successfully completes a certified driving training program and passes the visual reexamination required by subsection (3) of this section shall be eligible to take a comprehensive operator's license examination administered by the Department of Kentucky State Police. The operator's license examination shall include testing of the applicant's driving skills over a route specifically designed to test the applicant's competency using a bioptic telescopic device.
- (5) An applicant who is a restricted out-of-state driver establishing residence in Kentucky shall be required to take and pass a temporary instruction permit examination before being eligible to take the operator's license examination. An applicant who is a restricted out-of-state driver establishing residence in Kentucky shall not be required to complete a certified driver training program, but shall be required to take and pass the visual examination outlined in subsection (3) of this section before taking the operator's license examination.
- (6) If an applicant or restricted out-of-state driver fails the operator's license examination three (3) times, he or she shall not be eligible to retake the examination until successfully completing additional training from a certified driver training program and obtaining an affidavit from the program director recommending that the applicant or restricted out-of-state driver be allowed to retake the examination.
- (7) The Office for the Blind shall promulgate administrative regulations in accordance with KRS Chapter 13A to set standards for a certified driver training program and to otherwise carry out the provisions of this section.

Section 200. KRS 186.6401 is amended to read as follows:

The following persons shall be required to successfully complete the examinations required under KRS 186.480 prior to being issued a Kentucky operator's license:

- (1) A person who has been issued a Kentucky instruction permit or intermediate license;
- (2) A person who has applied for a Kentucky operator's license under KRS 186.412(4); and
- (3) Other persons as identified in an administrative regulation promulgated by the Department of Kentucky State Police under KRS Chapter 13A.

Section 201. KRS 186A.025 is amended to read as follows:

- (1)
 - (a) The Finance and Administration Cabinet shall have full responsibility and authority for day-to-day administration of the automated system described by this chapter; and
 - (b) May request the assistance of any cabinet or department of state government in carrying out its responsibilities under this chapter.
- (2) The Commonwealth Office of Technology shall assure, to the extent feasible, twenty-four (24) hour, year-round information support to the Department of Kentucky State Police, and to other law enforcement agencies state and nationwide, regarding vehicles registered and, when required, titled in this state.

Section 202. KRS 186A.055 is amended to read as follows:

The Department of Vehicle Regulation, in cooperation with the Department of Kentucky State Police, shall ensure that the automated vehicle registration and titling system provided for by this chapter will be designed, equipped, and operated so that, under normal conditions, the system will withhold production of a certificate of title until the vehicle identification number of a vehicle for which a title is sought, and when present, its license number has been automatically compared against the Law Information Network Kentucky (LINK) and, unless it refuses to permit such an arrangement, the National Crime Information Center (NCIC) computerized listing of vehicles reported stolen, and a "no stolen report" or its equivalent is received.

Section 203. KRS 186A.060 is amended to read as follows:

The Department of Vehicle Regulation is directed to develop, in cooperation with county clerks, auto dealers, and the Department of Revenue, Office of Insurance, and Department of Kentucky State Police, the forms required to record all information pertinent to the initial registration, or titling and taxation, or transfer of registration or title of a vehicle. The Department of Vehicle Regulation shall make every effort to minimize and reduce the amount of paperwork required to apply for, or transfer, a vehicle title. When possible, the title document itself shall be used as the primary form used to effect a transfer of vehicle ownership. When no in-state title exists, then forms shall be designed by the department that require only the appropriate and essential information to effect the application for title. The department shall constantly review the information needs of government agencies and other organizations with the goal of reducing, or eliminating, unnecessary documentation. Information being sought for application for title relevant to, but not limited to, vehicle identification, owner, buyer, usage tax, county clerk or inspector shall be set forth by the cabinet in such a way as to promote flexibility in reaching this goal, except that an applicant for a motor vehicle title shall not be required to provide his or her social security number as part of the application process. The use of an electronic medium shall be employed so that forms can be printed by the automated system. Existing statutory language in this chapter and KRS Chapter 186 pertaining to application, signature, forms, or application transfer record may be construed to be electronic in nature at the discretion of the cabinet as provided for by administrative regulation. Any person who knowingly enters, or attests to the entry of, false or erroneous information in pursuit of a certificate of title shall be guilty of forgery in the second degree.

Section 204. KRS 186A.090 is amended to read as follows:

- (1) The owner of a vehicle required to be titled or registered in this state which:
 - (a) Does not have a legitimate vehicle identification number as affixed by a manufacturer regularly engaged in the original manufacture of the type vehicle for which registration is sought, or in accordance with the law of this or another state; or
 - (b) Has been built from parts;shall, before making application for registration of the vehicle, apply to the Department of Vehicle Regulation for issuance of a vehicle identification number plate, which shall be affixed to the vehicle in the manner prescribed by administrative regulations of the Department of Vehicle Regulation.
- (2) The Department of Vehicle Regulation shall establish, in cooperation with the Department of Kentucky State Police, regulations governing the form of application required by this section, and may require inspection of the vehicle before a vehicle identification number plate has been issued and after such plate has been affixed to the vehicle.

Section 205. KRS 186A.250 is amended to read as follows:

- (1) The Department of Vehicle Regulation shall suspend or revoke a certificate of title, after giving notice and providing a reasonable opportunity for the holder to be heard, when authorized by any other provision of law, or, if it finds:
 - (a) The certificate of title was fraudulently procured or erroneously issued; or
 - (b) The vehicle has been scrapped, dismantled or destroyed. Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.
- (2) When the Department of Vehicle Regulation suspends or revokes a certificate of title, the owner or person in possession of it shall, immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate to the

Department of Vehicle Regulation.

- (3) The department shall promptly notify the Department of Kentucky State Police of the suspension or revocation of any certificate of title.
- (4) Any peace officer shall seize and impound any certificate of title which has been suspended or revoked except when such document is in the custody of the Department of Vehicle Regulation or the Department of Kentucky State Police.

Section 206. KRS 186A.255 is amended to read as follows:

The Department of Vehicle Regulation shall promptly notify the Department of Kentucky State Police of the particulars of:

- (1) Any attempted or actual registration or titling in this state of a stolen motor vehicle, or trailer, or motor vehicle or trailer whose true identity is in doubt, of which it becomes aware;
- (2) Counterfeit, stolen or altered ownership documents it receives; and
- (3) Attempts to supply, or supplying to it, of false or fraudulent information in any application for a certificate of registration, certificate of title for a motor vehicle or trailer in this state.

Section 207. KRS 186A.305 is amended to read as follows:

- (1) No person shall intentionally remove, deface, cover, destroy, alter, or obscure any vehicle identification number, or other distinguishing number, of a motor vehicle or trailer or any part thereof in this state, without written authorization from the Department of Kentucky State Police, nor shall any person place or stamp, in place of the original manufacturer's serial, motor, or other number or mark upon a vehicle, any number except one assigned thereto by the Department of Vehicle Regulation under the provisions of KRS 186.1911 or authorized agency of another state.
- (2) This section does not prohibit the restoration by an owner of the original vehicle identification number when the restoration is authorized by the Department of Kentucky State Police, nor prevent any manufacturer from placing in the ordinary course of business numbers or marks upon new motor vehicles or new parts thereof.
- (3) This section shall not apply to a scrap processor who loads, unloads, crushes, flattens, destroys, grinds up, handles, shreds, or otherwise reduces a motor vehicle or motor vehicle part into metallic scrap for the purpose of recycling such metallic content.

Section 208. KRS 187.310 is amended to read as follows:

- (1) The cabinet shall, upon request, furnish any person a certified abstract of the operating record of any person subject to the provisions of KRS 187.290 to 187.620. The abstract shall designate the motor vehicles, if any, registered in the name of the person. If there is not a record of the person being convicted of violating any law relating to the operation of a motor vehicle, or of any injury or damage caused by the person, the department shall so certify on the abstract.
- (2) The certified abstract shall not include information concerning any violation of the law, injury, or damage that occurred earlier than three (3) years prior to the request. The abstracts shall not be admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident. The certified abstract shall not include accident reports filed with the Department of Kentucky State Police under KRS 189.635, and shall not include suspension orders of a student who has had his or her operator's license, permit, or privilege to operate a motor vehicle revoked or denied for being academically deficient pursuant to KRS 159.051 if the suspension has been lifted by the reinstatement of academic eligibility pursuant to KRS 159.051. The cabinet shall not furnish to any person the accident report of a driver other than himself or herself. This section shall in no way preclude the right of any court of law, law enforcement officer, or attorney representing the individual affected from securing full and complete information concerning the record of that individual.
- (3) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder has a dependent whose license has been revoked or denied for being academically deficient pursuant to KRS 159.051.

Section 209. KRS 189.540 is amended to read as follows:

- (1) The Kentucky Board of Education shall promulgate administrative regulations to govern the design and operation of all Kentucky school buses and to govern the operation of district-owned passenger vehicles transporting students under KRS 156.153(2). The board shall, with the advice and aid of the Department of Kentucky State Police and the Transportation Cabinet, enforce the administrative regulations governing the operation of all school buses whether owned by a school district or privately contracted and all district-owned passenger vehicles transporting students under KRS 156.153(2). The regulations covering the operation shall by reference be made a part of any contract with a school district. Every school district and private contractor referred to under this subsection shall be subject to those regulations.
- (2) Any employee of any school district who violates any of the administrative regulations in any contract executed on behalf of a school district shall be subject to removal from office. Any person operating a school bus under contract with a school district who fails to comply with any of the administrative regulations shall be guilty of breach of contract and the contract shall be canceled after proper notice and a hearing by the responsible officers of such school district.
- (3) Any person who operates a school bus shall be required to possess a commercial driver's license issued pursuant to KRS 281A.170 with a school bus endorsement as described in KRS 281A.175.

Section 210. KRS 189.580 is amended to read as follows:

- (1) (a) The operator of any vehicle, whose vehicle, vehicle load, or vehicle equipment which is involved in an accident resulting in injury to or death of any person or resulting only in damage to a vehicle or other property which is driven or attended by any person shall immediately stop and ascertain the extent of the injury or damage and render reasonable assistance, including the carrying, or making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if such carrying is requested by the injured person. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give the occupant of the vehicle, or person struck, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants and operator. The total names need not exceed five (5) in number.
- (b) If an accident that occurs on an interstate highway or parkway or any on-ramp or off-ramp thereto does not involve death, known or visible injury, or the transportation of hazardous material, the operator shall move the vehicle off the roadway to a place as close to the accident scene as practicable without obstructing traffic as soon as the vehicle can be moved without the risk of further injury or damage. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give any other person involved in the accident, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants, and the operator of his or her vehicle, and insurance information for the vehicle.
- (2) The operator of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to such other vehicle or property shall immediately stop as close to the accident scene as possible without obstructing traffic and shall then and there either locate and notify the operator or owner of such vehicle or other property of his or her name, address, and the registration number of the vehicle he or she is driving or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving his or her name, address, and the registration number of the vehicle he or she is driving, or shall file a report with the local police department.
- (3) If the operator of a vehicle is unable to move a vehicle off the roadway under the provisions of subsections (1) and (2) of this section, the operator or owner may permit any person who possesses a valid operator's license or proper class of commercial driver's license to move the vehicle as provided in this section.
- (4) Except as provided for in subsection (5) of this section, a peace officer or safety officer may remove or cause to be removed from the roadway of an interstate highway or parkway or any on-ramp or off-ramp thereto, without consent of the owner or operator, any vehicle, cargo, or other property which is obstructing the roadway, creating or aggravating an emergency situation, or otherwise endangering public safety. Any vehicle, cargo, or other property obstructing the roadway of an interstate highway or parkway shall be removed by the most expeditious means available to clear the obstruction, giving due regard to the protection of the property removed.
- (5) (a) In accidents that involve fatalities or known or visible injuries, the removal provisions of subsection (4) of this section shall apply only after all medical assistance, fire supervision, and site investigation have been completed.
- (b) The removal provisions of subsection (4) of this section shall not apply if an accident involves, or is believed to involve, a release of hazardous materials.
- (6) (a) The operator of a vehicle involved in an accident on a highway in this state which results in a fatality or a known or visible injury to a person or damage to a vehicle which renders the vehicle inoperable shall immediately notify a public safety answering point, law enforcement agency, or law enforcement officer having jurisdiction, if the operator is physically capable of doing so and has in his or her possession a functioning communications device with which to do so.
- (b) In the event an operator fails to notify or is incapable of notifying a public safety answering point, law enforcement agency, or law enforcement officer having jurisdiction, the responsibility for reporting the accident within a reasonable amount of time shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident, if the owner or occupant is physically capable of doing so, has in his or her possession a functioning communications device with which to do so, and, in the case of the owner, knows of the motor vehicle accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with the officer's agency.
- (7) The operator of a vehicle involved in an accident on a highway in this state resulting in injury to or death of any person or in which total property damage of five hundred dollars (\$500) or more is sustained, and in which an investigation is not conducted by a law enforcement officer, shall file a written report of the accident with the Department of Kentucky State Police within ten (10) days of the occurrence of the accident upon forms provided by the department.
- (8) Any agency, including the Commonwealth, that removes property from the roadway may intervene in any civil action arising from the accident to recover any costs expended. An owner of real property shall not be liable for the costs of removal under this section of trees, fences, structures, or other debris which fall into the roadway as a result of fire, severe weather, or other casualty.

Section 211. KRS 189.635 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet, Department of Kentucky State Police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident reports shall be utilized

for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.

- (2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his law enforcement agency.
- (3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of Kentucky State Police within ten (10) days after investigation of the accident upon forms supplied by the department.
- (4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars (\$500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of Kentucky State Police within ten (10) days of occurrence of the accident upon forms provided by the department.
- (5) All accident reports filed with the Department of Kentucky State Police in compliance with subsection (4) above shall remain confidential except that the department may disclose the identity of a person involved in an accident when his or her identity is not otherwise known or when he or she denies his or her presence at an accident. Except as provided in subsection (7) of this section, all other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure except when produced pursuant to a properly executed subpoena or court order, or except pursuant to subsection (6) of this section. These reports shall be made available only to the parties to the accident, the parents or guardians of a minor who is party to the accident, and the insurers of any party who is the subject of the report, or to the attorneys of the parties.
- (6) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report. A newspaper, periodical, or radio or television station shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast.
- (7) The motor vehicle insurers of any train engineer or other train crew member involved in an accident on a railroad while functioning in their professional capacity shall be prohibited from obtaining a copy of any accident report filed on the accident under this section without written consent from the individual the company insures. Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder, in his or her professional capacity, is a train engineer or other train crew member involved in an accident on a railroad.

Section 212. KRS 189.753 is amended to read as follows:

- (1) Any motor vehicle left upon the right-of-way of a state highway for three (3) consecutive days shall be presumed an abandoned vehicle.
- (2) The Department of Kentucky State Police shall locate abandoned vehicles on the right-of-way of state highways. Upon determination that a vehicle is abandoned, and notwithstanding the provisions of KRS 189.450, the Department of Kentucky State Police may order any person engaged in the business of storing or towing motor vehicles to remove the abandoned vehicle to a site chosen by the person. The department shall determine, if possible, the ownership of the vehicle through the abandoned vehicle's license plates, serial number, or other methods of determining ownership. As soon as practicable the owner shall be notified by mail, whether he or she is a Kentucky resident or a resident of another state, that the abandoned vehicle was illegally upon public property; the name and the address where the storage facility is located; that removal of the vehicle from the storage facility will involve payment of towing and storage charges; and that the vehicle may be sold pursuant to provisions of KRS 376.275 if not claimed within sixty (60) days. A notification shall not be required if ownership cannot be determined. In the event of such sale, the state shall receive any proceeds after the satisfaction of all liens placed on the vehicle.
- (3) The commissioner of the Department of Kentucky State Police shall promulgate administrative regulations pursuant to KRS Chapter 13A to carry out the provisions of this section.

Section 213. KRS 189A.050 is amended to read as follows:

- (1) All persons convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall be sentenced to pay a service fee of three hundred twenty-five dollars (\$325), which shall be in addition to all other penalties authorized by law.
- (2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.
- (3) The revenue collected from the service fee imposed by this section shall be utilized as follows:
 - (a) Twelve percent (12%) of the amount collected shall be transferred to the Department of Kentucky State Police

forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;

- (b) Twenty percent (20%) of the service fee collected pursuant to this section shall be allocated to the Department of Public Advocacy;
 - (c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;
 - (d) Sixteen percent (16%) of the amount collected shall be transferred as follows:
 - 1. Fifty percent (50%) shall be credited to the traumatic brain injury trust fund established under KRS 211.476; and
 - 2. Fifty percent (50%) shall be credited to the Cabinet for Health and Family Services, Department for Mental Health and Mental Retardation Services, for the purposes of providing direct services to individuals with brain injuries that may include long-term supportive services and training and consultation to professionals working with individuals with brain injuries. As funding becomes available under this subparagraph, the cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the services permitted by this subparagraph.
 - (e) Any amount specified by a specific statute shall be transferred as provided in that statute;
 - (f) Forty-six percent (46%) of the amount collected shall be transferred to be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment, and educational programs authorized by this chapter and by the Department of Public Advocacy; and
 - (g) The remainder of the amount collected shall be transferred to the general fund.
- (4) The amounts specified in subsection (3)(a), (b), (c), and (d) of this section shall be placed in trust and agency accounts that shall not lapse.

Section 214. KRS 189A.103 is amended to read as follows:

The following provisions shall apply to any person who operates or is in physical control of a motor vehicle or a vehicle that is not a motor vehicle in this Commonwealth:

- (1) He or she has given his or her consent to one (1) or more tests of his or her blood, breath, and urine, or combination thereof, for the purpose of determining alcohol concentration or presence of a substance which may impair one's driving ability, if an officer has reasonable grounds to believe that a violation of KRS 189A.010(1) or 189.520(1) has occurred.
- (2) Any person who is dead, unconscious, or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section, and the test may be given.
- (3) The breath, blood, and urine tests administered pursuant to this section shall be administered at the direction of a peace officer having reasonable grounds to believe the person has committed a violation of KRS 189A.010(1) or 189.520(1).
 - (a) Tests of the person's breath, blood, or urine, to be valid pursuant to this section, shall have been performed according to the administrative regulations promulgated by the secretary of the Justice and Public Safety Cabinet, and shall have been performed, as to breath tests, only after a peace officer has had the person under personal observation at the location of the test for a minimum of twenty (20) minutes.
 - (b) All breath tests shall be administered by a peace officer holding a certificate as an operator of a breath analysis instrument, issued by the secretary of the Justice and Public Safety Cabinet or his or her designee.
- (4) A breath test shall consist of a test which is performed in accordance with the manufacturer's instructions for the use of the instrument. The secretary of the Justice and Public Safety Cabinet shall keep available for public inspection copies of these manufacturer's instructions for all models of breath testing devices in use by the Commonwealth of Kentucky.
- (5) When the preliminary breath test, breath test, or other evidence gives the peace officer reasonable grounds to believe there is impairment by a substance which is not subject to testing by a breath test, then blood or urine tests, or both, may be required in addition to a breath test, or in lieu of a breath test.
- (6) Only a physician, registered nurse, phlebotomist, medical technician, or medical technologist not otherwise prohibited by law can withdraw any blood of any person submitting to a test under this section.
- (7) After the person has submitted to all alcohol concentration tests and substance tests requested by the officer, the person tested shall be permitted to have a person listed in subsection (6) of this section of his or her own choosing administer a test or tests in addition to any tests administered at the direction of the peace officer. Tests conducted under this section shall be conducted within a reasonable length of time. Provided, however, the nonavailability of the person chosen to administer a test or tests in addition to those administered at the direction of the peace officer within a reasonable time shall not be grounds for rendering inadmissible as evidence the results of the test or tests administered at the direction of the peace officer.

Section 215. KRS 189A.120 is amended to read as follows:

2007 Regular Session

- (1) When an alcohol concentration for a person twenty-one (21) years of age or older in a prosecution for violation of KRS 189A.010 is 0.08 or above, is 0.02 or above for a person under the age of twenty-one (21), or when the defendant, regardless of age, has refused to take an alcohol concentration or substance test, a prosecuting attorney shall not agree to the amendment of the charge to a lesser offense and shall oppose the amendment of the charge at trial, unless all prosecution witnesses are, and it is expected they will continue to be, unavailable for trial.
- (2) A prosecuting attorney shall not amend a blood alcohol concentration, and he or she shall oppose the amendment of the percentage, unless uncontroverted scientific evidence is presented that the test results were in error. In those cases, the prosecutor shall state his or her reasons for agreeing with the amendment, and the scientific data upon which the amendment was made shall be made a part of the record in this case.
- (3) The record of charges and disposition thereof, including reasons for amending the charges, shall be transmitted by the court to the Justice and Public Safety Cabinet for inclusion in the centralized criminal history record information system under KRS 17.150.

Section 216. KRS 189A.300 is amended to read as follows:

The Commonwealth shall provide at least one (1) breath alcohol analysis and simulating unit for each county, paid for by state funds received pursuant to the service fee levied in KRS 189A.050. All units shall be approved by the secretary of the Justice and Public Safety Cabinet or his or her designee.

Section 217. KRS 194A.065 is amended to read as follows:

- (1) The Cabinet for Health and Family Services, the Department of Juvenile Justice, the Department of Corrections, the Administrative Office of the Courts, and the Department of Kentucky State Police shall be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system.
- (2) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440.
- (3) The Cabinet for Health and Family Services shall provide access to the Department of Kentucky State Police, the Department of Corrections, the Department of Juvenile Justice, and the Administrative Office of the Courts to its database.

Section 218. KRS 194A.092 is amended to read as follows:

The Division of Child Abuse and Domestic Violence Services is hereby created and established within the Cabinet for Health and Family Services. The office shall be headed by a director, who shall be appointed by the secretary.

- (1) The division's duties, rights, and responsibilities shall include, but not be limited to, the following:
 - (a) Provide coordinative functions so that no services funded or provided by state government agencies are duplicative so as to ensure the greatest efficiency in the use of resources and funding, and to ensure that a consistent philosophy underlies all efforts undertaken by the administration in initiatives related to child abuse, domestic violence, and rape or sexual assault.
 - (b) Coordinate the legislative efforts of the administration related to child abuse, domestic violence and rape or sexual assault which shall include drafting legislative proposals and providing input to the secretary on the impact of legislation proposed by other agencies and government branches.
 - (c) Provide training and consultation to programs provided or funded by the state which provide services to victims of child abuse, domestic violence, rape or sexual assault, and other crimes.
 - (d) In conjunction with staff from the Justice and Public Safety Cabinet and other staff within the Cabinet for Health and Family Services, and with input from direct service providers throughout Kentucky, develop standards of care for victim and offender services provided or funded by the state.
 - (e) Design and implement research programs which attend to the quality of victim-related services.
 - (f) Provide consultation on the development of budgets for the rape crisis, child abuse, and domestic violence programs funded by the state.
 - (g) Provide recommendations to the Governor and to the Secretaries of the Justice and Public Safety Cabinet and the Cabinet for Health and Family Services, related to the improvement and expansion of victim services provided or funded by these agencies.
 - (h) Undertake new and progressive initiatives to improve and enhance the delivery of services to victims of child abuse, domestic violence, and rape or sexual assault.
- (2) The director may, at the request of the Governor or any secretary, serve as a designee on boards, commissions, task forces or other committees addressing child abuse, domestic violence and rape or sexual assault.

Section 219. KRS 194A.150 is amended to read as follows:

When federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Cabinet for Health and Family Services, the secretary of the Finance and Administration Cabinet, the chief state school officer, the secretary of the Justice and Public Safety Cabinet, the secretary of the Environmental and Public Protection Cabinet, the secretary of the Cabinet for Economic Development, the executive director of the Council on Higher Education, or any combination of the above as may be appropriate, to be voting

members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 220. KRS 194A.735 is amended to read as follows:

- (1) Subject to sufficient funding, the Cabinet for Health and Family Services and the Justice and Public Safety Cabinet, in consultation with any other state agency as appropriate, shall develop and implement a homelessness prevention pilot project that offers institutional discharge planning on a voluntary basis to persons exiting from state-operated or supervised institutions involving mental health and foster care programs, and persons serving out their sentences in any state-operated prison in Oldham County.
- (2) The primary goal of the project shall be to prepare a limited number of persons in a foster home under supervision by the Cabinet for Health and Family Services, state-operated prison in Oldham County under supervision by the Justice and Public Safety Cabinet, and mental health facility under supervision by the Cabinet for Health and Family Services for return or reentry into the community, and to offer information about any necessary linkage of the person to needed community services and supports.
 - (a) The pilot project shall be jointly supported by each of the cabinets. One (1) office for the pilot project shall be located in a family resource center or Department for Community Based Services building in Jefferson County, due to its urban population, and one (1) office shall be located in Clinton, Cumberland, McCreary, or Wayne County, due to its rural population. The pilot project office in Jefferson County shall serve persons intending to locate in Jefferson County who are being released from a mental health facility under supervision by the Cabinet for Health and Family Services and persons intending to locate in Jefferson County who are being released after serving out their sentences from any state-operated prison in Oldham County. The pilot project office in Clinton, Cumberland, McCreary, or Wayne County shall serve persons intending to locate in Clinton, Cumberland, McCreary, or Wayne County who are aging out of the foster care program following placement in Clinton, Cumberland, McCreary, or Wayne County.
 - (b) Within thirty (30) days following July 13, 2004, the cabinets shall supply each pilot project director with the collection of information on available employment, social, housing, educational, medical, mental health, and other community services in the county. The information shall include but not be limited to the service area of each public and private provider of services, the capacity of each provider to render services to persons served by the pilot project, the fees of each provider, contact names and telephone numbers for each provider, and an emergency contact for each provider.
 - (c) Within thirty (30) days following July 13, 2004, the cabinets and directors shall begin a program of education for each of the cabinet and foster home and mental health and appropriate state-operated prison facility staff who will participate in the development of a discharge plan for volunteer participants under this section.
- (3) The pilot project shall operate on a voluntary basis. One (1) of each five (5) persons eligible for discharge or completing their sentence shall be offered the opportunity to participate in the pilot program. This offer shall be made at least six (6) months prior to discharge. There shall be a cap on the number of persons served in each office, to be determined by available funding and staffing requirements.
 - (a) The staff member designated as the homelessness prevention coordinator for each foster home or mental health facility shall maintain a file for each volunteer participant in the foster home or mental health facility, relating to the participant's employment, social, housing, educational, medical, and mental health needs. This file shall be updated from time to time as appropriate and pursuant to an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A that establishes standards for the discharge summary. The staff member designated as the homelessness prevention coordinator for the appropriate state-operated prison participating in the pilot project shall maintain a file containing appropriate forms completed and updated by each person voluntarily participating in the pilot project, relating to the information provided under subsection (6) of this section. All applicable privacy and confidentiality laws shall be followed in assembling and maintaining this file.
 - (b) Six (6) months prior to the expected date of discharge, the discharge coordinator for each foster home and mental health and state-operated prison facility shall contact the homelessness prevention director for Jefferson County or the homelessness prevention director for Clinton, Cumberland, McCreary, or Wayne County, as appropriate, about the pending release of the volunteer participant who is eligible for discharge from a foster home or mental health facility or who will have served out his or her sentence in a state-operated prison facility that is participating in the pilot project. The director shall visit the home or facility, as appropriate, to assist with the preparation of the final comprehensive discharge plan.
 - (c) The director and the discharge coordinator for each participating foster home and mental health and state-operated prison facility shall work together to develop a final comprehensive discharge plan that addresses the employment, health care, educational, housing, and other needs of the person to be released, subject to the consent of the person and the funding and staffing capabilities of the director. Information provided by the coordinator may include and be limited to, subject to the staffing and funding capabilities of the coordinator, information provided by the person to be released on a form or forms made available by the foster home or mental health or state-operated prison facility. The discharge plan shall contain but not be limited to the following:

2007 Regular Session

1. Estimated discharge date from the foster home, state-operated prison facility, or mental health facility;
2. Educational background of the person to be released, including any classes completed or skills obtained by the person while in the foster home, state-operated prison facility, or mental health facility;
3. The person's medical and mental health needs;
4. Other relevant social or family background information;
5. A listing of previous attempts to arrange for post-release residence, employment, medical and mental health services, housing, education, and other community-based services for the person; and
6. Other available funding and public programs that may reimburse any services obtained from a provider listed in the discharge plan. Every effort shall be made in the discharge plan to refer the person to a provider that has agreed to an arranged public or private funding arrangement.

No discharge plan shall be completed unless the written consent, consistent with state and federal privacy laws, to compile the information and prepare the plan has been given by the person eligible for release who has volunteered to participate in the pilot program.

- (4) The director shall assist with the completion of a final comprehensive discharge plan that may include, but need not be limited to, the following:
 - (a) Availability of appropriate housing, including but not limited to a twenty-four (24) month transitional program, supportive housing, or halfway house. Planning discharge to an emergency shelter is not appropriate to meet the housing needs of the person being discharged from foster care, a state-operated prison facility, or a mental health facility;
 - (b) Access to appropriate treatment services for participants who require follow-up treatment;
 - (c) Availability of appropriate employment opportunities, including assessment of vocational skills and job training; and
 - (d) Identification of appropriate opportunities to further education.
- (5) Discharge planning shall be individualized, comprehensive, and coordinated with community-based services.
 - (a) Each discharge plan shall create a continuous, coordinated, and seamless system that is designed to meet the needs of the person.
 - (b) Staff of the foster home or facility and staff of community-based services providers shall be involved in the planning.
 - (c) Each facility shall utilize, wherever possible, community-based services within the facility to establish familiarity of the person residing in the facility with the community services.
- (6) The Department of Corrections shall, through an administrative regulation promulgated in accordance with KRS Chapter 13A, develop a discharge plan that addresses the education; employment, technical, and vocational skills; and housing, medical, and mental health needs of a person who is to be released after serving out his or her sentence in a state-operated prison facility participating in the pilot project.
- (7) Appropriate data about discharge placements and follow-up measures shall be collected and analyzed. The analysis shall be included in the interim and final reports of the pilot program specified in subsection (8) of this section.
- (8) Each homelessness prevention director shall have regular meetings with appropriate state cabinet and agency staff to review the pilot project and make recommendations for the benefit of the program. Each director shall be assisted by a local advisory council composed of local providers of services and consumer advocates who are familiar with homelessness prevention issues. Priority for membership on the advisory council shall be given to existing resources and regional mental health and substance abuse advisory councils at the discretion of the director.
- (9) Each cabinet shall collect data about the discharge plans, referrals, costs of services, and rate of recidivism related to the homelessness prevention program, and shall submit an annual report to the Governor and the Legislative Research Commission no later than October 1 that summarizes the data and contains recommendations for the improvement of the program. The annual report also shall be forwarded to the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities, Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses, and the Kentucky Housing Corporation Homelessness Policy Council.

Section 221. KRS 196.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Cabinet" means the Justice and Public Safety Cabinet;
- (2) "Commissioner" means commissioner of the Department of Corrections;
- (3) "Department" means the Department of Corrections;
- (4) "Institution" means any institution under the control of the Department of Corrections; and
- (5) "Secretary" means secretary of the Justice and Public Safety Cabinet.

Section 222. KRS 196.026 is amended to read as follows:

The Department of Corrections shall consist of the following organizational units:

- (1) Personnel Division;
- (2) Office of Adult Institutions, which shall have the following divisions:
 - (a) Division of Operations and Program Services;
 - (b) Division of Medical Services;
 - (c) Division of Mental Health Services;
 - (d) Division of Correctional Industries;
 - (e) Division of Kentucky State Reformatory;
 - (f) Division of Luther Luckett Correctional Complex;
 - (g) Division of Roederer Correctional Complex;
 - (h) Division of Blackburn Correctional Complex;
 - (i) Division of Kentucky Correctional Institution for Women;
 - (j) Division of Frankfort Career Development Center;
 - (k) Division of Northpoint Training Center Division;
 - (l) Division of Eastern Kentucky Correctional Complex;
 - (m) Division of Bell County Forestry Camp;
 - (n) Division of Kentucky State Penitentiary;
 - (o) Division of Western Kentucky Correctional Complex;
 - (p) Division of Green River Correctional Complex; and
 - (q) Division of Little Sandy Correctional Complex.

Each division specified in paragraphs (e) to (q) of this subsection shall be headed by a warden pursuant to KRS 196.160;
- (3) Office of Community Services and Facilities, which shall have the following divisions:
 - (a) Division of Probation and Parole; and
 - (b) Division of Local Facilities; and
- (4) Office of Support Services, which shall have the following divisions:
 - (a) Division of Administrative Services;
 - (b) Division of Corrections Training; and
 - (c) Division of Population Management~~{Office of General Counsel;~~
- ~~(2) Division of Administrative Services;~~
- ~~(3) Division of Corrections Training;~~
- ~~(4) Division of Institutional Operations;~~
- ~~(5) Division of Mental Health Programs;~~
- ~~(6) Division of Correctional Industries;~~
- ~~(7) Division of Medical Services;~~
- ~~(8) Division of Probation and Parole;~~
- ~~(9) Division of Community Services and Local Facilities;~~
- ~~(10) Division of Personnel Services; and~~
- ~~(11) Western Region Division and Eastern Region Division, Adult Institutions.~~

~~Each state penal correctional institution referenced in KRS 197.010 shall be considered a division for organizational purposes. Each institution shall be headed by a warden pursuant to KRS 196.160.~~

Section 223. KRS 196.035 is amended to read as follows:

The secretary shall, except as otherwise provided in KRS 439.250 to 439.560 and KRS Chapter 13A, have the power and authority to ~~promulgate~~~~[adopt, amend, or rescind]~~ administrative regulations he ~~or she~~ deems necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet, including qualification for the receipt of federal funds and for cooperation with other state and federal agencies. The secretary may delegate to any person appointed the power and authority as he ~~or she~~ deems reasonable and proper for the effective administration of the cabinet.

Section 224. KRS 196.037 is amended to read as follows:

- (1) All personnel of the department, while acting for the department in any capacity entailing the maintenance of custody over

any prisoners, shall have all the authority and powers of peace officers.

- (2) All department personnel who are officially requested by a law enforcement agency in a county of Kentucky or by the Department of Kentucky State Police to assist in the apprehension of a prisoner who has escaped from the legal or physical custody of the Department of Corrections or a detention facility of the Department of Corrections shall possess, while responding to and for the duration of the matter for which the request was made, the same powers of arrest as peace officers.
- (3) Probation and parole officers, while acting for the department in any capacity entailing the maintenance of custody or supervision of any confined prisoner, paroled prisoner, escaped prisoner, probationer, or other person otherwise placed under their supervision shall have all the authority and powers of peace officers.

Section 225. KRS 196.075 is amended to read as follows:

The department~~[of Corrections]~~, under the direction of the commissioner, shall exercise the functions vested in the department relating to probation and parole. The commissioner shall promulgate~~[make]~~ administrative regulations governing parolees and shall have the same powers of arrest as probation and parole officers.

Section 226. KRS 196.093 is amended to read as follows:

The Department of Corrections shall, in cooperation with the Department of Kentucky State Police, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Administrative Office of the Courts, be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system:

- (1) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440;
- (2) The Department of Corrections shall provide access to the Department of Kentucky State Police, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Administrative Office of the Courts to its database; and
- (3) The Department of Corrections shall assign the same identification number or other variable to each person whose name appears in the database.

Section 227. KRS 196.701 is amended to read as follows:

- (1) To develop and implement a statewide strategic plan for the state and community corrections programs, the Kentucky State Corrections Commission is created and is attached to the office of the secretary of the Justice and Public Safety Cabinet. The commission shall consist of twenty-three (23) members as follows:

- (a) The secretary of the Justice and Public Safety Cabinet or his or her designee in writing;
- (b) The commissioner of the Department of Corrections or his or her designee in writing;
- (c) The deputy commissioner of the Office of Community Services and Facilities;
- (d) The deputy commissioner of the Office of Adult Institutions;
- (e) The executive director of the Parole Board or his or her designee in writing;
- (f) The executive director of the Office of Legislative and Intergovernmental Services of the Justice and Public Safety Cabinet or his or her designee in writing;
- (g) Two (2) Circuit Court Judges appointed by the Chief Justice;
- (h) A county judge/executive appointed by the Governor;
- (i) A county jailer appointed by the Governor;
- (j) A Commonwealth's attorney appointed by the Governor;
- (k) A practicing attorney appointed by the Governor;
- (l) A victim, as that term is defined in KRS 346.020, appointed by the Governor;
- (m) Four (4) service providers from the field of mental health, substance abuse treatment, or vocational and educational training, appointed by the Governor;
- (n) A public member who is qualified to express the views of organized labor, appointed by the Governor;
- (o) A public member who is qualified to express the views of business and industry, appointed by the Governor;
- (p) The public advocate or his or her designee in writing; and
- (q) Three (3) at-large members appointed by the Governor~~[community corrections programs, the Kentucky State Corrections Commission is created and is attached to the office of the secretary of the Justice Cabinet. The commission shall consist of eleven (11) members as follows:~~

- (a) ~~The deputy commissioner of the Division of Community Services and Local Facilities;~~
- (b) ~~A Circuit Court judge appointed by the Chief Justice;~~
- (c) ~~A county judge/executive appointed by the Governor;~~
- (d) ~~A county jailer appointed by the Governor;~~
- (e) ~~A Commonwealth's attorney appointed by the Governor;~~

- ~~(f) A victim, as that term is defined in KRS 346.020, appointed by the Governor;~~
- ~~(g) Two (2) service providers from the field of mental health, substance abuse treatment, or vocational and educational training appointed by the Governor;~~
- ~~(h) The executive director of the Office of the Criminal Justice Council or the executive director's designee;~~
- ~~(i) The executive director of the Parole Board; and~~
- ~~(j) The public advocate or his or her designee}.~~
- (2) The terms of those members appointed by the appointing authority shall be three (3) years. These members shall serve at the pleasure of the appointing authority and shall be eligible for reappointment. **The appointed members may be removed for cause. All others serve during their terms of office.** If there is a vacancy, the appointing authority shall immediately make an appointment effective for the unexpired term.
- (3) The chairperson of the commission shall be the **secretary of justice and public safety**~~deputy commissioner of the Division of Community Services and Local Facilities~~. The **commissioner of the Department of Corrections shall serve as the**~~commission shall elect from among its members a~~ vice chairperson who shall preside and exercise the functions of the chairperson during absence or disability of the chairperson.
- (4) Regular meetings of the commission shall be held at least once every four (4) months at a place, day, and hour determined by the commission. Special meetings shall be held when needed as determined by the chairperson. If five (5) or more members of the commission request in writing that the chairperson call a special meeting, then the chairperson shall call a special meeting.
- (5) Members of the commission shall receive reimbursement for necessary expenses for attendance at official commission meetings or public hearings. The administrative functions of the commission shall be performed by a full-time employee of the department who is selected by the commissioner. **All public members of the commission shall, in addition to expenses, receive twenty-five dollars (\$25) per day for attending each meeting.**

Section 228. KRS 196.702 is amended to read as follows:

The commission shall:

- (1) Develop a statewide strategic plan for the development and implementation of goals and objectives, target populations, and program criteria for community corrections programs;
- (2) Conduct, in collaboration with community corrections boards, a statewide assessment of community corrections programs;
- (3) Award all grant moneys to community corrections programs;
- (4) Review community correction program plans and their implementation to ensure compliance with the statewide strategic plan, including the following goals:
 - (a) Effectiveness of community corrections programs in maintaining public safety;
 - (b) Reduction of local commitments to the department;
 - (c) Reduction in the rate of recidivism; and
 - (d) Reduction in revocations of probation and parole;
- (5) Provide technical assistance, support, and training to local boards;
- (6) Submit an annual report no later than September 1 of each year to the commissioner, the Governor, and the General Assembly which includes at least the following information:
 - (a) The status of the implementation of the statewide strategic plan;
 - (b) The effectiveness of community corrections programs in achieving the goals outlined in subsection (4) of this section; and
 - (c) An accounting of the distribution of grants and other funds;~~and~~
- (7) Administer the provisions of KRS 196.700 to 196.735;
- (8) Advise the Governor and the commissioner concerning correctional policy and programs, including particularly the following:**
 - (a) The need for, and the development of, new or specialized institutions, facilities, or programs;**
 - (b) The need for, and the effectuation of, collaboration and liaison within the department, and between the department and community agencies and resources, including the bench and bar, in order to promote the readjustment and rehabilitation of offenders in institutions or under parole or probation supervision in the community; and**
 - (c) The need for, and the development of, useful research in penology, correctional treatment, criminal law, or in the disciplines relevant thereto;**
- (9) Establish a Parole Board Nominating Committee which shall:**
 - (a) Include five (5) ex officio members of the commission:**

1. The secretary of the Justice and Public Safety Cabinet, who shall serve as chairperson of the committee;
2. The commissioner of the Department of Corrections, who shall serve as the vice chairperson of the committee;
3. The executive director of the Parole Board;
4. The deputy commissioner of the Office of Adult Institutions; and
5. The deputy commissioner of the Office of Community Services and Facilities;
- (b) Include ten (10) other members of the commission:
 1. Two (2) Circuit Judges;
 2. Two (2) service providers with backgrounds in mental health or education;
 3. A person representing the views of business and industry;
 4. A person representing the views of organized labor;
 5. A practicing attorney; and
 6. Three (3) at-large members;
- (c) Publicize vacancies and impending term expirations on the Parole Board in accordance with standards set forth in KRS 424.180;
- (d) Submit the names of three (3) candidates to the commission for every vacancy or expired term on the Parole Board;
- (e) Forward a statement of qualifications of each nominee to the commission along with the nomination. This statement shall identify the experience which meets the qualifications for Parole Board membership outlined in KRS 439.320(1); and
- (f) Maintain the statement of qualifications as a public record in accordance with KRS 61.870 to 61.884.

SECTION 229. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

The commission or one (1) or more of its members may visit and inspect any state penal institution, and may inform and advise the commissioner of the Department of Corrections in regard to the institution's physical or other condition, its discipline, management, program, and its general adequacy or inadequacy. The commission or a majority of its members shall have full access to the grounds and buildings and to the books and records belonging or relating to the institution, as well as the right to subpoena witnesses, take proof, or hear testimony under oath relating to the institution.

Section 230. KRS 197.010 is amended to read as follows:

Definitions as used in this chapter, unless the context otherwise requires:

- (1) "Cabinet" means the Justice and Public Safety Cabinet;
- (2) "Classification" means the systematic assignment of a prisoner to a custody level, program, and penitentiary;
- (3) "Department" means Department of Corrections;
- (4) "Eligible sexual offender" means a sexual offender for whom the sentencing court, department officials, or both have determined that he or she:
 - (a) Has demonstrated evidence of a mental, emotional, or behavioral disorder, but not active psychosis or mental retardation; and
 - (b) Is likely to benefit from the program;
- (5) "Penitentiaries" includes the state penal institutions for males at Eddyville, LaGrange, the Green River Correctional Complex, the Luther Luckett Correctional Complex, the Kentucky Correctional Institute for Women, the Northpoint Training Center, the Roederer Correctional Complex, the Eastern Kentucky Correctional Complex, the Western Kentucky Correctional Complex, Frankfort Career Development Center, Blackburn Correctional Complex, and Bell County Forestry Camp, together with the branches thereof, any private prison as provided by KRS 197.500, and any other similar institutions hereafter established;
- (6) "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in KRS 17.500; and
- (7) "State agency" means any department, board, commission, or agency of the state government.

Section 231. KRS 197.020 is amended to read as follows:

- (1) The Department of Corrections shall:
 - (a) Promulgate administrative regulations~~[Formulate and prescribe all necessary regulations and bylaws]~~ for the

government and discipline of the penitentiary, ~~{the rules}~~ for the government and official conduct of all officials connected with the penitentiary and for the government of the prisoners in their deportment and conduct;

- (b) Promulgate administrative regulations for~~{Prescribe}~~ the character of food and diet of the prisoners;~~{rules for}~~ the preservation of the health of the prisoners; the daily cleansing of the penitentiary; the cleanliness of the persons of the prisoners; the general sanitary government of the penitentiary and prisoners; the character of the labor; ~~the~~~~and~~ quantity of food and clothing; and the length of time during which the prisoners shall be employed daily;
- (c) Promulgate administrative regulations~~{Adopt, amend, and rescind}~~, as the department deems necessary, ~~for administrative regulations governing~~ the disposition of abandoned, lost, or confiscated property of prisoners; and
- (d) Cause the administrative regulations promulgated~~{prescribed}~~ by the department~~{them}~~, together with the law allowing commutation of time to prisoners for good conduct, to be printed and posted in conspicuous places in the cell houses and workshops.

- (2) The department may impose a reasonable fee for the use of medical facilities by a prisoner who has the ability to pay for the medical and dental care. These funds may be deducted from the prisoner's inmate account. A prisoner shall not be denied medical or dental treatment because he has insufficient funds in his inmate account.
- (3) The department may promulgate administrative regulations in accordance with KRS Chapter 13A to implement a program that provides for reimbursement of telehealth consultations.

Section 232. KRS 197.110 is amended to read as follows:

The Department of Corrections shall promulgate~~{make}~~ administrative regulations it deems necessary and proper in relation to:

- (1) The classification of prisoners;
- (2) The terms and conditions under which prisoners may be assigned to work under the direction of any other state agency;
- (3) The adequate care, supervision, guarding, discipline, maintenance, transportation, and housing of prisoners when assigned to work outside of the prison. The department shall ascertain from the jailer of the county in which the work is being carried on if accommodations are available, and shall place as many prisoners as possible under the care of the jailer;
- (4) The payment of money to prisoners and their dependents for work performed, including the amount to be paid and the manner of the payment and distribution thereof;
- (5) Any other purposes as the department deems necessary and proper for carrying out the intent of this chapter.

Section 233. KRS 197.500 is amended to read as follows:

As used in KRS 197.505 to 197.525, unless the context otherwise requires:

- (1) ~~{"Department" means the Department of Corrections;~~
- ~~(2) "Adult correctional facility" means any minimum or medium adult penal or correctional facility operated for the purpose of housing convicted felons for the department; and~~
- (2){(3)} "Private provider" means a private legal entity authorized to do business in the Commonwealth and which is in the business of establishing, operating, and managing adult correctional facilities.

Section 234. KRS 197.505 is amended to read as follows:

- (1) The state may enter into contracts with a private provider to establish, operate, and manage adult correctional facilities. In all such contracts the state shall retain clear supervisory and monitoring powers over the operation and management of the adult correctional facility to insure that the inmates are properly cared for and that the employees of the facility and the public are adequately protected.
- (2) Any adult correctional facility operated by a private provider under this section shall ensure that all inmates housed in the facility, including those inmates housed under contract with another state, shall meet classification requirements as set forth by the department for the designated security level of the facility.
- (3) Any adult correctional facility contracted for pursuant to this section shall be constructed only in a county with an established Department of Kentucky State Police post or in a county in which at least two (2) State Police officers reside as a result of a duty assignment or in a county with a full-time police department.

Section 235. KRS 197.510 is amended to read as follows:

Any contract entered on or after July 15, 1988, between the state and a private provider for the operation and management of an adult correctional facility shall include terms which comply with at least the following:

- (1) Unless otherwise provided by KRS 197.505 to 197.525, any adult correctional facility contracted for pursuant to KRS 197.505 shall submit a plan to the department for achieving American Correctional Association standards within five (5) years, which is appropriate for the specific type of adult correctional facility.
- (2) The provisions of KRS Chapter 45A shall apply to any contract or any proposal for a contract authorized by KRS 197.505 to 197.525 for an adult correctional facility.
- (3) The adult correctional facility shall prepare an annual written budget of anticipated revenues and expenditures which is approved by the appropriate governing authority. The facility shall have written policies which govern revisions in the

budget. The facility shall have a fiscal system which accounts for all income and expenditures on an on-going basis.

- (4) The adult correctional facility shall prepare and distribute to its governing authority and appropriate agencies including the department, at a minimum, the following documents: annual budget income and expenditure statements; funding source financial reports; and annual independent audit report.
- (5) The adult correctional facility shall have written fiscal policies and procedures adopted by the governing authority which include at a minimum: internal controls; petty cash; bonding; signature control on checks; resident funds; and employee expense reimbursement.
- (6) There shall be an annual independent audit of the adult correctional facility. The facility shall have a written policy for inventory control of all property and assets and for purchasing and requisitioning supplies and equipment. The facility shall use a method which documents and authorizes wage payment to employees and consultants.
- (7) The private provider shall develop and implement a plan for the dissemination of information about the adult correctional facility to the public, government agencies, and the media. The plan shall be made available to all persons. All documents and records, except financial records, maintained by the private provider shall be deemed public records as defined by KRS 61.870 and be subject to the provisions of KRS 61.872 to 61.884.
- (8) The adult correctional facility shall conform to all applicable zoning ordinances and all applicable state and local building codes, including the Kentucky Building Code, 1983 edition and subsequent modifications or replacements thereto.
- (9) The adult correctional facility shall comply with all applicable laws and regulations of the local and state government regarding sanitation, food service, safety, and health. Copies of inspections completed by the appropriate authorities shall be sent to the department.
- (10) The adult correctional facility shall comply with the provisions of the Life Safety Code, 1983 edition, National Fire Protection Association 101 and the regulations of the state or the local fire safety authority, whichever has primary jurisdiction over the adult correctional facility. Copies of the inspections completed by the appropriate authorities shall be sent to the department.
- (11) A minimum of sixty (60) square feet of floor space per resident shall be provided in the living area of the adult correctional facility. Other areas to be provided shall include space and furnishings to accommodate group meetings of the residents, private counseling space with adequate furniture, and a visiting area.
- (12) The adult correctional facility shall provide a variety of indoor and outdoor recreational and leisure time activities to include but not be limited to: television, radio, library materials, and recreational facilities. Telephone facilities shall be available on the premises, which are accessible to residents.
- (13) The adult correctional facility shall provide a level and quality of programs at least equal to those provided by state-operated facilities that house similar types of inmates and at a cost that provides the state with a savings of not less than ten percent (10%) of the cost of housing inmates in similar facilities and providing similar programs to those types of inmates in state-operated facilities.
- (14) The adult correctional facility shall be staffed twenty-four (24) hours per day seven (7) days per week. The staffing pattern shall be adequate to insure close inmate surveillance and maintenance of security within the facility. The staffing pattern shall address the program, transportation, and security needs of the facility. In determining security need, the proximity of the facility to neighborhood and schools shall be considered.
- (15) The adult correctional facility shall have a written personnel policy and employees shall be given a copy. The personnel policies shall include, at a minimum:
 - (a) Organization chart;
 - (b) Employment practices and procedures including in-service training and staff developing;
 - (c) Promotions;
 - (d) Job qualifications and job descriptions;
 - (e) Grievance and appeal procedures;
 - (f) Employee evaluation;
 - (g) Personnel records;
 - (h) Benefits;
 - (i) Holidays;
 - (j) Leave;
 - (k) Hours of work;
 - (l) Salaries (or the base for determining salaries);
 - (m) Disciplinary procedures;
 - (n) Termination; and
 - (o) Resignation.

- (16) The adult correctional facility shall maintain written job descriptions and job qualifications for all positions in the facility including: job title, responsibilities of the positions, and required minimum experience and education. An affirmative action program shall be adopted by the governing authority. The correctional facility shall maintain a current, accurate, and confidential personnel record on each employee. The facility shall have written policy and procedures requiring an annual performance evaluation of all employees. This evaluation shall be reviewed and discussed with the employee.
- (17) Prior to employment, all employees of the adult correctional facility shall be subject to thorough background investigation to include criminal, medical, and employment history. All security employees of the facility shall be at least eighteen (18) years of age. The facility shall provide initial orientation for all new employees during the first week of employment. The facility shall comply with all governmental regulatory requirements related to employment and personnel practices. Personnel selection and assignments shall be based on merit.
- (18) The administrator of the adult correctional facility shall have a minimum of five (5) years experience in corrections or law enforcement and five (5) years experience in administration. The remaining staff of the facility shall have the same qualifications and training as the staff employed in similar positions in adult correctional facilities operated by the department.
- (19) The adult correctional facility shall provide the following services and programs, the extent to which shall be set forth in the contract between the state and the private provider but shall be consistent with the standards of the American Correctional Association:
 - (a) Health and medical services;
 - (b) Food services;
 - (c) Mail, telephone use, and visitation;
 - (d) Access to legal services and legal materials;
 - (e) Vocational training;
 - (f) Educational programs;
 - (g) Counseling services including personal counseling;
 - (h) Drug and alcohol counseling; and
 - (i) Sanitation services.
- (20) The adult correctional facility shall have a written fire and emergency plan for the facility which shall be communicated to all employees and inmates and updated, if needed. The facility's written emergency plan shall be conspicuously posted in the facility. The facility staff shall document the conduct of quarterly emergency drills.
- (21) The adult correctional facility shall have a written policy restricting the use of physical force to instances of justifiable self-protection, prevention of property damage, and prevention of escapes, and only to the degree necessary. In compliance with applicable laws, the facility shall maintain and make public, written policies and procedures for conducting searches of residents and all areas of the facility, to control contraband and locate missing or stolen property. The facility shall have a written plan to control movement in and out of the facility. The facility shall have written procedures to account for the whereabouts of the residents at all times.
- (22) The adult correctional facility shall establish a procedure for inspecting all facility areas accessible to inmates for contraband and physical security at least weekly. Isolated security spot checks shall be conducted daily. Items considered as contraband or items permitted in the facility shall be clearly defined in the facility's rules.
- (23) The adult correctional facility shall report all suspected felonies to the Department of Kentucky State Police for investigation. A written report shall be made of all extraordinary or unusual occurrences within twenty-four (24) hours of the occurrence. This report shall be placed in the inmate's folder and a copy forwarded to the department. All these occurrences shall be promptly reported to the department verbally prior to submission of the written report. Extraordinary or unusual occurrences shall include but not be limited to:
 - (a) Death of a resident;
 - (b) Attempted suicide or suicide;
 - (c) Serious injury, whether accidental or self-inflicted;
 - (d) Attempted escape or escape from confinement;
 - (e) Fire;
 - (f) Riot;
 - (g) Battery, whether by a staff member or resident;
 - (h) Sexual assaults; and
 - (i) Occurrence of contagious or infectious disease, or illness within the facility.
- (24) Each adult correctional facility shall have written policy and procedures for emergency situations including but not limited to:

2007 Regular Session

- (a) Escapes;
 - (b) Taking of hostages;
 - (c) Riots;
 - (d) Food poisoning;
 - (e) Civil disturbances in the community;
 - (f) Natural disaster;
 - (g) Suicides; and
 - (h) Other deaths and disorder.
- (25) The adult correctional facility shall adopt a written policy and procedures which shall insure that the constitutional rights of inmates to voluntarily practice their own religious activities are protected, subject only to those limitations necessary to maintain order and security of the facility.
- (26) The adult correctional facility shall adopt a written policy which shall be implemented to insure that no inmate or group of inmates is in a position of control or authority over other inmates.
- (27) The adult correctional facility shall have a policy and procedure for recommending awarding of meritorious good time for inmates in accordance with policies and procedures of the department. The procedures shall include formation of a committee to include an administrator to screen all recommendations. The recommendations shall be sent to the department. Recommendations for restoration of good time shall be screened by the same committee and forwarded to the department.
- (28) If the adult correctional facility operates a canteen, all profits shall be spent for recreational programs for inmates. Prices shall be in accordance with those established by the Department of Corrections Inmate Canteen Board.
- (29) The department shall have the authority to conduct periodic, scheduled, and unannounced inspections of the adult correctional facility during the term of the contract. The department shall generally observe and monitor the operations of the adult correctional facility at least once per week.
- (30) The contract shall provide a hold harmless clause by which the private provider agrees to indemnify, defend, and hold harmless the Commonwealth, its officers, agents, and employees from:
- (a) Any claims or losses for service rendered by the private provider, person, or firm performing or supplying services in connection with performance of the contract;
 - (b) Any claims or losses to any person or firm injured or damaged by the erroneous or negligent acts of the private provider, its officers, or employees in the performance of the contract;
 - (c) Any claims or losses resulting to any person or firm injured or damaged by the private provider, its officers, or employees by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a manner not authorized by the contract, or by federal or Commonwealth regulations or statutes; and
 - (d) Any failure of the private provider, its officers, or employees to observe Kentucky laws, including but not limited to labor laws and minimum wage laws.
- (31) The contract shall require that the private provider give a performance bond to the Commonwealth as obligee, in form satisfactory to the Commonwealth, executed by a surety company authorized to do business in Kentucky and in the penal sum equal to: twenty percent (20%) multiplied by the maximum number of inmates to be housed in the adult correctional facility multiplied by three hundred sixty-five (365) and further multiplied by the rate to be paid the private provider per inmate per day.
- (32) The private provider shall provide public liability, property damage, and workers' compensation insurance, insuring, as they may appear, the interest of all parties of agreement against any and all claims which may arise out of the private provider's operations under the terms of this contract. If any carrier of the insurance exercises cancellation, notice shall be made immediately to the Commonwealth of the cancellation.
- (33) As set forth within the contract between the Department of Corrections and the private provider:
- (a) Failure of the private provider to provide the required services, products, or facilities shall entitle the department to withhold from the contract an amount up to two (2) times the estimated value per day per inmate for the service, product, or facility during the entire length of time which the failure to provide exists.
 - (b) The department shall in writing notify the provider of any failure to provide services, products, or facilities as required. A copy of the written notice shall be sent to the Finance and Administration Cabinet. The private provider shall have fourteen (14) calendar days from its receipt of the notice to abate the failure to provide and to notify the department of the corrective action taken by the private provider.
 - (c) In the event the department determines that the failure to provide has not been abated within fourteen (14) calendar days after the initial notice, the commissioner of the Department of Corrections shall hold, or assign the matter to a hearing officer for, a hearing and issue findings of fact, conclusions of law, and a recommended order.

- (d) Failure to provide services, products, or facilities as required in this agreement shall result in an order to withhold from the contract an amount up to two (2) times the estimated value, as determined after a hearing, per day per inmate for the service, product, or facility during the entire length of time which the failure to provide exists.
- (e) The withholding shall continue until such time as the failure to provide is corrected in the manner stated in the order.
- (f) The department and private provider shall in good faith negotiate the actual fair value of the omitted service, product, or facility which shall be subtracted from the amount withheld. The balance of the withholding, if any, shall be promptly returned to the private provider upon final agreement of the department and private provider. Additional withholding from the contract shall be made by the department if an additional amount is due.
- (g) The provider may appeal, within thirty (30) days, any order of the department to the Franklin Circuit Court.

Section 236. KRS 199.015 is amended to read as follows:

The "Code Adam" safety protocol is hereby established and shall be implemented by all administrators in state buildings in the following manner:

- (1) When a parent, tutor, or guardian notifies any employee of a state building that his or her child is lost or missing, the employee shall obtain from the parent, tutor, or guardian a detailed description of the minor, including but not limited to the name, age, color of eyes, height, weight, clothing, and the shoes the child was wearing at the time the child was last seen before becoming lost or missing;
- (2) From the closest telephone available, the same employee shall alert the state building administrator or the person designated in the state building's "Code Adam" plan, who shall then notify the occupants of the state building through the loudspeaker system or through any other fast and effective means of communication that "Code Adam" has been activated;
- (3) The employee shall escort the parent, tutor, or guardian to the main door of the state building to help in identifying the child;
- (4) Persons designated by the administrator shall monitor all state building exits to ascertain that the minor does not leave the state building without the parent, tutor, or guardian. In addition, two (2) or more employees, as may be necessary, shall be assigned to search the parking areas of the state building. This process shall not entail the closing or locking of any door of the state building;
- (5) Any child, or person with a child, leaving the state building shall be asked to go through the main exit previously designated by the administrator. If, once there, the child or person wishes to leave the state building, he or she shall be allowed to do so after it has been determined that the minor who is leaving is not the child being searched for and that the person with the minor is the parent, tutor, or guardian of the child, and the person presents a government-issued photo identification;
- (6) After "Code Adam" has been announced through the state building's loudspeaker system or through any other fast and effective means of communication, the employees shall search throughout the entire state building, and at least two (2) employees, or more as deemed necessary, shall be assigned to each floor to certify that the minor is not present. Employees who are directly serving a member of the public at that time and employees who have been previously excluded by the administrator shall not be compelled to participate in the search;
- (7) If the minor is found unharmed and appears to have been simply lost or missing in the state building, the child shall be immediately taken to the parent, tutor, or guardian;
- (8) If the minor is found in the company of any person other than the child's parent, tutor, or guardian, any reasonable means shall be taken to delay the exit of the child and the person with whom the child was found from the state building until a peace officer arrives, the child and the person with whom the child is found both are properly identified, and the circumstances of the situation are determined;
- (9) If the minor is not found within a ten (10) minute period, the state building administrator shall notify a state or local law enforcement agency that a child is lost or missing and provide the information then known about the lost or missing child. The law enforcement agency shall respond to the scene and shall take control of the incident. The law enforcement agency may request that the local search and rescue coordinator provide additional resources to search for the lost or missing child. The law enforcement agency and the local dispatch center shall take the actions required by KRS 17.450, 17.460, and 39F.180;
- (10) Upon the location of the lost or missing child or the arrival of a peace officer from the law enforcement agency which was notified of the lost or missing child, whichever occurs earlier, the state building administrator shall cause an announcement of the ending of the "Code Adam" by the state building loudspeaker or other fast and effective means of communication; and
- (11) Upon the ending of the "Code Adam," the state building administrator shall prepare three (3) copies of a report of the incident, which shall:
 - (a) Be sent within three (3) working days to the secretary of the Finance and Administration Cabinet and the commissioner of the Department of Kentucky State Police; and
 - (b) Be kept in the administrative files of the state building for a period of three (3) years from the date of the incident.

Section 237. KRS 199.017 is amended to read as follows:

The secretary of the Finance and Administration Cabinet, in consultation with the Justice and Public Safety Cabinet through the Department of Kentucky State Police, shall:

- (1) Be responsible for coordinating implementation of the "Code Adam" program throughout the Commonwealth;
- (2) Provide training to administrators of state buildings and employees designated by those administrators in the implementation of the "Code Adam" program;
- (3) Provide training in procedures for the search of state buildings and grounds for lost and missing children;
- (4) Print and distribute signs to each public agency for use in each state building relating to the "Code Adam" program and how to initiate a "Code Adam." The signs shall be not less than twelve (12) inches square and have white letters and a purple background containing the information specified by the cabinet by administrative regulation;
- (5) Provide for annually conducting a "Code Adam" drill at each facility covered by the provisions of KRS 199.013 to 199.019;
- (6) Provide for the collection of statistics from each facility covered by the provisions of KRS 199.013 to 199.019 on each "Code Adam" within the state building;
- (7) Provide an annual report to the Governor, the Department of Kentucky State Police, the Legislative Research Commission, and the General Assembly on each "Code Adam" within the Commonwealth during the previous calendar year and the results of each "Code Adam" incident. The annual report shall be a public record and shall not include the name or other identifying information, other than gender and age, of the child; and
- (8) Promulgate administrative regulations necessary for the implementation of the "Code Adam" program as required by KRS 199.013 to 199.010.

Section 238. KRS 199.019 is amended to read as follows:

The secretary of the Finance and Administration Cabinet, in consultation with the Justice and Public Safety Cabinet through the Department of Kentucky State Police, may exempt any agency or state building which, due to the nature of the services provided by that agency or state building, is not visited by children. The agency or state building shall immediately report to the secretary of the Finance and Administration Cabinet when the agency or state building is likely to be visited by children on a frequent or continuing basis. Upon receipt of the notification from the state building administrator or agency that the state building is being visited by children, the exemption from compliance with the provisions of KRS 199.013 to 199.019 shall expire.

Section 239. KRS 199.462 is amended to read as follows:

- (1) Before an applicant is approved to provide foster care or relative caregiver services to a child, or approved to receive a child for adoption, the Cabinet for Health and Family Services shall:
 - (a) Require a criminal background investigation of the applicant and any of the applicant's adult household members by means of a fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation; or
 - (b) Request from the Justice and Public Safety Cabinet records of all conviction information for the applicant and any of the applicant's adult household members. The Justice and Public Safety Cabinet shall furnish the information to the Cabinet for Health and Family Services and shall also send a copy of the information to the applicant.
- (2) The request for records shall be on a form approved by the Justice and Public Safety Cabinet and the Justice and Public Safety Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.
- (3) During a certified adoptive or foster home's annual reevaluation, the Cabinet for Health and Family Services may require a background investigation for each adult household member of the certified adoptive or foster home under subsections (1) and (2) of this section.
- (4) The Cabinet for Health and Family Services shall promulgate an administrative regulation to implement this section.

Section 240. KRS 199.473 is amended to read as follows:

- (1) All persons other than a child-placing agency or institution, the department, or persons excepted by KRS 199.470(4) or (5) who wish to place or receive a child shall make written application to the secretary for permission to place or receive a child.
- (2) Prior to the approval of an application to place or receive a child, the fee required pursuant to subsection (13) of this section shall be paid and a home study shall be completed. The purpose of the home study shall be to review the background of the applicant and determine the suitability of the applicant to receive a child, taking into account at all times the best interest of the child for whom application to receive has been made.
- (3)
 - (a) The home study shall be made in accordance with administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A.
 - (b) The cabinet shall conduct the home study for an applicant whose total gross income is equal to or less than two hundred fifty percent (250%) of the federal poverty level guidelines issued each year by the federal government, unless the applicant submits a written request for the home study to be conducted by a licensed child-placing

agency or institution. Upon request, the cabinet shall make information available to an applicant who does not meet the requirements of this paragraph to assist the applicant in obtaining a home study from a licensed child-placing agency approved to provide adoption services.

- (c) A licensed child-placing agency approved to provide adoption services shall conduct the home study for an applicant whose gross total income is more than two hundred fifty percent (250%) of the federal poverty level guidelines issued each year by the federal government.
 - (d) Calculation of family size for this subsection shall include each child requested to be adopted.
 - (e) The portion of the home study pertaining to the home and family background shall be valid for one (1) year following the date of its completion by an adoption worker.
- (4) The adoption worker making the home study shall make a finding in writing recommending either that the application be granted or that the application be denied. The recommendation of the adoption worker shall then be reviewed by the secretary.
- (5) Based on the report and recommendation of the adoption worker making the home study, the secretary shall grant or refuse permission for the applicant to place or receive a child as early as practicable, but, in any case, the decision shall be made within sixty (60) days after the receipt of the application. In reaching a decision, the secretary shall be guided by the ability of the persons wishing to receive the child to give the child a suitable home, and shall at all times consider the best interest of the child from a financial, medical, psychological, and psychiatric standpoint.
- (6) If the application is refused, the secretary shall in general terms furnish in writing the reasons for his or her refusal.
- (7) Any person who seeks temporary custody of a child prior to the secretary's ruling on an application for adoption shall file a petition seeking temporary custody, with a notice of intent to adopt, with the Circuit Court that will have jurisdiction of the adoption proceedings. The clerk of the court shall send a notice of the filing of the petition to the cabinet. A hearing on the petition shall occur no later than seventy-two (72) hours after the filing of the petition, excluding weekends and holidays. Proceedings under this subsection shall be incorporated into the court's adoption file. If the adoption is not finalized within six (6) months of the filing of the petition and notice of intent, the court shall conduct a hearing on the status and custody of the child.
- (8) Upon a finding by the Circuit Court that the child should be placed prior to the secretary's ruling on the application, the Circuit Court may grant the applicant temporary custody of the child pending the decision of the secretary. Temporary custody shall not be granted to an applicant unless a background check, including but not limited to a criminal records check by the Justice and Public Safety Cabinet or the Administrative Office of the Courts and a background check of child abuse and neglect records maintained by the cabinet, has been submitted to and reviewed by the court. The background check required for temporary custody shall be part of the home study required under subsection (2) of this section. If the application is denied by the secretary, the temporary custody order shall be set aside and, upon motion of the cabinet or of the child's parent or parents, the Circuit Court may order the child returned to the biological parent or parents or the child's custody may be awarded to the cabinet, another licensed child-placing agency, or other individuals deemed appropriate by the court. This section shall not be deemed to permit the completion of any adoption proceeding without the approval of the secretary and compliance with KRS 615.030, if required.
- (9) In any case where the cabinet refuses to approve the placement of a child for adoption when requested by the parent or parents of the child, or refuses the request of any person or persons that a child be placed with that person or those persons for adoption, the decision of the secretary in so refusing shall be final unless within ten (10) days after notice of refusal, the biological or proposed adopting parent or parents shall appeal to the Circuit Court of the county in which the adoption is proposed. No placement shall be disapproved on the basis of the religious, ethnic, racial, or interfaith background of the adoptive applicant, if the placement is made with the consent of the parent.
- (10) The cabinet may refuse to approve the placement of a child for adoption if the child's custodial parent is unwilling for the child to be placed for adoption with the proposed adoptive family. The cabinet may approve or deny the placement, in spite of the fact that the custodial parent or parents are unwilling to be interviewed by the cabinet or other approving entity, or if, after diligent efforts have been made, the adoption worker is unable to locate or interview the custodial parent or parents. The cabinet shall be made a party defendant to the appeal. In the hearing of an appeal, the court shall review the findings of the secretary and shall determine if the secretary has acted arbitrarily, unlawfully, or in a manner that constitutes an abuse of discretion.
- (11) If a child who does not fall within the exception provided for in KRS 199.470(4) or (5) is placed or received in a home without the court's review of the background check required under this section or the permission of the secretary for health and family services, or if permission to receive a child has been denied, a representative of the cabinet shall notify in writing or may petition the juvenile session of District Court of the county in which the child is found setting out the facts concerning the child. When the petition has been filed, the court shall take jurisdiction of the child and shall provide for it as it would provide for a dependent, neglected, or abused child under KRS Chapter 620, except that the child may not be placed in the home of the applicants who are to receive the child unless permission to do so is granted by the secretary or the action is ordered by a Kentucky court of competent jurisdiction.
- (12) When either the custodial parent or parents of the child to be placed or the persons wishing to receive the child reside out-of-state; the requirement of KRS 615.030, Interstate Compact on the Placement of Children, shall be met before the

cabinet gives approval for the child's placement.

- (13) The secretary of the Cabinet for Health and Family Services shall be paid a nonrefundable fee of two hundred dollars (\$200) upon the filing of the written application for permission to place or receive a child. Payment shall be made by certified or cashier's check only. All funds collected under this section shall be deposited in a restricted account, which is hereby created, for the purpose of subsidizing an adoptive parent for suitable care of a special-needs child as authorized in KRS 199.555.
- (14) Nothing in this statute shall be construed to limit the authority of the cabinet or a child-placing institution or agency to determine the proper disposition of a child committed to it by the juvenile session of District Court or the Circuit Court, prior to the filing of an application to place or receive.

Section 241. KRS 205.177 is amended to read as follows:

- (1) Notwithstanding any existing state statute or regulation to the contrary, any pertinent information concerning individual clients, patients, or applicants in the possession of the Justice and Public Safety Cabinet, Cabinet for Health and Family Services, Department of Education, or any other state or local governmental agency may be shared with any authorized representative of any other state or local governmental agency of similar function if the agency has a direct, tangible, legitimate interest in the individual concerned or his or her immediate family.
- (2) Any state agency designated in subsection (1) of this section may share pertinent information concerning a client, patient, or applicant with any private or quasi-private agency when such agency has an agreement with that state agency assuring the confidentiality of all such information, and provided that the private or quasi-private agency has a direct, tangible, legitimate interest in the individual concerned or his or her immediate family.

Section 242. KRS 209.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (2) "Cabinet" means the Cabinet for Health and Family Services;
- (3) "Department" means the Department for Community Based Services of the Cabinet for Health and Family Services;
- (4) "Adult" means a person eighteen (18) years of age or older who, because of mental or physical dysfunctioning, is unable to manage his or her own resources, carry out the activity of daily living, or protect himself or herself from neglect, exploitation, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services;
- (5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected, or exploited and to ensure that he or she obtains suitable care in or out of his or her home;
- (6) "Caretaker" means an individual or institution who has been entrusted with or who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily or by contract, employment, legal duty, or agreement;
- (7) "Deception" means, but is not limited to:
 - (a) Creating or reinforcing a false impression, including a false impression as to law, value, intention, or other state of mind;
 - (b) Preventing another from acquiring information that would affect his or her judgment of a transaction; or
 - (c) Failing to correct a false impression that the deceiver previously created or reinforced, or that the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;
- (8) "Abuse" means the infliction of injury, sexual abuse, unreasonable confinement, intimidation, or punishment that results in physical pain or injury, including mental injury;
- (9) "Exploitation" means obtaining or using another person's resources, including but not limited to funds, assets, or property, by deception, intimidation, or similar means, with the intent to deprive the person of those resources;
- (10) "Investigation" shall include, but is not limited to:
 - (a) A personal interview with the individual reported to be abused, neglected, or exploited. When abuse or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;
 - (b) An assessment of individual and environmental risk and safety factors;
 - (c) Identification of the perpetrator, if possible; and
 - (d) Identification by the Office of Inspector General of instances of failure by an administrator or management personnel of a regulated or licensed facility to adopt or enforce appropriate policies and procedures, if that failure

contributed to or caused an adult under the facility's care to be abused, neglected, or exploited;

- (11) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or herself or others;
- (12) "Emergency protective services" are protective services furnished an adult in an emergency;
- (13) "Protective placement" means the transfer of an adult from his or her present living arrangement to another;
- (14) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county;
- (15) "Records" means the medical, mental, health, and financial records of the adult that are in the possession of any hospital, firm, corporation, or other facility, if necessary to complete the investigation mandated in this chapter. These records shall not be disclosed for any purpose other than the purpose for which they have been obtained;
- (16) "Neglect" means a situation in which an adult is unable to perform or obtain for himself or herself the goods or services that are necessary to maintain his or her health or welfare, or the deprivation of services by a caretaker that are necessary to maintain the health and welfare of an adult; and
- (17) "Authorized agency" means:
 - (a) The Cabinet for Health and Family Services;
 - (b) A law enforcement agency or the Department of Kentucky State Police;
 - (c) The office of a Commonwealth's attorney or county attorney; or
 - (d) The appropriate division of the Office of the Attorney General.

Section 243. KRS 209A.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (2) "Cabinet" means the Cabinet for Health and Family Services;
- (3) "Department" means the Department for Community Based Services of the Cabinet for Health and Family Services;
- (4) "Adult" means a person without regard to age who is the victim of abuse or neglect inflicted by a spouse;
- (5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused or neglected. These services may include but are not limited to conducting investigations of complaints of possible abuse or neglect to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action, including action under KRS Chapter 209, and social services aimed at preventing and remedying abuse or neglect;
- (6) "Abuse" means the infliction of injury, unreasonable confinement, intimidation, or punishment resulting in physical harm or pain, including mental injury;
- (7) "Investigation" shall include but is not limited to a personal interview with the individual reported to be abused or neglected. When abuse or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;
- (8) "Records" means the medical or mental health records of the adult that are in the possession of any individual, hospital, firm, corporation, or other facility if necessary to complete the investigation mandated in KRS 209.030(5);
- (9) "Neglect" means a situation in which a person deprives his or her spouse of reasonable services to maintain health and welfare; and
- (10) "Authorized agency" means:
 - (a) The Cabinet for Health and Family Services;
 - (b) A local law enforcement agency or the Department of Kentucky State Police; or
 - (c) The office of a Commonwealth's attorney or county attorney.

Section 244. KRS 210.502 is amended to read as follows:

- (1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. The commission shall consist of:
 - (a) The secretary of the Cabinet for Health and Family Services;
 - (b) The secretary of the Justice and Public Safety Cabinet;
 - (c) The commissioner of the Department for Mental Health and Mental Retardation Services;
 - (d) The commissioner of the Department for Medicaid Services;
 - (e) The commissioner of the Department of Corrections;
 - (f) The commissioner of the Department of Juvenile Justice;
 - (g) The commissioner of the Department of Education;
 - (h) The executive director of the Office of Vocational Rehabilitation;

2007 Regular Session

- (i) The director of the Protection and Advocacy Division of the Department of Public Advocacy;
 - (j) The director of the Division of Family Resource and Youth Services Centers;
 - (k) The director of the Division of Aging Services of the Cabinet for Health and Family Services;
 - (l) The executive director of the Office of Drug Control ~~[Kentucky Agency for Substance Abuse]~~ Policy;
 - (m) ~~{The executive director of the Criminal Justice Council;~~
 - ~~(n) —~~ }The director of the Administrative Office of the Courts;
 - ~~(n)~~~~{(e)}~~ The chief executive officer of the Kentucky Housing Corporation;
 - ~~(o)~~~~{(p)}~~ The executive director of the Office of Transportation Delivery of the Transportation Cabinet;
 - ~~(p)~~~~{(q)}~~ The commissioner of the Department of Public Health;
 - ~~(q)~~~~{(r)}~~ Three (3) members of the House of Representatives who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Speaker of the House;
 - ~~(r)~~~~{(s)}~~ Three (3) members of the Senate who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Senate President;
 - ~~(s)~~~~{(t)}~~ A chairperson and one (1) alternate who is a chairperson of a regional planning council appointed by the secretary of the Cabinet for Health and Family Services from a list of five (5) chairpersons submitted by the Kentucky Association of Regional Mental Health/Mental Retardation Programs;
 - ~~(t)~~~~{(u)}~~ A consumer and one (1) alternate who is a consumer of mental health or substance abuse services, who is over age eighteen (18), appointed by the secretary of the Cabinet for Health and Family Services from a list of up to three (3) consumers submitted by any consumer advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506; and
 - ~~(u)~~~~{(v)}~~ An adult family member and one (1) alternate who is an adult family member of a consumer of mental health or substance abuse services appointed by the secretary of the Cabinet for Health and Family Services from a list of up to three (3) persons submitted by any family advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506.
- (2) The secretary of the Cabinet for Health and Family Services and one (1) member of the General Assembly appointed to the commission shall serve as co-chairs of the commission.
- (3) Members designated in subsection (1)(a) to ~~(r)~~~~{(s)}~~ of this section shall serve during their terms of office.
- (4) Members and alternates designated in subsection (1)~~(s)~~~~{(t)}~~ to ~~(u)~~~~{(v)}~~ of this section shall serve a term of two (2) years and may be reappointed for one (1) additional term. These members may be reimbursed for travel expenses in accordance with administrative regulations governing reimbursement for travel for state employees.
- Section 245. KRS 213.061 is amended to read as follows:
- (1) Upon notification by the Justice and Public Safety Cabinet that a child born in the Commonwealth is missing, the state registrar of vital statistics shall flag the birth certificate record of the child in such a manner that whenever a copy of the birth certificate or information regarding the birth record is requested, the state registrar shall be alerted to the fact that the certificate is that of a missing child.
 - (2) Upon notification by the Justice and Public Safety Cabinet that a missing child has been recovered, the state registrar shall remove the flag from the child's birth certificate record.
 - (3) In response to any inquiry for a copy of a flagged birth certificate of a missing child, the state registrar shall not provide a copy of the birth certificate except as approved by the Justice and Public Safety Cabinet.
 - (4) When a copy of a flagged birth certificate is requested in person, the state registrar or the designee accepting the request shall inform the person making the request that a copy of a certificate will be mailed to the requester. The state registrar shall, upon the departure of the requesting person, immediately notify the Justice and Public Safety Cabinet as to the request and the information obtained pursuant to this subsection.
 - (5) When a copy of a flagged birth certificate is requested in writing, the state registrar shall immediately notify the Justice and Public Safety Cabinet as to the request and shall provide a copy of the written request.
- Section 246. KRS 216.533 is amended to read as follows:
- (1) A long-term care facility owned, managed, or operated by the Department for Mental Health and Mental Retardation Services shall request an in-state criminal background information check from the Justice and Public Safety Cabinet or Administrative Office of the Courts for each applicant recommended for employment. Out-of-state criminal background information checks shall be obtained for any applicant recommended for employment who has resided or been employed outside of the Commonwealth.
 - (2) No facility specified in subsection (1) of this section shall knowingly employ any person who has been convicted of a felony offense under:
 - (a) KRS Chapter 209;

- (b) KRS Chapter 218A;
 - (c) KRS 507.020, 507.030, and 507.040;
 - (d) KRS Chapter 509;
 - (e) KRS Chapter 510;
 - (f) KRS Chapter 511;
 - (g) KRS Chapter 513;
 - (h) KRS 514.030;
 - (i) KRS Chapter 530;
 - (j) KRS Chapter 531;
 - (k) KRS 508.010, 508.020, 508.030, and 508.032;
 - (l) A criminal statute of the United States or another state similar to paragraphs (a) to (k) of this subsection; or
 - (m) A violation of the uniform code of military justice or military regulation similar to paragraphs (a) to (k) of this subsection which has caused the person to be discharged from the Armed Forces of the United States.
- (3) A person who has received a pardon for an offense specified in subsection (2) or has had the record of such an offense expunged may be employed.
 - (4) Department for Mental Health and Mental Retardation facilities specified in subsection (1) of this section shall be exempt from the provisions of KRS 216.789(1).

Section 247. KRS 216.787 is amended to read as follows:

- (1) No agency providing services to senior citizens which are funded by the Department for Community Based Services of the Cabinet for Health and Family Services or the Division of Aging Services of the Cabinet for Health and Family Services shall employ persons in a position which involves providing direct services to a senior citizen if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or the commission of a sex crime.
- (2) Operators of service provider agencies may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor.
- (3) Each service provider agency providing direct services to senior citizens as specified under KRS 216.785 to 216.793 shall request all conviction information from the and Public Safety Justice Cabinet for any applicant for employment prior to employing the applicant.

Section 248. KRS 216.789 is amended to read as follows:

- (1) No long-term care facility as defined by KRS 216.535(1), nursing pool providing staff to a nursing facility, or assisted-living community shall knowingly employ a person in a position which involves providing direct services to a resident or client if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or a sexual crime.
- (2) A nursing facility, nursing pool providing staff to a nursing facility, or assisted-living community may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor if the crime is not related to abuse, neglect, or exploitation of an adult.
- (3) Each long-term care facility as defined by KRS 216.535(1), nursing pool providing staff to a nursing facility, or assisted-living community shall request all conviction information from the Justice and Public Safety Cabinet for any applicant for employment pursuant to KRS 216.793.
- (4) The long-term care facility, nursing pool providing staff to a nursing facility, or assisted-living community may temporarily employ an applicant pending the receipt of the conviction information.

Section 249. KRS 216.793 is amended to read as follows:

- (1) Each application form provided by the employer, or each application form provided by a facility either contracted or operated by the Department for Mental Health and Mental Retardation Services of the Cabinet for Health and Family Services, to the applicant for initial employment in an assisted-living community nursing facility, or nursing pool providing staff to a nursing facility, or in a position funded by the Department for Community Based Services of the Cabinet for Health and Family Services or the Division of Aging Services, Department for Human Support Services of the Cabinet for Health and Family Services and which involves providing direct services to senior citizens shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."
- (2) Any request for criminal records of an applicant as provided under subsection (1) of this section shall be on a form or through a process approved by the Justice and Public Safety Cabinet or the Administrative Office of the Courts. The Justice and Public Safety Cabinet or the Administrative Office of the Courts may charge a fee to be paid by the applicant or state agency in an amount no greater than the actual cost of processing the request.

Section 250. KRS 216B.400 is amended to read as follows:

- (1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his or her inability to pay for services to be rendered by the hospital.
- (2) Every hospital of this state which offers emergency services shall provide that a physician or a sexual assault nurse examiner, who shall be a registered nurse licensed in the Commonwealth and credentialed by the Kentucky Board of Nursing as provided under KRS 314.142, is available on call twenty-four (24) hours each day for the examinations of persons reported to any law enforcement agency to be victims of sexual offenses as defined by KRS 510.010 to 510.140, 530.020, 530.064(1)(a), and 531.310.
- (3) An examination provided in accordance with this section of a victim of a sexual offense may be performed in a sexual assault examination facility as defined in KRS 216B.015. An examination under this section shall apply only to an examination of a victim.
- (4) The physician or sexual assault nurse examiner, acting under a statewide medical protocol which shall be developed by the chief medical examiner, and promulgated by the secretary of justice and public safety pursuant to KRS Chapter 13A shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the reported victim, or upon the request of the reported victim, examine such person for the purpose of gathering physical evidence. This examination shall include but not be limited to:
 - (a) Basic treatment and evidence gathering services; and
 - (b) Laboratory tests, as appropriate.
- (5) Each reported victim shall be informed of available services for treatment of venereal disease, pregnancy, and other medical and psychiatric problems. Pregnancy counseling shall not include abortion counseling or referral information.
- (6) Each reported victim shall be informed of available crisis intervention or other mental health services provided by regional rape crisis centers providing services to victims of sexual assault.
- (7) Notwithstanding any other provision of law, a minor may consent to examination under this section. This consent is not subject to disaffirmance because of minority, and consent of the parents or guardians of the minor is not required for the examination.
- (8)
 - (a) The examinations provided in accordance with this section shall be paid for by the Crime Victims' Compensation Board at a rate to be determined by the administrative regulation promulgated by the board after consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.
 - (b) Upon receipt of a completed original claim form supplied by the board and itemized billing for a forensic sexual assault examination, the board shall reimburse the hospital or sexual assault examination facility, and the physician or sexual assault nurse examiner as provided in administrative regulations promulgated by the board pursuant to KRS Chapter 13A. Reimbursement shall be made to an out-of-state nurse who is credentialed in the other state to provide sexual assault examinations, an out-of-state hospital, or an out-of-state physician if the sexual assault occurred in Kentucky.
 - (c) Independent investigation by the Crime Victims' Compensation Board shall not be required for payment of claims under this section; however, the board may require additional documentation or proof that the forensic medical examination was performed.
- (9) No charge shall be made to the victim for sexual assault examinations by the hospital, the sexual assault examination facility, the physician, the sexual assault nurse examiner, the victim's insurance carrier, or the Commonwealth.

Section 251. KRS 217.184 is amended to read as follows:

- (1) All police officers and deputy sheriffs, directly employed full-time by state, county, city, or urban-county governments, the Department of Kentucky State Police, the Cabinet for Health and Family Services, the offices of all city, county, and Commonwealth's attorneys, the Office of the Attorney General, and any of their officers and agents, within their respective jurisdictions, shall enforce KRS 217.207, 217.208, 217.209, 217.181, and 217.182 relating to legend drugs and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to legend drugs.
- (2) Designated agents of the Cabinet for Health and Family Services and the Kentucky Board of Pharmacy are empowered to remove from the files of any pharmacy or other custodian any prescription or other legend drug record upon tendering a receipt. The receipt shall be sufficiently detailed to accurately identify the record and a copy of the records seized shall be returned to the pharmacist within a reasonable amount of time.

Section 252. KRS 218A.202 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy that has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy.
- (2) A practitioner or a pharmacist shall not have to pay a fee or tax specifically dedicated to the operation of the system.
- (3) Every dispenser within the Commonwealth or any other dispenser who has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy shall report to the Cabinet for Health and Family Services

the data required by this section in a timely manner as prescribed by the cabinet except that reporting shall not be required for:

- (a) A drug administered directly to a patient; or
 - (b) A drug dispensed by a practitioner at a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours.
- (4) Data for each controlled substance that is dispensed shall include but not be limited to the following:
- (a) Patient identifier;
 - (b) Drug dispensed;
 - (c) Date of dispensing;
 - (d) Quantity dispensed;
 - (e) Prescriber; and
 - (f) Dispenser.
- (5) The data shall be provided in the electronic format specified by the Cabinet for Health and Family Services unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates.
- (6) The Cabinet for Health and Family Services shall be authorized to provide data to:
- (a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;
 - (b) A Kentucky peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal peace officer whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;
 - (c) A state-operated Medicaid program;
 - (d) A properly convened grand jury pursuant to a subpoena properly issued for the records;
 - (e) A practitioner or pharmacist who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient;
 - (f) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Medical Licensure, for any physician who is:
 - 1. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing practices;
 - 2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing may be occurring; or
 - 3. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing may be occurring in that area;
 - (g) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Nursing, for any advanced registered nurse practitioner who is:
 - 1. Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper prescribing practices;
 - 2. Associated in a partnership or other business entity with an advanced registered nurse practitioner who is already under investigation by the Board of Nursing for improper prescribing practices;
 - 3. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing may be occurring; or
 - 4. In a designated geographic area for which a report on a physician or another advanced registered nurse practitioner in that area indicates a substantial likelihood that inappropriate prescribing may be occurring in that area; or
 - (h) A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program.
- (7) The Department for Medicaid Services may use any data or reports from the system for the purpose of identifying Medicaid recipients whose usage of controlled substances may be appropriately managed by a single outpatient pharmacy or primary care physician.
- (8) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity

except by order of a court of competent jurisdiction, except that:

- (a) A peace officer specified in subsection (6)(b) of this section who is authorized to receive data or a report may share that information with other peace officers specified in subsection (6)(b) of this section authorized to receive data or a report if the peace officers specified in subsection (6)(b) of this section are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each law enforcement agency engaged in the investigation; and
 - (b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in subsection (6)(a) of this section, or with a law enforcement officer designated in subsection (6)(b) of this section; and
 - (c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.
- (9) The Cabinet for Health and Family Services, all peace officers specified in subsection (6)(b) of this section, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.
 - (10) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.
 - (11) Knowing failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class A misdemeanor.
 - (12) Knowing disclosure of transmitted data to a person not authorized by subsection (6) to subsection (8) of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class D felony.
 - (13) The Commonwealth Office of Technology, in consultation with the Cabinet for Health and Family Services, shall submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot project to study a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances. The pilot project shall:
 - (a) Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and
 - (b) Study the use of an interactive system that includes a relational data base with query capability.
 - (14) Provisions in this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (13) of this section.
 - (15) The Cabinet for Health and Family Services may limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.
 - (16) (a) The Cabinet for Health and Family Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.
 - (b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.
 - (c) The cabinet shall work with the Justice and Public Safety Cabinet for the development of a continuing education program for law enforcement officers about the purposes and users of the electronic system for monitoring established in this section.

Section 253. KRS 218A.240 is amended to read as follows:

- (1) All police officers and deputy sheriffs directly employed full-time by state, county, city, or urban-county governments, the Department of Kentucky State Police, the Cabinet for Health and Family Services, their officers and agents, and of all city, county, and Commonwealth's attorneys, and the Attorney General, within their respective jurisdictions, shall enforce all provisions of this chapter and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to controlled substances.
- (2) For the purpose of enforcing the provisions of this chapter, the designated agents of the Cabinet for Health and Family Services shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, to require the production of prescriptions, of books, papers, documents or other evidence, to employ special investigators, and to expend funds for the purpose of obtaining evidence and to use data obtained under KRS 218A.202(7) in any administrative proceeding before the cabinet.
- (3) The Kentucky Board of Pharmacy, its agents and inspectors, shall have the same powers of inspection and enforcement as

the Cabinet for Health and Family Services.

- (4) Designated agents of the Cabinet for Health and Family Services and the Kentucky Board of Pharmacy are empowered to remove from the files of a pharmacy or the custodian of records for that pharmacy any controlled substance prescription or other controlled substance record upon tendering a receipt. The receipt shall be sufficiently detailed to accurately identify the record. A receipt for the record shall be a defense to a charge of failure to maintain the record.
- (5) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, any law enforcement authority may maintain, in its own name, an action to restrain or enjoin any violation of this chapter, or to forfeit any property subject to forfeiture under KRS 218A.410, irrespective of whether the owner of the property has been charged with or convicted of any offense under this chapter.
 - (a) Any civil action against any person brought pursuant to this section may be instituted in the Circuit Court in any county in which the person resides, in which any property owned by the person and subject to forfeiture is found, or in which the person has violated any provision of this chapter.
 - (b) A final judgment rendered in favor of the Commonwealth in any criminal proceeding brought under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought pursuant to this section.
 - (c) The prevailing party in any civil proceeding brought pursuant to this section shall recover his or her costs, including a reasonable attorney's fee.
 - (d) Distribution of funds under this section shall be made in the same manner as in KRS 218A.435, except that if the Commonwealth's attorney has not initiated the forfeiture action under this section, his or her percentage of the funds shall go to the agency initiating the forfeiture action.
- (6) The Cabinet for Health and Family Services shall make or cause to be made examinations of samples secured under the provisions of this chapter to determine whether any provision has been violated.
- (7)
 - (a) The Cabinet for Health and Family Services shall use the data compiled in the electronic system created in KRS 218A.202 for investigations, research, statistical analysis, and educational purposes, and shall proactively identify trends in controlled substance usage and other potential problem areas. Only cabinet personnel who have undergone training for the electronic system and who have been approved to use the system shall be authorized access to the data and reports under this subsection. The cabinet shall notify a board responsible for the licensure, regulation, or discipline of each practitioner, pharmacist, or other person who is authorized to prescribe, administer, or dispense controlled substances, if a report or analysis conducted under this subsection indicates that further investigation about inappropriate or unlawful prescribing or dispensing may be necessary by the board.
 - (b) The cabinet shall develop criteria, in collaboration with the Board of Medical Licensure and the Board of Pharmacy, to be used to generate trend reports from the data obtained by the system. Meetings at which the criteria are developed shall be meetings, as defined in KRS 61.805, that comply with the open meetings laws, KRS 61.805 to 61.850.
 - (c) The cabinet shall, on a quarterly basis, publish trend reports from the data obtained by the system.
 - (d) Peace officers authorized to receive data under KRS 218A.202 may request trend reports not specifically published pursuant to paragraph (c) of this subsection. A report under this paragraph may be based upon the criteria developed under paragraph (b) of this subsection or upon any of the data collected pursuant to KRS 218A.202(4), except that the report shall not identify an individual prescriber, dispenser, or patient.
 - (e) No trend report generated under this subsection shall identify an individual prescriber, dispenser, or patient.

Section 254. KRS 218A.435 is amended to read as follows:

- (1) There is created a trust and revolving fund in the executive branch of state government to be known as the "Asset Forfeiture Trust Fund" referred to in this section as the "trust fund."
- (2) The trust fund shall consist of proceeds from sale of property forfeited to the Commonwealth pursuant to KRS 218A.410, any moneys as may be appropriated by the General Assembly, and any investment interest earned on the fund. The moneys in this fund are intended to supplement any funds appropriated by the General Assembly to the agency which will receive disbursements from the trust fund as provided in this section.
- (3) The trust fund shall be managed by the state Office of Financial Management and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.
- (4) The trust fund shall be administered and audited by the Justice and Public Safety Cabinet. The secretary of justice and public safety or his or her designee shall promulgate administrative regulations necessary to further the purposes of KRS 218A.405 to 218A.460.
- (5) The trust fund shall be disbursed in accordance with the provisions of subsection (6) of this section. All interest accumulated on the fund shall immediately be available for disbursement to the Justice and Public Safety Cabinet for costs associated with administration of the fund.
- (6) The Justice and Public Safety Cabinet shall, upon advice from the Office of Financial Management, allocate the moneys in

the fund quarterly, on a percentage basis, as provided in subsection (7) of this section.

- (7) The principal of the trust fund shall be distributed as follows:
- (a) Eighteen percent (18%) of the funds received in any fiscal year shall be allocated to the unified prosecutorial system to be disbursed by the Attorney General to those Commonwealth's attorneys or county attorneys who have participated in the forfeiture case;
 - (b) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Cabinet for Health and Family Services to be used solely for the purpose of drug and alcohol abuse education, prevention, and treatment;
 - (c) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Department of Corrections to be used solely for programs related to drug enforcement and incarceration; and
 - (d) Ten percent (10%) of the funds received in any fiscal year shall be allocated to the Justice and Public Safety Cabinet to be used solely for the purpose of: training related to asset forfeiture; printing program-related training materials, such as manuals or handbooks; or payments to state or local agencies for programs relative to crime prevention, drug abuse prevention, general law enforcement purposes, or other similar purposes relating to drug enforcement.
- (8) The Attorney General, the secretary of the Cabinet for Health and Family Services, the commissioner of the Department of Corrections, and the secretary of the Justice and Public Safety Cabinet or their designees shall each promulgate administrative regulations which itemize the programs on which the moneys allocated from the trust fund to their respective agencies shall be spent and the method by which those moneys shall be disbursed to local entities.
- (9) On July 13, 1990, each state and local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible for the receipt of grants from the trust fund, adopt policies relating to the seizure, maintenance, storage, and care of property pending forfeiture which are in compliance with or which substantially comply with the model policy for seizure of forfeitable assets by law enforcement agencies published by the Department of Criminal Justice Training. However, a state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.
- (10) On July 13, 1990, each state or local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible to receive grants from the trust fund, have one (1) or more officers currently employed attend asset-forfeiture training as approved by the Kentucky Law Enforcement Council which shall approve a curriculum of study for asset-forfeiture training.
- (11) Other provisions of this section notwithstanding, any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter may be retained by the seizing agency for official use or sold within its discretion. Proceeds from the sale shall remain with the agency and shall not be paid into the trust fund and shall not be considered for purposes of the limits established in subsection (12) of this section. The moneys shall be utilized for purposes consistent with KRS 218A.405 to 218A.460. The seizing agency shall be required to pay any bona fide perfected security interest on any vehicle so forfeited.
- (12) Other provisions of law notwithstanding, the first fifty thousand dollars (\$50,000) of forfeited coin or currency or of the proceeds from sale of any property forfeited pursuant to this chapter which was seized or forfeited by a single order of forfeiture, shall not be paid into the fund but ninety percent (90%) shall be paid to the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes and ten percent (10%) to the office of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding. The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient. In addition, forty-five percent (45%) of all proceeds above fifty thousand dollars (\$50,000) shall not be paid into the fund but shall be retained by the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes.
- (13) When money or property is seized in a joint operation involving more than one (1) law enforcement agency, or prosecutorial office, the apportionment of funds to each pursuant to subsection (7)(a) of this section, or pursuant to subsection (12) of this section, shall be made among the agencies in a manner to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

Section 255. KRS 218A.440 is amended to read as follows:

- (1) Each law enforcement agency seizing money or property pursuant to KRS 218A.415 shall, at the close of each fiscal year, file a statement with the Auditor of Public Accounts, and with the secretary of justice and public safety containing, a detailed listing of all money and property seized in that fiscal year and the disposition thereof. The listing shall identify all property so seized.
- (2) Any agency failing to report as required by this section shall be liable to the state for the full value of all property and money so seized. The Attorney General shall institute civil actions for recovery of money or property obtained or retained in violation of KRS 218A.405 to 218A.460.

- (3) The Auditor of Public Accounts, the secretary of justice and public safety or the Attorney General may at any time initiate an inquiry to determine that any agency is utilizing proceeds from the fund established in KRS 218A.435 in accordance with law, or an inquiry to determine that property is being forfeited as required by KRS 218A.405 to 218A.460.

Section 256. KRS 222.211 is amended to read as follows:

- (1) The cabinet shall, in conjunction with the Office of Drug Control Policy and KY-ASAP and in furtherance of the strategic plan developed in Section 11 of this Act ~~[KRS 12.332]~~, coordinate matters affecting tobacco addiction and alcohol and other drug abuse in the Commonwealth and shall assure that there is the provision of prevention, intervention, and treatment services for both juveniles and adults to address the problems of tobacco addiction and alcohol and other drug abuse within individuals, families, and communities; that the coordination of these matters shall be done in cooperation with public and private agencies, business, and industry; and that technical assistance, training, and consultation services shall be provided within budgetary limitations when required. The cabinet may promulgate administrative regulations under KRS Chapter 13A to carry out its powers and duties under this chapter. The cabinet shall utilize community mental health centers and existing facilities and services within the private sector when possible. The cabinet shall be responsible for assuring that the following services are available:
- (a) Primary prevention services directed to the general population and identified target groups for the purposes of avoiding the onset of tobacco addiction and alcohol and other drug abuse related problems and enhancing the general level of health of the target groups. The purpose of the services shall be to provide individuals with the information and skills necessary to make healthy decisions regarding the use or nonuse of tobacco, alcohol, and other drugs as well as to influence environmental factors, such as social policies and norms which will support healthy lifestyle;
 - (b) Intervention services for the purpose of identifying, motivating, and referring individuals in need of tobacco addiction and alcohol and other drug abuse education or treatment services. Services may be provided in settings such as industry and business, schools, health, and social service agencies;
 - (c) Detoxification services on a twenty-four (24) hour basis in or near population centers which meet the immediate medical and physical needs of persons intoxicated from the use of alcohol or drugs, or both, including necessary diagnostic and referral services. The services shall be provided in either a hospital or a licensed alcohol and other drug abuse program;
 - (d) Rehabilitation services offered on an inpatient or outpatient basis for the purposes of treating an individual's alcohol and other drug abuse problem. The services shall be provided in a licensed alcohol and other drug abuse program;
 - (e) Therapeutic services to family members of alcohol and other drug abusers for the purpose of reducing or eliminating dysfunctional behavior that may occur within individuals who are emotionally, socially, and sometimes physically dependent on an alcohol or other drug abuser. The services shall be offered primarily on a outpatient basis;
 - (f) Inpatient psychiatric services for those alcohol and other drug abusers whose diagnosis reflects both serious mental health disturbances as well as alcohol and other drug abuse disorders;
 - (g) Training programs for personnel working in the field of prevention, intervention, and treatment of tobacco addiction and alcohol and other drug abuse problems; and
 - (h) Driving under the influence services to include assessment, education, and treatment for persons convicted of operating a motor vehicle, while under the influence of alcohol or other substance which may impair driving ability, pursuant to KRS Chapter 189A.
- (2) The cabinet shall comply with all policy recommendations of the Office of Drug Control Policy and KY-ASAP, and shall honor requests for information from the Office of Drug Control ~~[Kentucky Agency for Substance Abuse]~~ Policy created under Section 40 of this Act ~~[KRS 12.330]~~.

Section 257. KRS 224.46-560 is amended to read as follows:

The cabinet shall promulgate administrative regulations establishing standards applicable to transporters of hazardous waste regarding record keeping, notification and compliance with the manifest system. The Transportation Cabinet and the Justice and Public Safety Cabinet shall cooperate with and assist the cabinet in implementing and enforcing the transportation provisions of any state hazardous waste regulations promulgated pursuant to this chapter. The specific nature and details of the assistance effort shall be established by a formal cooperative agreement acceptable to the cabinets.

Section 258. KRS 226.070 is amended to read as follows:

- (1) Every pawnbroker in a city or in the unincorporated area of any county shall by 11 a.m. each day, make available to the chief of police of the city, the chief law enforcement officer of the county, or to the Department of Kentucky State Police, a true and correct written report of all goods received by him or her, whether by pawn or purchase, during the twenty-four (24) hours preceding each report. The report shall describe the goods as accurately as practicable.
- (2) The chief of police of the city, the chief law enforcement officer of the county, or the Department of Kentucky State Police shall furnish blanks for the reports required by subsection (1) of this section.

Section 259. KRS 227.240 is amended to read as follows:

The chief of each fire department, sheriff, or local deputy marshal ordered under KRS 227.230 shall immediately investigate the origin and circumstances of a fire in his or her area and determine the cause of the fire so far as practicable. If it appears that the fire is of suspicious origin he or she shall immediately notify the state fire marshal and the commissioner of the Department of Kentucky State Police.

Section 260. KRS 227.275 is amended to read as follows:

- (1) The commissioner, Department of Kentucky State Police, may designate officers and employees of the Department of Kentucky State Police to investigate and enforce the provisions against arson and arson related offenses occurring within the state and such officers when duly authorized by the commissioner, Department of Kentucky State Police, shall have the general powers of a peace officer for the prevention of other offenses against the Commonwealth.
- (2) Each arson investigator so appointed shall, before entering upon the discharge of his or her various duties, take an oath before a person authorized to administer oaths to faithfully discharge his or her duties, and the oath shall be subscribed by the person taking it and filed in the records of the department.
- (3) Each of said persons shall give such bond as the commissioner, Department of Kentucky State Police, may designate and with such surety as required by the commissioner, Department of Kentucky State Police, conditioned upon faithful performance of his or her duties.

Section 261. KRS 227.290 is amended to read as follows:

If, after an investigation or examination, the commissioner, Department of Kentucky State Police, believes that the evidence concerning a fire indicates that a crime has been committed he or she shall furnish all data of an evidentiary nature in his or her possession to the county attorney of the county in which the fire took place, or the Commonwealth's attorney in that district, and request that such attorney institute such criminal proceeding as the evidence warrants.

Section 262. KRS 230.310 is amended to read as follows:

Every person not required to be licensed under KRS 230.300 who desires to participate in horse racing in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, shall first apply to the authority for a license to participate in the activity on association grounds during a race meeting. No person required to be licensed by this section may participate in any activity required to be licensed on association grounds during a race meeting without a valid license therefor. An applicant for a license shall submit to the authority fingerprints as may be required and other information necessary and reasonable for processing a license application. The authority is authorized to exchange fingerprint data with the Department of Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of an applicant. The authority may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license are consistent with the best interest of racing and the maintenance of the honesty, integrity, and high quality thereof. A license shall be issued for the calendar year in which it is issued and may be renewed by the authority. The license shall be valid at all horse race meetings in the Commonwealth during the period for which it is issued unless suspended or revoked under the administrative regulations promulgated by the authority under this chapter. With respect to horse owners and trainers, the authority may promulgate administrative regulations to facilitate and promote uniform, reciprocal licensing with other states.

Section 263. KRS 235.310 is amended to read as follows:

- (1) The commissioner of the Department of Fish and Wildlife Resources shall designate officers and employees of the department to enforce the provisions of this chapter and these officers when duly authorized by the commissioner shall have the general powers of a peace officer for the enforcement of other offenses against the Commonwealth. In enforcing the provisions of this chapter, these officers and all other peace officers of the Commonwealth and its subdivisions shall have the right to enter upon all waters of this state, either private or public, for the purpose of inspecting certificate of registration and boat numbering, and shall have the right to enter upon all boats on such waters for the purpose of examining their registration documents and inspect their marine sanitation device to determine if it is the proper kind for the water body where the boat is kept or operated and that the device is properly operating. To conduct the marine sanitation device inspection the department officers and employees may require a motorboat owner to flush a dye through the marine toilet in the presence of the department officers or employees or use other appropriate measures to inspect the device. They may arrest on sight, without warrant, any person detected by them in the act of violating any of the provisions of this chapter. They shall have the same rights as sheriffs to require aid in arresting, with or without process, any person found by them violating any of the provisions of this chapter or other offenses against the Commonwealth.
- (2) The officers designated in subsection (1) of this section shall be authorized to possess and use radio communication equipment capable of receiving and transmitting on state police radio frequency. The Department of Kentucky State Police shall cooperate with the department for the purpose of radio communication of these officers when any assistance is necessary.

Section 264. KRS 237.095 is amended to read as follows:

- (1) Upon receiving notice that a person barred from purchasing a firearm under 18 U.S.C. sec. 922(g)(8) has purchased or

attempted to purchase a firearm, any agency with the responsibility of entering domestic violence records into the Law Information Network of Kentucky shall notify:

- (a) The court in the jurisdiction where the domestic violence order was issued under KRS 403.750; and
 - (b) The law enforcement agencies, as designated by the Department of Kentucky State Police, that have jurisdiction in the county where the domestic violence order was issued and in the county of the victim's residence if different from the county where the domestic violence order was issued.
- (2) The Department of Kentucky State Police shall develop a protocol for providing notice to the required court and law enforcement agencies under subsection (1) of this section. Within the protocol, the Department of Kentucky State Police shall designate which local law enforcement agencies are to receive notice in each county. A minimum of one (1) law enforcement agency shall be designated in each county.
 - (3) When a designated law enforcement agency for the county where the domestic violence order was issued or where the victim resides receives notice under subsection (1)(b) of this section, that agency shall make reasonable efforts to ensure that the petitioner who obtained the domestic violence order is notified that the respondent has purchased or attempted to purchase a firearm.
 - (4) Any person carrying out responsibilities under this section shall be immune from civil liability for good faith conduct in carrying out those responsibilities.
 - (5) This section shall apply only to domestic violence orders issued, or reissued, on or after July 14, 2000, through July 15, 2002.

Section 265. KRS 237.100 is amended to read as follows:

- (1) Upon receipt of notice that a person barred from purchasing a firearm under 18 U.S.C. sec. 922(g)(8) has purchased or attempted to purchase a firearm, the Justice and Public Safety Cabinet shall make a reasonable effort to provide notice to the petitioner who obtained the domestic violence order issued under KRS 403.750 that the respondent to the order has attempted to purchase a firearm. The Justice and Public Safety Cabinet may contract with a private entity in order to provide notification.
- (2) The notification shall be limited to a petitioner who has:
 - (a) Received a domestic violence protective order issued or reissued under KRS 403.750 on or after July 15, 2002;
 - (b) Received a domestic violence protective order that involves a respondent who is prohibited by 18 U.S.C. sec. 922(g)(8) from possessing a firearm; and
 - (c) Provided the Justice and Public Safety Cabinet or the entity with a request for notification.
- (3) Any person carrying out responsibilities under this section shall be immune from civil liability for good faith conduct in carrying out those responsibilities. Nothing in this subsection shall limit liability for negligence.

Section 266. KRS 237.110 is amended to read as follows:

- (1) The Department of Kentucky State Police is authorized to issue and renew licenses to carry concealed firearms or other deadly weapons, or a combination thereof, to persons qualified as provided in this section.
- (2) An original or renewal license issued pursuant to this section shall:
 - (a) Be valid throughout the Commonwealth and, except as provided in this section or other specific section of the Kentucky Revised Statutes or federal law, permit the holder of the license to carry firearms, ammunition, or other deadly weapons, or a combination thereof, at any location in the Commonwealth;
 - (b) Unless revoked as provided by law, be valid for a period of five (5) years from the date of issuance;
 - (c) Authorize the holder of the license to carry a concealed firearm or other deadly weapon, or a combination thereof, on or about his or her person; and
 - (d) Authorize the holder of the license to carry ammunition for a firearm on or about his or her person.
- (3) Prior to the issuance of an original or renewal license to carry a concealed deadly weapon, the Department of Kentucky State Police shall conduct a background check to ascertain whether the applicant is eligible under 18 U.S.C. sec. 922(g) and (n), any other applicable federal law, and state law to purchase, receive, or possess a firearm or ammunition, or both. The background check shall include:
 - (a) A state records check covering the items specified in this subsection, together with any other requirements of this section; and
 - (b) A federal records check, which shall include a National Instant Criminal Background Check System (NICS) check.
- (4) The Department of Kentucky State Police shall issue an original or renewal license if the applicant:
 - (a) Is not prohibited from the purchase, receipt, or possession of firearms, ammunition, or both pursuant to 18 U.S.C. 922(g), 18 U.S.C. 922(n), or applicable state law; and
 - (b) 1. Is a citizen of the United States who is a resident of this Commonwealth and has been a resident for six (6) months or longer immediately preceding the filing of the application; or

2. Is a citizen of the United States who is a member of the Armed Forces of the United States who is on active duty, who is at the time of application assigned to a military posting in Kentucky, and who has been assigned to a posting in the Commonwealth for six (6) months or longer immediately preceding the filing of the application; and
 - (c) Is twenty-one (21) years of age or older; and
 - (d) Has not been committed to a state or federal facility for the abuse of a controlled substance, or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances, within a three (3) year period immediately preceding the date on which the application is submitted; and
 - (e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding the date on which the application is submitted, or having been committed as an alcoholic pursuant to KRS Chapter 222 or similar laws of another state within the three (3) year period immediately preceding the date on which the application is submitted; and
 - (f) Does not owe a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, if the Department of Kentucky State Police has been notified of the arrearage by the Cabinet for Health and Family Services; and
 - (g) Has complied with any subpoena or warrant relating to child support or paternity proceedings. If the Department of Kentucky State Police has not been notified by the Cabinet for Health and Family Services that the applicant has failed to meet this requirement, the Department of Kentucky State Police shall assume that paternity and child support proceedings are not an issue; and
 - (h) Has not been convicted of a violation of KRS 508.030 or 508.080 within the three (3) years immediately preceding the date on which the application is submitted. The commissioner of the Department of Kentucky State Police may waive this requirement upon good cause shown and a determination that the applicant is not a danger and that a waiver would not violate federal law; and
 - (i) Demonstrates competence with a firearm by successful completion of a firearms safety course offered or approved by the Department of Criminal Justice Training. The firearms safety course shall:
 1. Be not more than eight (8) hours in length;
 2. Include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, and handgun marksmanship principles;
 3. Include actual range firing of a handgun in a safe manner, and the firing of not more than twenty (20) rounds at a full-size silhouette target, during which firing, not less than eleven (11) rounds must hit the silhouette portion of the target; and
 4. Include information on and a copy of laws relating to possession and carrying of firearms, as set forth in KRS Chapters 237 and 527, and the laws relating to the use of force, as set forth in KRS Chapter 503.
- (5) A legible photocopy of the certificate of completion issued by the Department of Criminal Justice Training shall constitute evidence of qualification under subsection (4)(i) of this section.
- (6) (a) Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement.
- (b) Current and retired peace officers of the following federal agencies shall be deemed to have met the training requirement:
1. Any peace officer employed by a federal agency specified in KRS 61.365;
 2. Any peace officer employed by a federal civilian law enforcement agency not specified above who has successfully completed the basic law enforcement training course required by that agency;
 3. Any military peace officer of the United States Army, Navy, Marine Corps, or Air Force, or a reserve component thereof, or of the Army Reserve or Air Force Reserve who has successfully completed the military law enforcement training course required by that branch of the military; and
 4. Any member of the United States Coast Guard serving in a peace officer role who has successfully completed the law enforcement training course specified by the United States Coast Guard.
- (7) The application for a license, or renewal of a license, to carry a concealed deadly weapon shall be obtained from the office of the sheriff in the county in which the person resides. The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars (\$60) shall be presented to the office of the sheriff of the county in which the applicant resides. A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020 or a retired

peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees. The sheriff shall transmit the application and accompanying material to the Department of Kentucky State Police within five (5) working days. Twenty dollars (\$20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars (\$20) shall be sent to the Department of Kentucky State Police with the application. Ten dollars (\$10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of Kentucky State Police by administrative regulation which shall only include:

- (a) The name, address, place and date of birth, gender, and Social Security number of the applicant;
 - (b) A statement that, to the best of his or her knowledge, the applicant is in compliance with criteria contained within subsections (3) and (4) of this section;
 - (c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;
 - (d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and
 - (e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.
- (8) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:
- (a) A completed application as described in subsection (7) of this section;
 - (b) A recent color photograph of the applicant, as prescribed by administrative regulation; and
 - (c) A photocopy of a certificate or an affidavit or document as described in subsection (5) of this section.
- (9) The Department of Kentucky State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection (8) of this section, either:
- (a) Issue the license; or
 - (b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (3) or (4) of this section. If the Department of Kentucky State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of Kentucky State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his or her place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.
- (10) The Department of Kentucky State Police shall maintain an automated listing of license holders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky, federal, and other states' law enforcement agencies. A request for the entire list of licensees, or for all licensees in a geographic area, shall be denied. Only requests relating to a named licensee shall be honored or available on-line. Information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of Kentucky State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of Kentucky State Police, shall provide any information not entitled to it by law.
- (11) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss, theft, or destruction of a license, the licensee shall notify the Department of Kentucky State Police of the loss, theft, or destruction. Failure to notify the Department of Kentucky State Police shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25) payable to the clerk of the District Court. No court costs shall be assessed for a violation of this subsection. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of Kentucky State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.
- (12) If a license is lost, stolen, or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars (\$15) to the Department of Kentucky State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of Kentucky State Police that the license has been lost, stolen, or destroyed.
- (13) (a) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall revoke the license of any person who becomes permanently ineligible to be issued a license or have a license renewed under

the criteria set forth in this section.

- (b) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall suspend the license of any person who becomes temporarily ineligible to be issued a license or have a license renewed under the criteria set forth in this section. The license shall remain suspended until the person is again eligible for the issuance or renewal of a license.
 - (c) Upon the suspension or revocation of a license, the commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall:
 - 1. Order any peace officer to seize the license from the person whose license was suspended or revoked; or
 - 2. Direct the person whose license was suspended or revoked to surrender the license to the sheriff of the person's county of residence within two (2) business days of the receipt of the notice.
 - (d) If the person whose license was suspended or revoked desires a hearing on the matter, the person shall surrender the license as provided in paragraph (c)2. of this subsection and petition the commissioner of the Department of Kentucky State Police to hold a hearing on the issue of suspension or revocation of the license.
 - (e) Upon receipt of the petition, the commissioner of the Department of Kentucky State Police shall cause a hearing to be held in accordance with KRS Chapter 13B on the suspension or revocation of the license. If the license has not been surrendered, no hearing shall be scheduled or held.
 - (f) If the hearing officer determines that the licensee's license was wrongly suspended or revoked, the hearing officer shall order the commissioner of the Department of Kentucky State Police to return the license and abrogate the suspension or revocation of the license.
 - (g) Any party may appeal a decision pursuant to this subsection to the District Court in the licensee's county of residence in the same manner as for the denial of a license.
 - (h) If the license is not surrendered as ordered, the commissioner of the Department of Kentucky State Police shall order a peace officer to seize the license and deliver it to the commissioner.
 - (i) Failure to surrender a suspended or revoked license as ordered is a Class A misdemeanor.
 - (j) The provisions of this subsection relating to surrender of a license shall not apply if a court of competent jurisdiction has enjoined its surrender.
 - (k) When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.
- (14) (a) Not less than one hundred twenty (120) days prior to the expiration date of the license, the Department of Kentucky State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of Kentucky State Police. The outside of the envelope containing the license renewal notice shall bear only the name and address of the applicant. No other information relating to the applicant shall appear on the outside of the envelope sent to the applicant. The licensee may renew his or her license on or before the expiration date by filing with the sheriff of his or her county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (3) and (4) of this section, and the required renewal fee. The sheriff shall issue to the applicant a receipt for the application for renewal of the license and shall date the receipt.
- (b) A license which has expired shall be void and shall not be valid for any purpose other than surrender to the sheriff in exchange for a renewal license.
 - (c) The license shall be renewed to a qualified applicant upon receipt of the completed renewal application, records check as specified in subsection (3) of this section, determination that the renewal applicant is not ineligible for a license as specified in subsection (4), and appropriate payment of fees. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his or her license by paying, in addition to the license fees, a late fee of fifteen dollars (\$15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (7), (8), and (9) of this section.
- (15) The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the clerk of the District Court, but

no court costs shall be assessed.

- (16) Except as provided in KRS 527.020, no license issued pursuant to this section shall authorize any person to carry a concealed firearm into:
- (a) Any police station or sheriff's office;
 - (b) Any detention facility, prison, or jail;
 - (c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;
 - (d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he or she is a member;
 - (e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;
 - (f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;
 - (g) An area of an airport to which access is controlled by the inspection of persons and property; or
 - (h) Any place where the carrying of firearms is prohibited by federal law.
- (17) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice and Public Safety Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.
- (18) All moneys collected by the Department of Kentucky State Police pursuant to this section shall be used to administer the provisions of this section and KRS 237.138 to 237.142. By March 1 of each year, the Department of Kentucky State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070.
- (19) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of Kentucky State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to carry out the constitutional right to bear arms for self-defense.
- (20) (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his or her license shall be considered as valid in Kentucky.
- (b) The Department of Kentucky State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every six (6) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of Kentucky State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly

weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of Kentucky State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each six (6) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.

- (21) By March 1 of each year, the Department of Kentucky State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.
- (22) The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to this section:
- (a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;
 - (b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;
 - (c) The department shall not require prior notification that an applicant class or instructor class will be conducted by a certified instructor or instructor trainer;
 - (d) Each concealed deadly weapon instructor or instructor trainer who teaches a concealed deadly weapon applicant or concealed deadly weapon instructor class shall supply the Department of Criminal Justice Training with a class roster indicating which students enrolled and successfully completed the class, and which contains the name and address of each student, within five (5) working days of the completion of the class. The information may be sent by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the information. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent. Concealed deadly weapon class applicant, instructor, and instructor trainer information and records shall be confidential. The department may release to any person or organization the name, address, and telephone number of a concealed deadly weapon instructor or instructor trainer if that instructor or instructor trainer authorizes the release of the information in writing. The department shall include on any application for an instructor or instructor trainer certification a statement that the applicant either does or does not desire the applicant's name, address, and telephone number to be made public;
 - (e) An instructor trainer who assists in the conduct of a concealed deadly weapon instructor class or concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her certification. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon instructor or concealed deadly weapon class;
 - (f) An instructor who assists in the conduct of a concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her license. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon class;
 - (g) If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant class by not teaching the class as specified in KRS 237.126, or who has taught an insufficient class as specified in KRS 237.128, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer "yes" or "no" to specific questions regarding the conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than forty-five (45) days after its receipt. A person who fails to complete the form, to sign the form, or to return the form to the Department of Criminal Justice Training within the time frame specified in this section or who, as a result of information on the returned form, is determined by the Department of Criminal Justice Training, following a hearing pursuant to KRS Chapter 13B, to not have received the training required by law shall have his or her concealed deadly weapon license revoked by the Department of Kentucky State Police, following a hearing conducted by the Department of Criminal Justice

Training pursuant to KRS Chapter 13B, at which hearing the person is found to have violated the provisions of this section or who has been found not to have received the training required by law;

- (h) The department shall annually, not later than December 31 of each year, report to the Legislative Research Commission:
 - 1. The number of firearms instructor trainers and certified firearms instructors whose certifications were suspended, revoked, denied, or who were otherwise disciplined;
 - 2. The reasons for the imposition of suspensions, revocations, denials, or other discipline; and
 - 3. Suggestions for improvement of the concealed deadly weapon applicant training program and instructor process;
- (i) If a concealed deadly weapon license holder is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon license shall be forthwith revoked by the Department of Kentucky State Police as a matter of law;
- (j) If a concealed deadly weapon instructor or instructor trainer is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon instructor certification or concealed deadly weapon instructor trainer certification shall be revoked by the Department of Criminal Justice Training as a matter of law; and
- (k) The following shall be in effect:
 - 1. Action to eliminate the firearms instructor trainer program is prohibited. The program shall remain in effect, and no firearms instructor trainer shall have his or her certification reduced to that of certified firearms instructor;
 - 2. The Department of Kentucky State Police shall revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations, or who received insufficient training as required by KRS 237.128 and administrative regulations, if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of insufficient training is proven following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B.

Section 267. KRS 237.130 is amended to read as follows:

- (1) A person is guilty of failure to report nonreceipt of firearms training when he or she receives certification that he or she has successfully completed a firearms instructor trainer, certified firearms instructor, or applicant training course and has not, in fact, received any such training and has not reported the matter in writing to the sheriff, Commonwealth's attorney, or county attorney serving the county in which the training was conducted or has not made a written report to the Department of Kentucky State Police and provided a copy of the certification documents to the agency reported to along with the report. The report shall be made not more than thirty (30) working days after receiving documentation of successful completion of training, unless a request for additional time has been made and has been granted by an officer or agency to which the report shall be made.
- (2) Failure to report nonreceipt of firearms training is a Class A misdemeanor.
- (3) A person who makes a report pursuant to this section within the time frame specified in subsection (1) of this section shall not be prosecuted for a violation of this section and shall be eligible to reenroll in the level of class for which they were originally enrolled.

Section 268. KRS 237.132 is amended to read as follows:

- (1) A person is guilty of failure to report insufficient firearms training when he or she receives certification that he or she has successfully completed a firearms instructor trainer, certified firearms instructor, or applicant training course and has not, in fact received lecture instruction, the showing of a required visual aid, hands-on firearm safety and cleaning training, range instruction and range firing, or has not successfully completed the marksmanship requirement during range firing and has not reported the matter in writing to the sheriff, Commonwealth's attorney, or county attorney serving the county in which the training was conducted or has not made a written report to the Department of Kentucky State Police and provided a copy of the certification documents to the agency reported to along with the report. The report shall be made not more than thirty (30) working days after receiving documentation of successful completion of training, unless additional time is requested and has been granted by an officer or agency to which a report shall be made.
- (2) Failure to report insufficient firearms training is a Class A misdemeanor.
- (3) A person who makes a report pursuant to this section within the time frame specified in subsection (1) of this section shall not be prosecuted for a violation of this section and shall be eligible to reenroll in the level of class for which the person was originally enrolled.

Section 269. KRS 237.134 is amended to read as follows:

- (1) When a report is made to the Department of Kentucky State Police pursuant to KRS 237.130 or 237.132, the Department of Kentucky State Police shall notify the Commonwealth's attorney and the county attorney for the county in which the training was conducted of the report and shall cooperate with them in the investigation and prosecution of the case.

- (2) When a report is made to a Commonwealth's or county attorney pursuant to KRS 237.130 or 237.132, the Commonwealth's or county attorney shall notify the Department of Kentucky State Police of the report and shall cooperate with them in the investigation and prosecution of the case.
- (3) When a report is made to the Department of Criminal Justice Training alleging a violation of KRS 237.130 or 237.132, the department shall notify the Commonwealth's attorney and county attorney of the county in which the training took place and shall make a notification of the report to the Department of Kentucky State Police.
- (4) The Department of Kentucky State Police shall make an annual report to the Legislative Research Commission, not later than December 31 of each year, detailing each notice received pursuant to this section detailing:
 - (a) The name of the firearms instructor trainer or certified firearms instructor if that instructor trainer or instructor has been arrested or indicted as a result of the notification, otherwise the name shall be omitted;
 - (b) The precise allegation;
 - (c) Whether the allegation resulted in arrest or indictment;
 - (d) Whether the allegation resulted in a trial, and the results of that trial; and
 - (e) If the defendant was found guilty, the punishment imposed.
- (5) In or appended to the report specified in subsection (4) of this section the Department of Kentucky State Police shall report the number of arrests, indictments, trials, convictions, cases which were dismissed, and cases in which the defendant was found not guilty for failure to report nonreceipt of training and failure to report insufficient training.

Section 270. KRS 237.140 is amended to read as follows:

- (1)
 - (a) Certification for a retired peace officer to carry a concealed deadly weapon pursuant to KRS 237.138 to 237.142 shall be administered by the Department of Kentucky State Police.
 - (b) Costs of certification shall be paid for by moneys generated by the concealed deadly weapon license program under KRS 15.383 and collected by the Department of Kentucky State Police pursuant to that section.
 - (c) The Department of Kentucky State Police shall promulgate administrative regulations in accordance with KRS Chapter 13A necessary to implement the provisions of KRS 237.138 to 237.142.
- (2) Each retired peace officer who desires certification to carry a concealed deadly weapon shall annually submit:
 - (a) Evidence of retired status to the commissioner of the Department of Kentucky State Police together with all information required by federal law, this section, and administrative regulations promulgated pursuant to this section;
 - (b) Evidence of successful completion of firearms qualification required under this section; and
 - (c) A notarized statement that he or she is not prohibited by state or federal law from possessing a firearm.
- (3) Each law enforcement agency that employed the retired peace officer, or at which the retired peace officer served in an elected capacity, shall provide to the retired officer and the Department of Kentucky State Police the information required by federal law, this section, and the administrative regulations promulgated pursuant to this section in a prompt and efficient manner, without charge either to the Department of Kentucky State Police or the retiree.
- (4)
 - (a) Each retired peace officer shall annually fire twenty (20) rounds at an adult size silhouette target at a range of twenty-one (21) feet, with a handgun, and shall hit the target not less than eleven (11) times to obtain or maintain certification under KRS 237.138 to 237.142.
 - (b) The rounds fired pursuant to paragraph (a) of this subsection shall be done under the supervision of:
 1. A firearms instructor of the retiree's former employing agency;
 2. A Department of Criminal Justice Training certified police firearms instructor or instructor trainer; or
 3. A Department of Criminal Justice Training certified concealed carry instructor or instructor trainer.
 - (c) A firearms instructor may, if not compensated pursuant to paragraph (d) of this subsection, charge each participant a fee of not more than twenty dollars (\$20), which shall include the cost of the range, firearms instructor, range personnel, targets, and all other costs associated therewith, but not the cost of ammunition. Ammunition, or the cost of ammunition, shall be provided by the retiree.
 - (d) A local or state law enforcement agency that desires to conduct firearms qualification for its retirees shall schedule not less than two (2) dates for firearms qualification per year, and those dates shall be approximately six (6) months apart. The local or state law enforcement agency may charge each participant a fee of not more than twenty dollars (\$20), which shall include the cost of use of the range, firearms instructor, range personnel, targets, and all other costs associated therewith, but not the cost of ammunition. Ammunition, or the cost of ammunition, shall be provided by the retiree.
 - (e) No employer or appointing authority of a firearms instructor, Department of Criminal Justice Training certified police firearms instructor or instructor trainer, or Department of Criminal Justice Training certified concealed carry instructor or instructor trainer shall prohibit or in any way limit the instructor from qualifying active or retired peace officers in conformity with KRS 237.138 or 237.142 while that instructor is off duty. No employer or

appointing authority of an instructor specified in this paragraph shall be liable in civil damages for the actions or omissions of the instructor during qualification of active or retired peace officers when that instructor is off duty.

Section 271. KRS 237.142 is amended to read as follows:

- (1) The following agencies of the Commonwealth shall make range facilities available not less than four (4) days per year for firearms qualification by retired peace officers seeking certification pursuant to the provisions of KRS 237.138 to 237.142:
 - (a) The Justice and Public Safety Cabinet;
 - (b) The Department of Military Affairs; and
 - (c) The Department of Fish and Wildlife Resources.
- (2) Firearms qualification may be conducted at any location, public or private, at which a handgun may be safely fired. The safety of the location at which firing takes place shall be the responsibility of the instructor conducting the qualification.

Section 272. KRS 238.525 is amended to read as follows:

- (1) Licenses shall be issued by the office on an annual or biennial basis, except as otherwise permitted in KRS 238.530 and 238.545. A license term may be determined by the office in any manner it deems appropriate to facilitate efficient licensing. The office shall charge a renewal fee not to exceed the maximum amounts established in KRS 238.530, 238.535, and 238.555.
- (2) The office may issue a temporary license to an applicant who has met the requirements for a license. A temporary license shall be valid from the date of issuance until the regular license is issued or for a period of sixty (60) days, whichever is shorter. A temporary license shall not be renewed, except for good cause and shall not exceed a total of nine (9) months in length.
- (3) An applicant for any license to be issued under KRS 238.530 and 238.555 shall be subjected to a state and national criminal history background check by the office, with the assistance of the Department of Kentucky State Police and the Federal Bureau of Investigation. An applicant for any license to be issued under KRS 238.535 shall be subjected to a state criminal history background check and may, if deemed reasonably necessary, be subjected to a national criminal history background check by the office with the assistance of the Department of Kentucky State Police and the Federal Bureau of Investigation. The criminal history background check shall apply to the chief executive officer and the chief financial officer or director of an applicant; any employee or member of an applicant who has been designated as chairperson of the charitable gaming activity; the applicant itself; and any individual with a ten percent (10%) or more financial interest in the applicant. The office shall require the fingerprinting of all applicants for licensure under KRS 238.530 and 238.555 and may require, if deemed reasonably necessary, the fingerprints of all applicants for licensure under KRS 238.535, who are natural persons in connection with the national criminal history background check to assure the identity of the applicant or applicants. The office may charge a reasonable fee not to exceed the actual cost of fingerprinting and records searching.
- (4) No applicant shall be licensed and no license holder shall be able to maintain a license if an individual associated with the applicant or license holder in a capacity listed in subsection (3) of this section or the applicant or license holder itself has been convicted of a felony, gambling offense, criminal fraud, forgery, theft, falsifying business records, violation of KRS 238.995(7), or any two (2) misdemeanor crimes in federal court or the courts of any state, the District of Columbia, or any territory, consistent with the provisions of KRS Chapter 335B within ten (10) years preceding the application for licensure.
- (5) No applicant shall be licensed unless all applicants required to be fingerprinted under the provision of subsection (3) of this section have been fingerprinted. The Department of Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for the national criminal history background check. The office may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. 92-544.
- (6) If a change occurs in any information submitted during the license application process, the applicant or licensee shall notify the office in writing within thirty (30) days of the date the change occurred.

Section 273. KRS 244.190 is amended to read as follows:

Any peace officers, state administrators, and field representatives of the office may, upon probable cause, without warrant seize contraband regardless of whether it is in dry territory or not, and hold it subject to the order of the court before which the owner or one in possession of the contraband has been charged with violation of KRS Chapter 242 or KRS 243.020. Upon conviction of the defendant, the court shall enter an order for the destruction of all contraband property, except firearms or ammunition, included in subsections (1), (2), (3), (4), and (5) of KRS 244.180. Contraband firearms and ammunition shall be transferred to the Department of Kentucky State Police for disposition as provided in KRS 500.090.

Section 274. KRS 244.195 is amended to read as follows:

- (1) Title to contraband included in subsections (1), (2), (3), (4), and (5) of KRS 244.180 seized shall be vested in the appropriate court within whose jurisdiction the seizure occurred, irrespective of whether such contraband was seized by peace officers of the city or county or state administrators or field representatives of the office, notwithstanding the provisions of KRS 242.380.
- (2) The court shall order the sheriff for the county in which such contraband as included in subsection (1) of this section was seized to destroy such contraband, except firearms or ammunition, upon conviction of the defendant.
- (3) Contraband firearms and ammunition shall be transferred to the Department of Kentucky State Police for disposition as

provided in KRS 500.090.

Section 275. KRS 247.150 is amended to read as follows:

The State Fair Board may arrange with the county judge/executive or the officer that has charge of the police force of any county or city in which the state fair is held, for the proper policing of the state fairgrounds, and may arrange with the state for the policing of the state fairgrounds by the Department of Kentucky State Police. The State Fair Board may arrange with the mayor or the officer that has charge of the police force of any county or city in which the exhibition center is located for the proper policing of the exhibition center, and may arrange with the state for the policing of the exhibition center by the Department of Kentucky State Police. If the State Fair Board is unable to arrange with a city, county or state authority for police protection, it may appoint, or may delegate to any agent or employee the power to appoint, subject to the approval of the State Fair Board, necessary special police to properly police the state fairgrounds and exhibition center. Such police officers are vested with the powers and charged with the duties of peace officers.

Section 276. KRS 248.764 is amended to read as follows:

- (1) KRS 248.752 and 248.754 shall be enforced by the Attorney General, but at the request of the Attorney General or the Attorney General's duly authorized agent, the Department of Kentucky State Police and all local police authorities shall enforce KRS 248.752 and 248.754. The Attorney General has concurrent powers with prosecuting attorneys of the Commonwealth to enforce KRS 248.754 or 248.756.
- (2) For the purpose of enforcing KRS 248.754 and 248.756, the Attorney General and any agency that the Attorney General shall have delegated enforcement responsibility under subsection (1) of this section may request information from any state or local agency and may share information with and request information from any federal agency and any agency of any other state or any local agency of that state.

Section 277. KRS 260.853 is amended to read as follows:

- (1) The Department of Agriculture shall promote the research and development of markets for Kentucky industrial hemp and hemp products after the selection and establishment of the industrial hemp research program and the Industrial Hemp Commission, and provided that adequate funds are available for these purposes from the industrial hemp program fund. The department shall work cooperatively with selected Kentucky university or universities' agricultural research programs utilizing the expertise of the university or universities in the area of agricultural research.
- (2) The Council on Postsecondary Education shall select a university or universities where the industrial hemp research program is to be established, after proposals are considered from all interested universities with agriculture departments in Kentucky.
- (3) The selected institutions' industrial hemp research program shall undertake research of industrial hemp production in the state. The department shall assist the industrial hemp research program in obtaining the necessary federal permits from the United States Drug Enforcement Agency or appropriate federal agency. In undertaking the industrial hemp research program, the university or universities are authorized to:
 - (a) Grow industrial hemp to conduct agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of industrial hemp for commercial products, including, but not limited to, hemp seed, paper, clothing, and oils;
 - (b) Conduct seed research on various types of industrial hemp that are best suited to be grown in Kentucky, including but not limited to seed availability, creation of Kentucky hybrid types, in-the-ground, variety trials and seed production;
 - (c) Study the economic feasibility of developing an industrial hemp market in various types of industrial hemp that can be grown in the Commonwealth;
 - (d) Report on the estimated value-added benefits, including environmental benefits, that Kentucky businesses would reap by having an industrial hemp market of Kentucky-grown industrial hemp varieties in the Commonwealth;
 - (e) Study the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and utilization;
 - (f) Research and promote Kentucky industrial hemp and hemp seed on the world market that can be grown on farms in the Commonwealth; and
 - (g) Study the feasibility of attracting private funding for the Kentucky industrial hemp research program.
- (4) The authorization granted in subsection (3) of this section shall not subject the industrial hemp research program or the selected university or universities where it is located to any criminal liability under the controlled substances laws of the Commonwealth. This exemption from criminal liability is a limited exemption that shall be strictly construed and that shall not apply to any activities of the industrial hemp research program or the selected university or universities that are not expressly permitted in the authorization.
- (5) The authorization granted in subsection (3) of this section shall not alter, amend, or repeal by implication any provision of the Kentucky Revised Statutes relating to controlled substances.
- (6) The selected university or universities of the industrial hemp research program shall notify the headquarters of the Department of Kentucky State Police, the local barracks of the Department of Kentucky State Police, and all other local

law enforcement agencies of the duration, size, and location of all industrial hemp plots.

- (7) The Commissioner and the university or universities may cooperatively seek funds from both public and private sources to implement this section. The funds shall be deposited into the industrial hemp program fund.
- (8) By October 1, 2001, and annually thereafter, the university or universities shall report on the status and progress of the industrial hemp research program authorized by this section to the Commissioner, the Industrial Hemp Commission, and the Interim Joint Committee on Agriculture and Natural Resources.

Section 278. KRS 260.857 is amended to read as follows:

The Kentucky Industrial Hemp Commission is created and is attached to the Department of Agriculture for administrative purposes. The membership of the commission shall consist of at least seventeen (17) members as follows:

- (1) The Speaker of the House of Representatives or the Speaker's designee;
- (2) The President of the Senate or the President's designee;
- (3) The chair of the Senate Agriculture and Natural Resources Committee;
- (4) The chair of the House Agriculture and Small Business Committee;
- (5) The Commissioner of the Department of Agriculture or the Commissioner's designee;
- (6) The commissioner of the Department of Kentucky State Police or the commissioner's designee;
- (7) The executive director of the Governor's Office of Agricultural Policy or the executive director's designee;
- (8) The chairs of the agriculture departments at the Kentucky university or universities where the industrial hemp research program is to be established;
- (9) The president of the Kentucky Hemp Growers Cooperative Association;
- (10) The president of the Kentucky Sheriffs' Association;
- (11) The president of the Kentucky Association of Chiefs of Police; and
- (12) Six (6) members, three (3) appointed by the Speaker of the House and three (3) by the President of the Senate, representing the following interests:
 - (a) Kentucky farmers with an interest in growing industrial hemp;
 - (b) Retailers of industrial hemp products;
 - (c) Wholesalers of industrial hemp products; and
 - (d) Manufacturers of industrial hemp products.

Section 279. KRS 281.755 is amended to read as follows:

- (1) ~~The commissioner and representatives of the~~ Department of Kentucky State Police and the Department of Kentucky Vehicle Enforcement may at any time or place make an inspection of any motor vehicle operating under the provisions of this chapter. They may enter into and upon any such motor vehicle for the purpose of ascertaining whether or not any provision of this chapter or any order or rule or regulation of the department relating to such motor vehicles has been violated. Willful refusal to stop any such motor vehicle, when ordered to do so by any representative of the Department of Kentucky State Police or the Department of Kentucky Vehicle Enforcement, or to permit the representative to enter into or upon the motor vehicle for the purpose of inspection, shall be sufficient ground for the revocation or suspension of the certificate or permit of the motor carrier.
- (2) In the event that a peace officer orders a commercial motor vehicle to be taken to a storage or impoundment facility as a result of a violation which requires the vehicle to be moved, the driver of the commercial motor vehicle shall be granted the ability to drive the commercial motor vehicle to the storage or impoundment facility. If the driver elects to drive to the storage or impoundment facility, a peace officer shall escort the vehicle to the facility. This subsection shall not apply if the commercial motor vehicle is required to be impounded as a result of a violation of KRS 281A.210, an out-of-service order as defined in KRS 281A.010(26), or a serious traffic violation as defined in KRS 281A.010(29).

Section 280. KRS 281.757 is amended to read as follows:

- (1) As used in this section:
 - (a) "Lights" means the lighting devices required on commercial vehicles having a declared gross weight in excess of ten thousand (10,000) pounds in accordance with 49 C.F.R. Part 393 and 49 C.F.R. Part 571; and
 - (b) "Reflectors" means the reflex reflectors and retroreflective sheeting required on commercial vehicles having a declared gross weight in excess of ten thousand (10,000) pounds in accordance with 49 C.F.R. Part 393.
- (2) A person shall not operate a commercial motor vehicle if the lights or reflectors are inoperable, missing, or are obscured by dirt, mud, or other debris.
- (3) Law enforcement officers ~~and the Transportation Cabinet~~ shall enforce violations of this section.

Section 281. KRS 281.770 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:

- (1) The Department of Kentucky Vehicle Enforcement is hereby created as a separate department within the Justice and

Public Safety Cabinet.

- (2) The department shall be headed by a commissioner who shall report directly to the Secretary of the Justice and Public Safety Cabinet. The commissioner may commission employees of the department as peace officers for the purpose of enforcing the provisions of KRS Chapter 281. The Department of Kentucky Vehicle Enforcement shall also have the authority to enforce all other state laws and administrative regulations as directed by the Governor or secretary of the Justice and Public Safety Cabinet. Peace officers of the department shall also enforce vehicle licensure, and motor vehicle operator, traffic, and criminal law violations on a highway. Additional jurisdiction may be established by agreement with the chief of police of the municipality or sheriff of the county or the appropriate law enforcement agency in which such highway is located, dependent upon the jurisdiction involved.
- (3) Officers of the department may exercise their powers away from the locations described in subsection (2) of this section only upon the following conditions:
- (a) When in hot pursuit of an actual or suspected violator of the law;
 - (b) When authorized to do so pursuant to the agreement authorized by subsection (2) of this section;
 - (c) When requested to act by the chief of police of the city or county in which the highway is located;
 - (d) When requested to act by the sheriff of the county in which the highway is located;
 - (e) When requested to act by the commissioner of the Department of Kentucky State Police;
 - (f) When requested to act by the authorized delegates of those persons or agencies listed in paragraphs (c), (d), or (e) of this subsection;
 - (g) When requested to assist a state, county, or municipal police officer, sheriff, or other peace officer in the performance of his lawful duties, or if it appears that the peace officer is unable to request emergency assistance and the circumstances observed by the officer reasonably indicate that emergency assistance is appropriate;
 - (h) When necessary to protect the life or property of the officer or another person from imminent threat of physical harm; or
 - (i) When operating under an interlocal cooperation agreement pursuant to KRS Chapter 65.
- (4) Officers commissioned by the department shall have, in addition to the other powers enumerated in this section, the power to conduct investigations anywhere in this Commonwealth, provided such investigation relates to criminal offenses or violations which occurred on a highway. Where desirable and at the discretion of the commissioner or his or her designee, the department may coordinate these investigations with any law enforcement agency of this Commonwealth or with agencies of the federal government.
- (5) An officer of the department that renders any assistance pursuant to subsection (3) of this section shall be considered performing regular employment for the purpose of compensation, pension, workers' compensation, and other rights and benefits to which the officer may be entitled as incident to regular employment.
- (6) Nothing in this section shall be construed as a diminution or modification of the authority or responsibility of any city or county police department, the Department of Kentucky State Police, a sheriff, a constable, or other peace officer on a highway in their jurisdiction or otherwise.
- (7) The primary responsibility of the department shall be the enforcement of federal, state, and local motor carrier, and for-hire carrier laws, administrative regulations, and ordinances.
- (8) The Department of Kentucky Vehicle Enforcement shall have the following divisions:
- (a) Division of Field Operations East;
 - (b) Division of Field Operations West;
 - (c) Division of Special Operations; and
 - (d) Division of Administrative Services~~[The commissioner, Department of State Police, is hereby authorized to issue commissions to employees of the department as law enforcement officers, and such employees when so commissioned shall have all the powers of peace officers in respect to the enforcement of this chapter and all the statutes and regulations relating to motor vehicles operated as private or for hire carriers.~~
- (2) ~~Peace officers commissioned as provided herein may be assigned additional duties in enforcing other provisions of law for specified limits of time during an emergency or time of special needs as determined by the commissioner in his discretion].~~
- Section 282. KRS 281.771 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:
- (1) For the purposes of this section, the term "commissioner" means the commissioner of the Department of ~~Kentucky~~Kentucky ~~Motor Vehicle Enforcement~~Regulation.
 - (2) An employee commissioned pursuant to the provisions of Section 281 of this Act~~[KRS 281.770]~~ shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.
 - (3) Any person may prefer charges against a commissioned employee.
 - (4) A charge shall be:

- (a) In writing;
- (b) Filed with the office of the commissioner;
- (c) Signed by the person making the complaint; and
- (d) Set out with clarity and distinction.
- (5) (a) The commissioner shall review the charges.
- (b) If the commissioner determines that there is probable cause, he shall file charges against a commissioned employee whom he believes is guilty of misconduct that justifies his removal or discipline.
- (6) Within five (5) days of the filing of the charges, the commissioner shall:
 - (a) Personally deliver a copy of the charges to the commissioned employee; or
 - (b) Send a copy of the charges to the commissioned employee by certified mail, return receipt requested.
- (7) Within five (5) days of receipt of the charges, the commissioned employee may:
 - (a) Demand an administrative hearing; or
 - (b) Admit the truth of the charges in whole or in part.
- (8) If the commissioned employee admits the truthfulness of the charges, the commissioner shall dismiss, demote, suspend, or otherwise penalize the employee as warranted by the seriousness of the charges.
- (9) If the commissioned employee denies the charges and demands a hearing within the time specified in subsection (7) of this section, he shall notify the commissioner in writing.
- (10) Upon receipt of the demand for hearing, the commissioner shall arrange for an administrative hearing before a trial board to be constituted as provided in Section 283 of this Act [KRS 281.772]. The hearing shall be conducted in accordance with KRS Chapter 13B.
- (11) (a) If the commissioner has probable cause to believe that a commissioned employee is guilty of misconduct, he may immediately suspend the employee from duty, or from both pay and duty, pending trial.
- (b) If an employee is suspended, he shall not be returned to duty or be paid until a final order is rendered by the trial board.
- (12) After hearing the charges, the trial board shall fix the punishment of a commissioned employee found guilty of one (1) or more charges, by:
 - (a) Reprimand;
 - (b) Suspension for a period not to exceed six (6) months;
 - (c) Reducing the grade if the commissioned employee's classification warrants it;
 - (d) Combining any two (2) or more of the punishments;
 - (e) Reducing the monthly salary of the commissioned employee by not more than twenty percent (20%) for not more than six (6) months; or
 - (f) Dismissing him from the service of the department.

Section 283. KRS 281.772 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:

- (1) For the purpose of hearing charges against any commissioned employee, there is created a trial board, which shall consist of the commissioner of the Department of Kentucky Vehicle Enforcement and a panel of ten (10) commissioned employees appointed by the commissioner. The commissioner shall designate from the panel not less than three (3) nor more than seven (7) members to hear charges against any commissioned employee. Hearings before the trial board shall be conducted in accordance with KRS Chapter 13B.
- (2) The commissioned employees appointed to the trial board shall:
 - (a) Fulfill the duties of the board in addition to their other duties; and
 - (b) Be reimbursed for travel and necessary expenses pursuant to the provisions of KRS 18A.200.
- (3) (a) A defendant may, for cause, challenge the right of any member of the trial board to hear charges against him.
- (b) If the other members of the trial board determine that the challenge is justifiable, the trial board member in question shall be:
 - 1. Excused from hearing the charges, and
 - 2. Replaced by another member of the trial board.
- (4) The rights conferred upon a commissioned employee by this section shall not accrue until he has been employed for a period of one (1) year.
- (5) No commissioned employee is entitled to a hearing as provided in this section unless his suspension is for more than twenty (20) days, or his pay is reduced more than ten percent (10%); but if the employee receives more than twenty (20) days suspension or a reduction in salary of more than ten percent (10%) within a period of one (1) year, he shall have the

right to a hearing.

- (6) The dismissal, demotion, suspension, or other penalization of a noncommissioned employee shall comply with the provisions of KRS 18A.095 and 18A.100.
- (7) Any commissioned employee found guilty by the trial board of any charge under the provisions of Section 282 of this Act ~~[KRS 281.771]~~ shall have the right to appeal to Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 284. KRS 281.880 is amended to read as follows:

- (1) The Department of Vehicle Regulation in the Transportation Cabinet shall establish a motor carrier safety management audit program applicable to private or for-hire, intrastate or interstate motor carriers. The Department of Kentucky Vehicle Enforcement may perform safety inspections on vehicles operated by a motor carrier on public highways and may enter onto property owned, leased, controlled, or operated by a motor carrier to inspect any of its vehicles or inspect or copy records relating to vehicle safety, maintenance, or financial responsibility.
- (2) The department may issue motor carrier safety ratings to any private or for-hire motor carrier which is based in Kentucky, has a terminal in Kentucky, or operates consistently in Kentucky. The safety rating scale and factors determining a carrier's safety rating shall be established by administrative regulation and shall be compatible with the scale and factors established by the Federal Highway Administration in Title 49 of the United States Code of Federal Regulations, Part 385, relating to safety ratings, in effect as of July 13, 1990, or as amended after that date.
- (3) The department may determine the safety fitness of a motor carrier and may require the maintenance of or upgrade to a satisfactory safety rating.

Section 285. KRS 281A.010 is amended to read as follows:

- (1) "Alcohol" means:
 - (a) Beer, ale, port, or stout and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percentum (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;
 - (b) Wine of not less than one-half of one percentum (0.5%) of alcohol by volume; or
 - (c) Distilled spirits, which means that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced; or
 - (d) Any substance containing ethyl alcohol, hydrated oxide of ethyl, spirit of wine, or any distilled spirits including, but not limited to, ethanol, methanol, propanol, and isopropanol.
- (2) "Alcohol concentration" means:
 - (a) The number of grams of alcohol per one hundred (100) milliliters of blood;
 - (b) The number of grams of alcohol per two hundred ten (210) liters of breath; or
 - (c) The number of grams of alcohol per sixty-seven (67) milliliters of urine.
- (3) "Cabinet" means the Transportation Cabinet of the Commonwealth of Kentucky.
- (4) "Commerce" means:
 - (a) Any trade, traffic, or transportation within the jurisdiction of the United States between a place in a state and a place outside of the state, including a place outside of the United States; and
 - (b) Trade, traffic, and transportation in the United States that affects any trade, traffic, and transportation described in paragraph (a) of this subsection.
- (5) "Commercial driver's license," or CDL, means a license issued to an individual in accordance with the requirements of this chapter or, if the license is issued by another state in accordance with the Federal Commercial Motor Vehicle Safety Act, to an individual that authorizes the individual to drive any class of commercial motor vehicle.
- (6) "Commercial driver's license information system" or CDLIS means the national information system established to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.
- (7) "Commercial driver's instruction permit" means a permit issued pursuant to KRS 281A.120.
- (8) "Commercial motor vehicle," or CMV, means a motor vehicle or combination motor vehicle used in commerce that is:
 - (a) Designed to carry property and has a gross vehicle weight rating as determined by federal regulation which has been adopted into cabinet administrative regulations pursuant to KRS Chapter 13A;
 - (b) Designed to transport sixteen (16) or more passengers, including the driver;
 - (c) Transporting hazardous materials and is required to be placarded in accordance with Title 49, Code of Federal Regulations, Part 172; or
 - (d) Any other vehicle that is required by cabinet administrative regulation, pursuant to KRS Chapter 13A, to be operated by a licensed commercial driver.
- (9) "Controlled substance" means any substance so classified under Section 102(6) of the Controlled Substances Act, 21 U.S.C. sec. 802(6), and includes all substances listed on Schedules I through V, of Title 21, Code of Federal Regulations,

Part 1308, as adopted by the Transportation Cabinet by administrative regulation pursuant to KRS Chapter 13A. It shall also include those substances defined or listed in KRS Chapter 218A.

- (10) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or Alford plea entered and accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
- (11) "Disqualification" means any of the following actions:
 - (a) The suspension, revocation, or cancellation of a CDL by the Commonwealth or the jurisdiction of issuance;
 - (b) Any withdrawal of a person's privilege to drive a commercial motor vehicle by the Commonwealth or another jurisdiction as a result of a violation of state or local law relating to motor vehicle traffic control, other than parking, vehicle weight, or vehicle defect violations; or
 - (c) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. pt. 391.
- (12) "Drive" means to drive, operate, or be in physical control of a motor vehicle.
- (13) "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license.
- (14) "Driver's license" means a license issued by a state to an individual that authorizes the individual to drive a motor vehicle.
- (15) "Employee" means any operator of a commercial motor vehicle, including full-time, regularly employed drivers; casual, intermittent, or occasional drivers; leased drivers and independent, owner-operator contractors while in the course of operating a commercial motor vehicle who are either directly employed by, under lease to, or operating in a manner indicating employment to an employer.
- (16) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.
- (17) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one (1) year.
- (18) "Gross combination weight rating," or GCWR, is the gross vehicle weight rating of power unit plus the gross vehicle weight rating of any towed unit. In the absence of a value specified by the manufacturer, GCWR shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and load therein.
- (19) "Gross vehicle weight rating," or GVWR, means the value specified by the manufacturer as the maximum loaded weight of a single, a combination or an articulated vehicle.
- (20) "Hazardous materials" means the definition found in Section 103 of the Hazardous Materials Transportation Law, 49 U.S.C. sec. 5101 et seq.
- (21) "Highway" shall include any way or place of any nature when any part of it is open to the use of the public as a matter of right, license, or privilege for the use of vehicular traffic.
- (22) "Imminent hazard" means a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a danger to health, property, or the environment exists.
- (23) "Moped" shall have the same meaning as in KRS 186.010(5).
- (24) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but shall not include any vehicle, machine, tractor, trailer, or semitrailers operated exclusively on a rail.
- (25) "NDR" means the national driver register.
- (26) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, commercial motor vehicle, or a motor carrier operation is out of service pursuant to 49 C.F.R. sec. 386.72, 392.5, 395.13, or 396.9; comparable laws or regulations; or the North American Uniform Out-of-Service Criteria.
- (27) "Resident" means a person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement.
- (28) "School bus" means a vehicle that meets the specification of KRS 156.153 used to transport preprimary, primary, or secondary school students between school and home, or to and from school-sponsored events. A school bus shall not include a bus used as a common carrier.
- (29) "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:
 - (a) Excessive speeding, involving a single charge of any speed fifteen (15) miles per hour or more, above the specified speed limit;
 - (b) Reckless driving, as defined under state or local law, including conviction of driving a commercial motor vehicle in

willful or wanton disregard for the safety of persons or property;

- (c) Improper or erratic traffic lane changes;
- (d) Following the vehicle ahead too closely;
- (e) A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident;
- (f) Driving a commercial motor vehicle without a CDL;
- (g) Driving a commercial motor vehicle without a CDL in one's possession or refusing to display a CDL upon request;
- (h) Driving a commercial motor vehicle without the proper class of CDL or endorsements, or both, for the specific vehicle type or types being operated or for the passengers or type or types of cargo being transported; or
- (i) Any conviction of an offense that requires mandatory suspension under KRS 186.560 or a serious violation as defined by Title 49 of the Code of Federal Regulations Part 383 or as amended by the Federal Highway Administration.

(30) "State" means a state of the United States and the District of Columbia.

(31) "State police" means the Department of Kentucky State Police~~of the Commonwealth of Kentucky~~.

Section 286. KRS 281A.090 is amended to read as follows:

- (1) Except when driving under a commercial driver's instruction permit and accompanied by the holder of commercial driver's license valid for the vehicle being driven, no person shall drive a commercial motor vehicle on the highways of this state unless the person holds a valid commercial driver's license with applicable endorsements valid for the vehicle he or she is driving.
- (2) No person shall drive a commercial motor vehicle on the highways of this state while his or her driving privilege for a commercial or noncommercial motor vehicle is suspended, revoked, or canceled, or while he or she is subject to a disqualification, or in violation of an out-of-service order.
- (3) The licensee shall have in his or her immediate possession at all times when operating a motor vehicle his or her commercial driver's license, and shall display the license upon demand to a circuit clerk, a license examiner, a peace officer, a State Police officer, or an inspector or officer of the Department of Vehicle Regulation or the Department of Kentucky Vehicle Enforcement. It shall be a defense to a violator of this subsection if the person so charged produces in court a commercial driver's license, issued to him or her before his or her arrest or violation and which was valid at that time.

Section 287. KRS 281A.150 is amended to read as follows:

- (1) Every person seeking a commercial driver's license or a commercial driver's instruction permit shall first apply in person to the circuit clerk of the county in which the applicant resides or in the county where the person is enrolled in a driver training school if the applicant is not a resident. The application shall be in the form prescribed by KRS 281A.140 as provided by the cabinet. Except as provided in KRS 281A.160(6), each time a person applies for a commercial driver's license, an instruction permit, or seeks to upgrade or change his or her commercial driver's license, the person shall be required to:
 - (a) Update the application; and
 - (b) Submit the appropriate fee to the circuit clerk.
- (2) The cabinet shall set fees by administrative regulation, pursuant to KRS Chapter 13A, for the following applications that shall not exceed:
 - (a) Forty dollars (\$40) for each application for a commercial driver's license. The fee shall be based on the class, type of license, endorsement, restriction, or tests to be taken;
 - (b) Thirty-five dollars (\$35) for each application for a commercial driver's instruction permit;
 - (c) Fifteen dollars (\$15) for each application for a change or addition in class or type of license, endorsement, or restriction;
 - (d) Forty dollars (\$40) for each application for a duplicate if it is the first duplicate applied for within the time period for which the original license was issued. Sixty dollars (\$60) for a second or subsequent duplicate applied for within the time period for which the original license was issued. The fees required for a duplicate shall be in addition to fees charged under subsection (2)(c) of this section;
 - (e) Thirty-five dollars (\$35) for each application for renewal of a commercial driver's license;
 - (f) Sixty dollars (\$60) for each application for a transfer of a commercial driver's license; and
 - (g) Twenty dollars (\$20) for each application for a commercial driver's license with an "S" restriction for the following persons:
 - 1. A person who operates a school bus;
 - 2. A person who is employed by a mass transit authority created under the provisions of KRS Chapter 96A;

3. A person who drives a vehicle that is operated under a nonprofit bus certificate established pursuant to KRS 281.619;
 4. A person who drives a vehicle registered pursuant to KRS 186.050(6); or
 5. A person who drives a fixed route bus system vehicle that is operated by a public entity pursuant to the provisions of KRS Chapter 281.
- (3) All fees remitted to the clerk shall be nonrefundable regardless of whether the applicant completes the requirements for a commercial driver's license or is tested.
 - (4) All fees collected for the issuance of a commercial driver's license or a commercial driver's instruction permit shall be deposited into trust and agency accounts to be used exclusively for the administration and implementation of this chapter, except as prescribed in subsection (5) of this section. The accounts shall not lapse but shall be continuing from year to year.
 - (5) All fees collected pursuant to this section, shall be allocated between the Transportation Cabinet and Department of Kentucky State Police, except a fifty cent (\$0.50) issuance fee shall be allocated during the first two (2) years following the effective date of January 1, 1991, to the Administrative Office of the Courts in a trust and agency account for the use of the circuit clerks and thereafter allocated to the general fund from issuance of a commercial driver's license permit. A three dollar (\$3) issuance fee shall be allocated during the first two (2) years following the effective date of January 1, 1991, to the Administrative Office of the Courts in a trust and agency account for the use of the circuit clerks and thereafter allocated to the general fund from issuance of a commercial driver's license.
 - (6) Any applicant who seeks reinstatement of his or her commercial driving privilege after a suspension, withdrawal, revocation, or disqualification shall pay a reinstatement fee of fifty dollars (\$50) in addition to those fees required by subsection (2) of this section and shall satisfy the requirements of KRS 281A.160. This fee shall not be required if his or her commercial driving privilege was withdrawn only as a result of the withdrawal of his or her privilege to drive a noncommercial motor vehicle.

Section 288. KRS 281A.160 is amended to read as follows:

- (1)
 - (a) Except as provided in subsection (4) of this section, the State Police shall be responsible for administering both the knowledge and skills test required by KRS 281A.130.
 - (b) Applicants who fail the written knowledge test shall be permitted to retake the written test on the next day the tests are administered. Applicants who fail the written test six (6) times shall be required to wait three (3) days before taking the knowledge test again. Applicants who subsequently fail the written test three (3) additional times shall be required to wait three (3) days prior to retaking the test.
- (2)
 - (a) Except as provided for in subsection (3) of this section, at the time a CDL permit is issued:
 1. An applicant who has held a Kentucky operator's license for thirty (30) days or longer shall pay a skills-testing fee of fifty dollars (\$50); and
 2. An applicant who has held a Kentucky operator's license for less than thirty (30) days shall pay a skills-testing fee of one hundred fifty dollars (\$150).
 - (b) There is created within the State Treasury a trust fund to be known as the State Police CDL skills-testing fund. The fund shall be administered by the State Police and shall receive all skills-testing and retesting fees collected under subsections (2)(a) and (6)(c) of this section, in addition to any grants, gifts, or appropriations of state or federal moneys and any interest earned on moneys in the fund. Moneys in the fund shall not lapse and shall be carried forward to the next succeeding fiscal year. The State Police CDL skills-testing fund shall be used by the State Police to contract with and train civilian CDL skills examiners and to improve the logistics of the CDL skills-testing process.
 - (c) The State Police, upon request of an applicant who has passed both the vision and knowledge tests, may schedule the applicant for the skills test at the first available test date at a test site designated by the State Police but not less than ten (10) days after the applicant has filed the application and been issued a CDL permit. Except in extenuating circumstances, a retest for a failed portion of the skills test shall be given within three (3) days of a request of a retest.
 - (d) An applicant shall provide a class representative commercial vehicle, for the class of CDL for which the applicant is testing, in which to take the skills test. Unless the State Police grant an exemption at the time the application for testing is made, the vehicle supplied under this paragraph shall be unloaded. Upon arrival for the skills test, the applicant shall have in his or her possession a valid Kentucky operator's license, a valid CDL permit, and a current U.S. Department of Transportation physical card. A CDL-licensed driver who is at least twenty-one (21) years old shall accompany the applicant at all times the applicant is in operation of a commercial vehicle.
- (3) A testing fee shall not be charged to an individual applying for a CDL with an "S" restriction as defined in KRS 281A.170.
- (4) The State Police may authorize a third party to administer the skills test specified by this section if:
 - (a) The test is the same that would otherwise be administered by the state; and
 - (b) The third party has entered into an agreement with this Commonwealth which complies with requirements of Title

49, Code of Federal Regulations, Part 383.75, as adopted by the Transportation Cabinet.

- (5) The State Police shall promulgate administrative regulations under KRS Chapter 13A that establish procedures that ensure an arm's-length relationship is maintained between a third-party tester and any owner, officer, or employee of any program offering commercial truck driving under the Kentucky Community and Technical College System or a proprietary school licensed under KRS Chapter 165A.
- (6) (a) Applicants shall be permitted to take the skills test for a particular class vehicle an unlimited number of times; however, an applicant shall not retest more than one (1) time in any twenty-four (24) hour period.
- (b) The skills test shall consist of three (3) separate portions: pre-trip inspection, basic maneuvering, and road skills. An applicant must achieve a score of at least eighty percent (80%) on each portion of the skills test before a CDL may be issued to the applicant. An applicant who passes one (1) or more portions of the skills test but does not pass all portions of the skills test shall retest only on those portions of the skills test the applicant failed.
- (c) An applicant who fails any portion of the skills test four (4) times shall be notified by the State Police that the applicant is required to wait one (1) week and pay a retest fee of fifty dollars (\$50) before retaking a portion of this skills test again.
- (d) Failure of an applicant to notify the State Police prior to missing an appointment for a skills test shall be considered a failure, on all parts of the skills test scheduled to be given, for the purposes of determining number of failures, waiting periods, and retesting fees under paragraph (c) of this subsection for individual applicants. A missed appointment failure under this paragraph shall not be reported as a failure to the board.
- (e) The provisions of KRS 281A.150 notwithstanding, an application fee shall not be charged for each test that is retaken as a result of a failing score.
- (7) An applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of less than one (1) year shall pay the reinstatement fee as prescribed by KRS 281A.150(6) and shall receive his or her commercial driver's license with all endorsement and restrictions that were in effect at the time of suspension. An applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of one (1) year or more shall submit to the skills, knowledge, and vision tests.
- (8) (a) The commissioner of the Department of Kentucky State Police shall promulgate administrative regulations pursuant to the provisions of KRS Chapter 13A to implement the provisions of this section.
- (b) Within ninety (90) days of April 22, 2006, the State Police shall promulgate administrative regulations under KRS Chapter 13A to set forth the qualifications for contract examiners retained under subsection (2)(b) of this section.

Section 289. KRS 281A.300 is amended to read as follows:

- (1) Any person initially applying for, or initially renewing, a Kentucky CDL instruction permit or operator's license, shall be required to undergo a state and national criminal history background check of state and federal wanted or "hot file" records conducted by the ~~Kentucky~~ State Police. All initial and renewal application forms for a Kentucky CDL instruction permit or operator's license shall conspicuously state the following: "STATE LAW REQUIRES A STATE AND NATIONAL CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF APPLYING FOR A KENTUCKY CDL. ANY PERSON WHO REFUSES TO SUBMIT TO A CRIMINAL HISTORY BACKGROUND CHECK SHALL NOT BE ELIGIBLE TO APPLY FOR, OR BE ISSUED, A KENTUCKY CDL."
- (2) The results of the state and national criminal history background checks shall be sent to the cabinet for review within seventy-two (72) hours. An applicant for a CDL instruction permit may enroll in a commercial driver training program under the Kentucky Community and Technical College System or a proprietary school licensed under KRS Chapter 165A, and may be issued a CDL instruction permit upon enrollment, however the status of the applicant retaining the CDL instruction permit shall not be determined until the results of the background checks are made available to the cabinet. The cabinet shall inform the applicant and the circuit clerk of persons who, based upon the criminal history background check, are either eligible or ineligible to be issued a CDL instruction permit or CDL. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to specify conditions that will cause a person to be denied a CDL instruction permit or CDL based upon the person's criminal history background check.
- (3) Any fee charged by the Kentucky State Police to conduct a criminal history background check shall be paid by the applicant and shall not be refundable. Any fee charged to conduct a criminal history background check shall be an amount not greater than the actual cost of processing the request and conducting the search.
- (4) The criminal history background checks required by this section shall be in addition to any type of background check that may be required by federal statute, rule, regulation, or order.

Section 290. KRS 281A.320 is amended to read as follows:

Any person initially renewing a commercial driver's license or adding an endorsement after September 30, 2002, shall apply for the renewal at least thirty (30) days prior to the expiration date of the license. The purpose of the early renewal procedures is to ensure the criminal history background check required under KRS 281A.300 may be completed prior to the expiration date on the license. A person may obtain the information necessary to conduct the criminal history background check from the circuit clerk. If the person has a law enforcement agency other than the ~~Kentucky~~ State Police conduct the background check, the law enforcement agency may charge the person a nonrefundable fee for the service. Any fee charged by any law enforcement agency to

conduct a criminal history background check shall be an amount not greater than the actual cost of processing the request and conducting the search.

Section 291. KRS 286.8-285 is amended to read as follows:

- (1) In addition to other duties imposed upon the executive director in this subtitle, the executive director shall be authorized to participate in the establishment and implementation of a multistate automated licensing system for mortgage loan brokers, mortgage loan companies, loan officers, or originators.
 - (a) For such purpose, the executive director is authorized to waive or modify, in whole or in part, by rule or by order, any or all of the requirements of this subtitle and to establish new requirements as reasonably necessary to carry out the purpose of this section.
 - (b) These new requirements shall include the fingerprinting of applicants and the submission of those fingerprints, along with any fee required to perform the criminal background record review, to the Federal Bureau of Investigation and the Department of Kentucky State Police or an equivalent state department law enforcement agency for state and national criminal background record review of the applicant.
- (2) The executive director shall not be authorized under this section to require a person or individual who is exempt under KRS 286.8-020(1)(a) or (g) to submit information or participate in the uniform multistate licensing program.

Section 292. KRS 304.20-150 is amended to read as follows:

- (1) As used in KRS 304.20-160 to 304.20-190, "authorized agencies" shall mean:
 - (a) State executive director of insurance;
 - (b) The state fire marshal when authorized or charged with the investigation of fires at the place where the fire actually took place;
 - (c) The state Attorney General when authorized or charged with the investigation of fires at the place where the fire actually took place;
 - (d) The commissioner of the Department of Kentucky State Police;
 - (e) The full-time Commonwealth's or county attorney responsible for prosecutions in the county where the fire occurred;
 - (f) The Federal Bureau of Investigation or any other federal agency having the authority to investigate federal offenses arising from arson; and
 - (g) Any United States' attorney's office authorized or charged with investigation or prosecution of the fire in question or the violation of any statute arising from said fire.
- (2) As used in KRS 304.20-160 to 304.20-190, "relevant" means information having any tendency to make the existence of any fact that is of consequence to the investigation or determination of the issue more probable or less probable than it would be without the evidence.
- (3) For the purposes of KRS 304.20-160 to 304.20-190, information will be "deemed important" if such information is requested by an authorized agency.
- (4) "Insurer," as used in KRS 304.20-160 to 304.20-190, shall be defined in the same manner as it is defined in KRS 304.1-040, and shall include the Kentucky FAIR plan and reinsurance association, and all authorized persons acting on behalf of an insurer.

Section 293. KRS 304.20-190 is amended to read as follows:

The provisions of KRS 304.20-160 to 304.20-180 shall not be construed to affect or repeal any ordinance or resolution of any county or city of any class relating to fire prevention or the control of arson, but the jurisdiction of the state fire marshal and the commissioner of the Department of Kentucky State Police in such county or city is to be concurrent with that of the county and city authorities.

Section 294. KRS 311.565 is amended to read as follows:

- (1) The board may:
 - (a) Exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy, which shall include but not be limited to promulgation of reasonable administrative regulations enabling the board to regulate the conduct of its licensees;
 - (b) Promulgate reasonable administrative regulations establishing moral, physical, intellectual, educational, scientific, technical, and professional qualifications of applicants for licenses and permits that may be issued by the board;
 - (c) Issue, deny, suspend, limit, restrict, and revoke any licenses or permits that may be issued by the board, and to reprimand or to place licensees on probation, in compliance with the provisions of KRS 311.530 to 311.620;
 - (d) Appoint an executive director and assistant executive directors and fix their compensation. The executive director shall oversee the work of the board, shall be authorized to discharge the duties of the secretary, as provided by KRS 311.530 to 311.620, and shall carry out the duties of the executive director as set forth elsewhere in this chapter;
 - (e) Appoint a general counsel and assistant general counsel and fix their compensation;

- (f) Appoint investigatory personnel and fix their compensation;
 - (g) Appoint one (1) or more hearing officers, who need not be members of the board, and fix their compensation. Every hearing officer shall be vested with the full and complete power and authority of the board to schedule and conduct hearings on behalf of and in the name of the board on all matters referred for hearing by the board or secretary thereof, including, among other things, proceedings for placing licensees on probation and for limitation, suspension, and revocation of licenses. All administrative hearings conducted by the board, a member of the board, or a hearing officer appointed by the board, shall be conducted in accordance with KRS Chapter 13B. No hearing officer shall be empowered to place any licensee on probation or to issue, refuse, suspend, limit, or revoke any license;
 - (h) Appoint committees of licensees, who need not be board members, to review issues of public or medical interest before the board and to make recommendations to the board on the issues;
 - (i) Promulgate administrative regulations to promote the efficient and fair conduct of disciplinary proceedings;
 - (j) Promulgate a code of conduct governing the practice of medicine and osteopathy, which shall be based upon generally-recognized principles of professional ethical conduct;
 - (k) Utilize the services and facilities of professional organizations, and procure and receive the assistance and recommendations of professional organizations in administering KRS 311.530 to 311.620;
 - (l) Make its personnel and facilities available to other governmental entities under mutually agreeable terms and conditions;
 - (m) Issue regular licenses without further testing by endorsement from another state having qualifications and standards at least as high as those of this state or by endorsement from the National Board of Medical Examiners, the National Board of Examiners for Osteopathic Physicians and Surgeons, the National Joint Committee of Preregistration Physician Training Programs, or any approved successors thereof;
 - (n) Issue and renew regular licenses to practice medicine or osteopathy in accordance with KRS 311.530 to 311.620 and any reasonable regulations of the board;
 - (o) Issue and renew, or refuse to issue or renew, or cancel and terminate limited licenses pursuant to administrative regulations promulgated by the board; provided however, no person who held a limited license for institutional practice or general practice as of September 1, 1972, shall be denied the renewal of that limited license for nondisciplinary reasons;
 - (p) Appoint examiners, who need not be members of the board, and employ or contract with the Federation of State Medical Boards of the United States, Inc., or the National Board of Medical Examiners or other organizations, agencies, or individuals to prepare examination questions and grade examination papers;
 - (q) Determine the schools, colleges, universities, institutions, and training acceptable in connection with licensure under KRS 311.530 to 311.620;
 - (r) Prescribe the time, place, method, manner, scope, and content of examinations;
 - (s) Prescribe all forms which it considers appropriate, and require the submission of photographs, fingerprints, and personal history data;
 - (t) Require a criminal background investigation of all persons applying for licensure at the time of initial application, and at other times at the request of the board for good cause shown, by means of a fingerprint check by the Department of Kentucky State Police and Federal Bureau of Investigation;
 - (u) Prescribe and collect reasonable fees and charges for examinations, directories, and the issuance and renewal of licenses and permits; and
 - (v) Impose fines of not greater than five thousand dollars (\$5,000) per violation and require the licensee to reimburse the board for the costs of the administrative proceedings including consultant fees, upon a finding pursuant to disciplinary proceedings that the licensee has violated any provision of KRS 311.595 to 311.597 or duly-promulgated disciplinary regulation of the board.
- (2) The board shall develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by a physician licensed by the board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure that the process does not revictimize the alleged victim or cause harm if a physician is falsely accused.
- (3) The board, the hearing officer, and investigators hired by the board shall receive training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedure in sex offense cases, and effective intervention with victims and offenders.

Section 295. KRS 311A.100 is amended to read as follows:

The board may require a criminal background investigation of an applicant for licensure or certification, including by means of a fingerprint check by the Department of Kentucky State Police or the Federal Bureau of Investigation, or both.

Section 296. KRS 314.011 is amended to read as follows:

As used in this chapter, unless the context thereof requires otherwise:

- (1) "Board" means Kentucky Board of Nursing;
- (2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A;
- (3) "Nurse" means a person who is licensed or holds the privilege to practice under the provisions of this chapter as a registered nurse or as a licensed practical nurse;
- (4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:
 - (a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and
 - (b) Planning, implementation, and evaluation based on nationally accepted standards of nursing practice;
- (5) "Registered nurse" means one who is licensed or holds the privilege under the provisions of this chapter to engage in registered nursing practice;
- (6) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:
 - (a) The care, counsel, and health teaching of the ill, injured, or infirm;
 - (b) The maintenance of health or prevention of illness of others;
 - (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses. Components of medication administration include but are not limited to:
 1. Preparing and giving medications in the prescribed dosage, route, and frequency, including dispensing medications only as defined in subsection (17)(b) of this section;
 2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;
 3. Intervening when emergency care is required as a result of drug therapy;
 4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
 5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
 6. Instructing an individual regarding medications;
 - (d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care; and
 - (e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses;
- (7) "Advanced registered nurse practitioner" means one who is registered and designated to engage in advanced registered nursing practice including the nurse anesthetist, nurse midwife, clinical nurse specialist, and nurse practitioner pursuant to KRS 314.042;
- (8) "Advanced registered nursing practice" means the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include but not be limited to prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905 and to issue prescriptions for but not to dispense Schedules II through V controlled substances as classified in KRS 218A.060, 218A.070, 218A.080, 218A.090, 218A.100, 218A.110, 218A.120, and 218A.130, under the conditions set forth in KRS 314.042 and regulations promulgated by the Kentucky Board of Nursing on or before August 15, 2006.
 - (a) Prescriptions issued by advanced registered nurse practitioners for Schedule II controlled substances classified under KRS 218A.060 shall be limited to a seventy-two (72) hour supply without any refill. Prescriptions issued under this subsection for psychostimulants may be written for a thirty (30) day supply only by an advanced registered nurse practitioner certified in psychiatric-mental health nursing who is providing services in a health facility as defined in KRS Chapter 216B or in a regional mental health-mental retardation services program as defined in KRS Chapter 210.
 - (b) Prescriptions issued by advanced registered nurse practitioners for Schedule III controlled substances classified

under KRS 218A.080 shall be limited to a thirty (30) day supply without any refill. Prescriptions issued by advanced registered nurse practitioners for Schedules IV and V controlled substances classified under KRS 218A.100 and 218A.120 shall be limited to the original prescription and refills not to exceed a six (6) month supply.

- (c) Limitations for specific controlled substances which are identified as having the greatest potential for abuse or diversion, based on the best available scientific and law enforcement evidence, shall be established in an administrative regulation promulgated by the Kentucky Board of Nursing. The regulation shall be based on recommendations from the Controlled Substances Formulary Development Committee, which is hereby created. The committee shall be composed of two (2) advanced registered nurse practitioners appointed by the Kentucky Board of Nursing, one (1) of whom shall be designated as a committee co-chair; two (2) physicians appointed by the Kentucky Board of Medical Licensure, one (1) of whom shall be designated as a committee co-chair; and one (1) pharmacist appointed by the Kentucky Board of Pharmacy. The initial regulation shall be promulgated on or before August 15, 2006, and shall be reviewed at least annually thereafter by the committee.

Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation;

- (9) "Licensed practical nurse" means one who is licensed or holds the privilege under the provisions of this chapter to engage in licensed practical nursing practice;
- (10) "Licensed practical nursing practice" means the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:
 - (a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist;
 - (b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;
 - (c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;
 - (d) Teaching, supervising, and delegating except as limited by the board; and
 - (e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;
- (11) "School of nursing" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;
- (12) "Continuing education" means offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge;
- (13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;
- (14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and maintains a current credential from the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the Office of the Kentucky State Medical Examiner pursuant to KRS 216B.400(4);
- (15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare;
- (16) "Credential" means a current license, registration, certificate, or other similar authorization that is issued by the board;
- (17) "Dispense" means:
 - (a) To receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party; or
 - (b) To distribute noncontrolled legend drugs from a local, district, and independent health department, subject to the direction of the appropriate governing board of the individual health department;
- (18) "Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane;
- (19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician; and
- (20) "Clinical internship" means a supervised nursing practice experience which involves any component of direct patient care.

Section 297. KRS 314.103 is amended to read as follows:

The board may require a criminal background investigation of an applicant for endorsement by means of a fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation.

Section 298. KRS 329.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Detection of deception examiner," referred to in this chapter as "examiner," means any person, other than a trainee, who uses any device or instrument to test or question individuals for the purpose of detecting deception. Before a person may be licensed as an examiner, he or she must have at least one (1) year's experience in detection of deception. Before an examiner may supervise a trainee, he or she must have at least two (2) years' experience in detection of deception.
- (2) "Trainee" means any person who has successfully completed a polygraph examiner's course at a polygraph examiner's school approved by the cabinet, but who has not been awarded the final certificate of proficiency or graduate certificate from the school, or any person, not a licensed examiner, who administers detection of deception examinations under the direct, personal supervision and control of a licensed examiner who is licensed by this state. No examiner may have more than two (2) trainees under his or her supervision and control at any one (1) time.
- (3) "Person" means any natural person, partnership, association, corporation, or trust.
- (4) "Cabinet" means the Justice and Public Safety Cabinet of the Commonwealth of Kentucky.
- (5) "Secretary" means the secretary of the Justice and Public Safety Cabinet of the Commonwealth of Kentucky.
- (6) "Polygraph" means an instrument which records permanently and simultaneously a subject's cardiovascular and respiratory patterns and other physiological changes pertinent to the detection of deception.
- (7) "Polygraph examiner" means the same as detection of deception examiner.

Section 299. KRS 329.030 is amended to read as follows:

- (1) No person shall administer a detection of deception examination, as set forth in KRS 329.010, or any imitation thereof, without first securing a trainee's license or an examiner's license. Each application for a trainee's license shall be made to the cabinet within ten (10) days of the commencement of the trainee's internship, and said application shall contain such information as may be reasonably required by the cabinet. Each application for a trainee license or a renewal or extension shall be accompanied by a fee of twenty-five dollars (\$25), which is nonrefundable. Each application for an examiner's license shall be made to the cabinet in writing on forms provided by the cabinet and shall contain such information as may be required by the cabinet to determine the eligibility of the applicant. Each application for an examiner's license shall be accompanied by a fee of fifty dollars (\$50), which is nonrefundable.
- (2) Each applicant for an examiner's license shall submit his or her fingerprints to the cabinet. The cabinet is authorized to exchange fingerprint data with the Department of Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of the applicant. Each applicant shall also submit a sworn affidavit that said applicant:
 - (a) Is a citizen of the United States;
 - (b) Is at least eighteen (18) years of age;
 - (c) Has administered detection of deception examinations for a period of at least one (1) year using the instrumentation prescribed in KRS 329.020;
 - (d) Has completed a course of formal training in detection of deception in an institution accepted by the cabinet;
 - (e) Has not been convicted of a misdemeanor involving moral turpitude or a felony, or who has not been released or discharged under other than honorable conditions from any of the Armed Services of the United States, or any branch of the state, city or federal government; and
 - (f) Any other information required by the cabinet to determine the examiner's competency to obtain a license to practice in this state.
- (3) Upon receipt of an application for a trainee's license or for an examiner's license, the secretary shall investigate each application, and no license will be issued until said investigation is complete.
- (4) The cabinet shall establish such reasonable rules and regulations for the trainee during his internship as may be reasonably necessary for the purpose of insuring that the trainee meets adequate professional standards established by the cabinet.
- (5) The cabinet may require applicants for an examiner's license to pass an examination which shall be confined to such knowledge, practical ability and skill as is essential for performing the duties of a detection of deception examiner. The cabinet shall promulgate administrative~~[make rules and]~~ regulations for conducting examinations and shall define the standards to be acquired to constitute passing the examination.
- (6) The cabinet shall promulgate administrative~~[establish such reasonable rules and]~~ regulations~~[for the examiner during his period of licensure as may be reasonably necessary]~~ for the purpose of insuring that the examiner maintain adequate professional standards established by the cabinet.

Section 300. KRS 329A.040 is amended to read as follows:

- (1) Upon receipt of a license application, accompanied by a nonrefundable, nonproratable fee of not less than one hundred dollars (\$100) and not more than four hundred dollars (\$400), as established by the board by promulgation of administrative regulations, the board shall:
 - (a) Conduct an investigation to determine whether the statements made in the application are true; and
 - (b) Submit the application, including fingerprints as appropriate, to the Department of Kentucky State Police and the Administrative Office of the Courts for a state criminal history background check. The Department of Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for a national criminal history background check. The board may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. No. 92-544. The applicant for licensure shall bear the additional cost, in an amount not to exceed the actual cost, incurred for the criminal background check.
- (2) Following the investigation process, the board shall either deny or approve the application.
 - (a) If the application for a license is denied, the board:
 1. Shall notify the applicant in writing and set forth the grounds for denial. If the grounds are subject to correction by the applicant, the notice of denial shall so state and specify a reasonable period of time within which the applicant must make the correction; and
 2. Shall grant a hearing to the denied applicant in accordance with the provisions of KRS Chapter 13B.
 - (b) If the application for a license is approved, the board shall issue:
 1. A license to be posted conspicuously in the licensee's principal place of business; and
 2. A wallet-sized laminated identification card to each individual licensee to be carried while engaged in private investigation. Information on the card shall include the expiration date of the license and the licensee's:
 - a. Name;
 - b. Photograph;
 - c. Physical characteristics; and
 - d. License number.
- (3) A license or identification card issued under subsection (2) of this section is not assignable and is personal to the licensee.
- (4) For purposes of this section and KRS 329A.035, any company whose workforce is comprised of no more than one (1) private investigator shall only be required to have an individual private investigator's license. If at any time the workforce of such a company increases, the company shall notify the board of the workforce increase and shall seek a company license in addition to the individual private investigator's license.

Section 301. KRS 332.015 is amended to read as follows:

As used in this chapter:

- (1) "Department" means the Department of Kentucky State Police;
- (2) "Commissioner" means the commissioner of the Department of Kentucky State Police;
- (3) "Driver training" means instruction of persons in the operation of motor vehicles which are not commercial motor vehicles;
- (4) "Driver training school" means any person, firm, partnership, association or corporation which offers a course of driver training for which a fee or tuition is charged;
- (5) "Person," when referring to a driver training school, means person, firm, partnership, association, or corporation.

Section 302. KRS 332.095 is amended to read as follows:

- (1) All CDL driver training schools, as defined in KRS 165A.310, shall offer a minimum one hundred sixty (160) hours of instruction to each student that has never been issued a CDL by any state. Each school shall be required to use the curriculum that has been approved by the State Board for Proprietary Education in consultation with the Department of Kentucky State Police and the Kentucky Community and Technical College System. Each school shall perform an evaluation of each student and determine the student's skill level to operate a commercial motor vehicle as beginner, intermediate, or advanced. The curriculum shall require a minimum number of hours of instruction based upon a student's skill level.
- (2) Each school may provide the one hundred sixty (160) hour approved curriculum in a manner that best utilizes the staff and equipment of the school including, but not limited to, nights, weekends, holidays, and hours of operation.
- (3) All CDL driver training schools, as defined in KRS 165A.310, may offer a refresher course of instruction to a resident who has one (1) year or more verifiable experience operating a commercial motor vehicle. The schools shall verify and maintain records documenting those students attending a refresher course. A refresher course may be offered on an hourly basis.
- (4) The ratio of students to instructors during a one hundred sixty (160) hour course shall not exceed:
 - (a) Thirty (30) students to one (1) instructor during classroom instruction;

- (b) Six (6) students to one (1) instructor during off-the-road training; and
- (c) Three (3) students to one (1) instructor during on-the-road training.
- (5) All CDL driver training schools, as defined in KRS 165A.310, shall require each student to undergo a drug test at the time the person applies to enroll in the school.

Section 303. KRS 350.052 is amended to read as follows:

- (1) Any officer appointed by the secretary pursuant to KRS 350.035(2) shall be empowered to arrest, without a warrant, any person detected by him or her to be violating the provisions of this chapter which constitute criminal offenses.
- (2) Any officer appointed by the secretary pursuant to KRS 350.035(2) shall have the authority to use physical force, which he or she believes necessary, in accomplishing any lawful arrest for a criminal offense; however, deadly physical force may be used only when the officer is authorized to make an arrest, the arrest is for a felony involving the threatened use of physical force likely to cause death or serious physical injury, and the officer believes that the person to be arrested is likely to endanger human life unless arrested without delay.
- (3) Any officer appointed by the secretary pursuant to KRS 350.035(2) shall meet the qualifications set forth in KRS 61.300(1), (4), and (5) and shall prior to appointment:
 - (a) Successfully complete not fewer than eighty (80) hours of training in a program provided by the Department of Criminal Justice Training, Justice and Public Safety Cabinet, and dealing comprehensively with the subjects of criminal law and the law of arrest, search and seizure; and
 - (b) Demonstrate in written and practical examinations approved by the Department of Criminal Justice Training, Justice and Public Safety Cabinet, knowledge of and proficiency in firearms safety, range firing, the moral and legal aspects of firearms use, and first aid.

Section 304. KRS 403.700 is amended to read as follows:

- (1) The Council on Domestic Violence and Sexual Assault is created and established for the purpose of planning and direction of legal, protection, and support services related to domestic violence and sexual assault, and to increase the awareness of all Kentuckians regarding the prevalence and impact of these crimes.
- (2) Members of the council shall include:
 - (a) The Attorney General or a designee;
 - (b) The secretary of the Cabinet for Health and Family Services or a designee;
 - (c) The secretary of the Justice and Public Safety Cabinet or a designee;
 - (d) The public advocate or a designee;
 - (e) The executive director of the Division of Child Abuse and Domestic Violence Services;
 - (f) The executive director of the Office of Legislative and Intergovernmental Services of the Justice and Public Safety Cabinet~~[Kentucky Criminal Justice Council]~~;
 - (g) The executive director of the Commission on Women;
 - (h) At the direction of the Chief Justice of the Supreme Court, the director of the Administrative Office of the Courts;
 - (i) One (1) Circuit Court Judge, one (1) family court judge, and one (1) District Court Judge, who shall be appointed by the Chief Justice of the Supreme Court;
 - (j) The executive director of the Kentucky Domestic Violence Association;
 - (k) The president of the Kentucky Domestic Violence Association or a designee;
 - (l) The executive director of the Kentucky Association of Sexual Assault Programs;
 - (m) The president of the Kentucky Association of Sexual Assault Programs or a designee;
 - (n) Two (2) members of the Senate who shall be appointed by the President of the Senate;
 - (o) Three (3) members of the House of Representatives who shall be appointed by the Speaker of the House; and
 - (p) The following members, who shall be appointed by the secretary for Health and Family Services. To be eligible for appointment under this paragraph, a person shall have an understanding of, and demonstrated commitment to, addressing crimes involved in domestic or sexual violence:
 - 1. One (1) county attorney;
 - 2. One (1) Commonwealth's attorney;
 - 3. One (1) Circuit Court Clerk;
 - 4. One (1) sheriff;
 - 5. One (1) peace officer;
 - 6. Two (2) representatives of local domestic violence coordinating councils or sexual assault response teams;
 - 7. One (1) advocate for adult victims of domestic or sexual violence;

8. One (1) advocate for child witnesses of domestic or sexual violence;
 9. One (1) physician;
 10. One (1) sexual assault nurse examiner;
 11. One (1) mental health professional with demonstrated expertise in treating offenders;
 12. One (1) employee of the Department for Community Based Services who provides direct services to victims of domestic violence;
 13. One (1) person employed as a probation or parole officer; and
 14. Two (2) citizen at-large members.
- (3) The secretary of Health and Family Services shall appoint two (2) co-chairs and two (2) vice chairs of the council. One (1) of the vice chairs shall be a council member who is a criminal justice professional. The co-chairs and vice chairs shall serve for a term of one (1) year after which they may be reappointed by the secretary.
- (4) Council members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment. Members shall not serve longer than two (2) consecutive four (4) year terms.
- (5) The council shall establish an executive committee, the membership of which shall be named by the co-chairs of the council.
- (6) The duties and responsibilities of the council shall include, but not be limited to, the following:
- (a) Promoting coordination among agencies and officials responsible for addressing domestic violence and sexual assault;
 - (b) Determining the availability of services for victims, children who witness domestic violence or sexual assault, and offenders;
 - (c) Facilitating the development of local domestic violence councils and sexual assault response teams that shall include publication of model protocols, training, and technical assistance;
 - (d) Promoting community awareness and the prevention of domestic and sexual violence;
 - (e) Providing assistance to the Attorney General, the Administrative Office of the Courts, the Justice and Public Safety Cabinet, and the Cabinet for Health and Family Services in the development of training curricula, treatment programs, and model policies related to domestic violence and sexual assault;
 - (f) Reviewing and analyzing data and information relating to domestic violence and sexual assault from existing sources including, but not limited to, the Department of Kentucky State Police, the Cabinet for Health and Family Services, the Department of Corrections, and the Administrative Office of the Courts;
 - (g) Recommending to the appropriate entity changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards relating to domestic violence and sexual assault; and
 - (h) Preparing a biennial report to be submitted no later than July 1 of every odd-numbered year to the Governor, the Legislative Research Commission, and the Chief Justice of the Supreme Court.
- (7) The council shall establish any committees necessary to carry out its duties.
- (8) The council shall be attached to the Division of Child Abuse and Domestic Violence Services for administrative purposes. Members of the council shall be eligible to receive actual and reasonable travel expenses.
- (9) The secretary of the Justice and Public Safety Cabinet and the secretary of the Cabinet for Health and Family Services shall provide the necessary staff to assist the council in carrying out its duties and responsibilities.
- Section 305. KRS 403.707 is amended to read as follows:
- (1) The Council on Domestic Violence and Sexual Assault shall create a Sexual Assault Response Team Advisory Committee.
- (2) The Sexual Assault Response Team Advisory Committee shall be co-chaired by the executive director of the Kentucky Association of Sexual Assault Programs and the commissioner of the Department of Kentucky State Police or the commissioner's designee.
- (3) The membership of the Sexual Assault Response Team Advisory Committee shall consist of the following:
- (a) The executive director of the Kentucky Board of Nursing or the executive director's designee;
 - (b) The executive director of the Kentucky Nurses Association or the executive director's designee;
 - (c) The executive director of the Kentucky Hospital Association or the executive director's designee;
 - (d) The director of the Department of Kentucky State Police Crime Lab;
 - (e) The chief medical examiner or the chief medical examiner's designee;
 - (f) The executive director of the Division of Child Abuse and Domestic Violence Services or the executive director's designee;
 - (g) The director of the Victims' Advocacy Division of the Office of the Attorney General or the director's designee;
 - (h) A sexual assault nurse examiner serving on the Governor's Council on Domestic Violence and Sexual Assault;

- (i) A representative from a sexual assault response team serving on the Council on Domestic Violence and Sexual Assault;
 - (j) A physician appointed by the co-chairs of the Council on Domestic Violence and Sexual Assault; and
 - (k) A Commonwealth's attorney or an assistant Commonwealth's attorney appointed by the co-chairs of the Council on Domestic Violence and Sexual Assault.
- (4) Members appointed under paragraphs (h) to (k) of subsection (3) shall serve at the pleasure of the appointing authority and shall not serve longer than four (4) years without reappointment.
- (5) The Sexual Assault Response Team Advisory Committee shall:
- (a) Serve in an advisory capacity to the Kentucky Board of Nursing in accomplishing the duties set forth under KRS 314.142;
 - (b) Serve in an advisory capacity to the chief medical examiner in the development of the statewide sexual assault protocol required under KRS 216B.400(4);
 - (c) Develop a model protocol for the operation of sexual assault response teams which shall include the roles of sexual assault nurse examiners, physicians, law enforcement, prosecutors, and victim advocates;
 - (d) Provide information and recommendations concerning the activities of the agency or organization represented by each individual committee member as related to sexual assault issues and programs within the purview of the agency or organization; and
 - (e) Recommend to the Council on Domestic Violence and Sexual Assault any changes in statute, administrative regulation, training, policy, and budget to promote a multidisciplinary response to sexual assault.

Section 306. KRS 403.737 is amended to read as follows:

All forms, affidavits, emergency protective orders, domestic violence orders, orders amending an existing protective order, or other orders issued pursuant to KRS 403.715 to 403.785, or the laws of another jurisdiction which are entitled to full faith and credit in Kentucky pursuant to the provisions of 18 U.S.C. sec. 2265, which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts after consultation with the Justice and Public Safety Cabinet. If the provisions of a protective order are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.

Section 307. KRS 422.285 is amended to read as follows:

- (1) At any time, a person who was convicted of and sentenced to death for a capital offense and who meets the requirements of this section may request the forensic deoxyribonucleic acid (DNA) testing and analysis of any evidence that is in the possession or control of the court or Commonwealth, that is related to the investigation or prosecution that resulted in the judgment of conviction and that may contain biological evidence.
- (2) After notice to the prosecutor and an opportunity to respond, the court shall order DNA testing and analysis if the court finds that all of the following apply:
 - (a) A reasonable probability exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through DNA testing and analysis;
 - (b) The evidence is still in existence and is in a condition that allows DNA testing and analysis to be conducted; and
 - (c) The evidence was not previously subjected to DNA testing and analysis or was not subjected to the testing and analysis that is now requested and may resolve an issue not previously resolved by the previous testing and analysis.
- (3) After notice to the prosecutor and an opportunity to respond, the court may order DNA testing and analysis if the court finds that all of the following apply:
 - (a) A reasonable probability exists that either:
 - 1. The petitioner's verdict or sentence would have been more favorable if the results of DNA testing and analysis had been available at the trial leading to the judgment of conviction; or
 - 2. DNA testing and analysis will produce exculpatory evidence;
 - (b) The evidence is still in existence and is in a condition that allows DNA testing and analysis to be conducted; and
 - (c) The evidence was not previously subject to DNA testing and analysis or was not subjected to the testing and analysis that is now requested and that may resolve an issue not previously resolved by the previous testing and analysis.
- (4) If the court orders testing and analysis pursuant to subsection (2) of this section, the court shall order the responsibility for payment, if necessary. If the court orders testing and analysis of this section pursuant to subsection (3) of this section, the court shall require the petitioner to pay the costs of testing and analysis, if required by KRS 17.176. If the court orders testing and analysis under subsection (2) or (3) of this section the court shall appoint counsel to those petitioners who qualify for appointment under KRS Chapter 31.
- (5) If the prosecutor or defense counsel has previously subjected evidence to DNA testing and analysis, the court shall order

the prosecutor or defense counsel to provide all the parties and the court with access to the laboratory reports that were prepared in connection with the testing and analysis, including underlying data and laboratory notes. If the court orders DNA testing and analysis pursuant to this section, the court shall order the production of any laboratory reports that are prepared in connection with the testing and analysis and may order the production of any underlying data and laboratory notes.

- (6) If a petition is filed pursuant to this section, the court shall order the state to preserve during the pendency of the proceeding all evidence in the state's possession or control that could be subjected to DNA testing and analysis. The state shall prepare an inventory of the evidence and shall submit a copy of the inventory to the defense and the court. If the evidence is intentionally destroyed after the court orders its preservation, the court may impose appropriate sanctions, including criminal contempt.
- (7) The court may make any other orders that the court deems appropriate, including designating any of the following:
 - (a) The preservation of some of the sample for replicating the testing and analysis; and
 - (b) Elimination samples from third parties.
- (8) If the results of the DNA testing and analysis are not favorable to the petitioner, the court shall dismiss the petition. The court may make further orders as it deems appropriate, including any of the following:
 - (a) Notifying the Department of Corrections and the Parole Board;
 - (b) Requesting that the petitioner's sample be added to the Department of Kentucky State Police database; and
 - (c) Providing notification to the victim or family of the victim.
- (9) In a capital case in which the death penalty has been imposed, notwithstanding any other provision of law that would bar a hearing as untimely, if the results of the DNA testing and analysis are favorable to the petitioner, the court shall order a hearing and make any further orders that are required pursuant to this section or the Kentucky Rules of Criminal Procedure.

Section 308. KRS 422.287 is amended to read as follows:

- (1) When a person is being tried for a capital offense and there is evidence in the case which may be subjected to deoxyribonucleic acid (DNA) testing and analysis, the Commonwealth or the defendant may move to have any item of evidence not previously subjected to DNA testing and analysis tested and analyzed.
- (2) If the court is satisfied that the item of evidence has not been tested and analyzed, that DNA testing and analysis would yield evidence of probative value, and that the item of evidence has not previously been the subject of DNA testing and analysis or that new DNA testing and analysis would yield a more accurate result, the court shall order DNA testing and analysis of the evidence.
- (3) The testing and analysis of the evidence shall be done by the Department of Kentucky State Police laboratory or at another laboratory selected by the Department of Kentucky State Police laboratory.
- (4) DNA testing and analysis results shall be made available to both the Commonwealth and the defendant and either the Commonwealth or the defendant may move that they be admitted at trial.
- (5) If the defendant is convicted of any offense for which DNA test and analysis results are required to be maintained by law, the DNA test and analysis results obtained pursuant to this section shall be utilized for that purpose, whether or not the test and analysis results were introduced in the case.

Section 309. KRS 431.064 is amended to read as follows:

- (1) In making a decision concerning pretrial release of a person who is arrested for a violation of KRS Chapter 508 or 510, or charged with a crime involving a violation of a protective order issued pursuant to KRS 403.740 or 403.750, the court or agency having authority to make a decision concerning pretrial release shall review the facts of the arrest and detention of the person and determine whether the person:
 - (a) Is a threat to the alleged victim or other family or household member; and
 - (b) Is reasonably likely to appear in court.
- (2) Before releasing a person arrested for or charged with a crime specified in subsection (1) of this section, the court shall make findings, on the record if possible, concerning the determination made in accordance with subsection (1), and may impose conditions of release or bail on the person to protect the alleged victim of domestic violence or abuse and to ensure the appearance of the person at a subsequent court proceeding. The conditions may include:
 - (a) An order enjoining the person from threatening to commit or committing acts of domestic violence or abuse against the alleged victim or other family or household member;
 - (b) An order prohibiting the person from harassing, annoying, telephoning, contacting, or otherwise communicating with the alleged victim, either directly or indirectly;
 - (c) An order directing the person to vacate or stay away from the home of the alleged victim and to stay away from any other location where the victim is likely to be;
 - (d) An order prohibiting the person from using or possessing a firearm or other weapon specified by the court;

- (e) An order prohibiting the person from possession or consumption of alcohol or controlled substances;
 - (f) Any other order required to protect the safety of the alleged victim and to ensure the appearance of the person in court; or
 - (g) Any combination of the orders set out in paragraphs (a) to (f).
- (3) If conditions of release are imposed, the court imposing the conditions on the arrested or charged person shall:
 - (a) Issue a written order for conditional release; and
 - (b) Immediately distribute a copy of the order to pretrial services.
 - (4) The court shall provide a copy of the conditions to the arrested or charged person upon release. Failure to provide the person with a copy of the conditions of release does not invalidate the conditions if the arrested or charged person has notice of the conditions.
 - (5) If conditions of release are imposed without a hearing, the arrested or charged person may request a prompt hearing before the court to review the conditions. Upon request, the court shall hold a prompt hearing to review the conditions.
 - (6) The victim, as defined in KRS 421.500, of the defendant's alleged crime, or an individual designated by the victim in writing, shall be entitled to a free certified copy of the defendant's conditions of release, or modified conditions of release, upon request to the clerk of the court which issued the order releasing the defendant. The victim or the victim's designee may personally obtain the document at the clerk's office or may have it delivered by mail.
 - (7) The circuit clerk, or the circuit clerk's designee, in cooperation with the court that issued the order releasing the defendant, shall cause the conditions of release to be entered into the computer system maintained by the clerk and the Administrative Office of the Courts within twenty-four (24) hours following its filing, excluding weekends and holidays. Any modification of the release conditions shall likewise be entered by the circuit clerk, or the circuit clerk's designee.
 - (8) The information entered under this section shall be accessible to any agency designated by the Department of Kentucky State Police as a terminal agency for the Law Information Network of Kentucky.
 - (9) All orders issued under this section which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts. If the conditions of pretrial release are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.
 - (10) Any person who violates any condition of an order issued pursuant to this section is guilty of a Class A misdemeanor.

Section 310. KRS 431.105 is amended to read as follows:

Notwithstanding any other statutory provisions to the contrary, all fines and forfeitures recovered in any court as a result of a conviction for the violation of any of the provisions of KRS 189.221, subsection (1) of 189.222, or 189.270, which violation occurred on a state-maintained highway and arrest was made by any peace officer other than a member of the Department of Kentucky State Police, Department of Kentucky Vehicle Enforcement, Department of Highways, or Department of Vehicle Regulation, shall inure to the benefit of the state, shall be paid to the State Treasurer for the use and benefit of the Department of Highways, and no part shall be returned to the local governmental units from which they were sent. These fines and forfeitures shall be paid into the State Treasury by the court collecting same and within thirty (30) days after imposition and collection.

Section 311. KRS 431.450 is amended to read as follows:

- (1) The Department of Kentucky State Police in consultation with the Transportation Cabinet shall design, print, and distribute to all law enforcement agencies in the Commonwealth a uniform citation.
- (2) The citation shall:
 - (a) Be approved by the Supreme Court;
 - (b) Consist of an original document and five (5) copies;
 - (c) Be serially numbered in such a manner that the year of issue and the individual citation number may be readily ascertained; and
 - (d) Contain such other information as may be required by the Supreme Court.
- (3) The Circuit Court clerk shall maintain a system of accountability for all citations issued in accordance with rules and regulations issued by the Supreme Court to assure that citations are not wrongfully destroyed, tampered with, or otherwise compromised in any manner.
- (4) All peace officers in the Commonwealth shall use the uniform citation for all violations of the traffic laws and for all felonies, misdemeanors and violations.

Section 312. KRS 431.4505 is amended to read as follows:

The Justice and Public Safety Cabinet shall modify the uniform citation form to include spaces where the peace officer may include:

- (1) The alcohol concentration in cases of violation of KRS 189A.010; and
- (2) Whether the defendant did take, refused to take, or was unable to take for some reason (to be specified on the citation), the alcohol concentration or drug test or tests specified by the peace officer following an arrest for violation of KRS 189A.010.

Section 313. KRS 431.452 is amended to read as follows:

- (1) An offense which is designated as subject to prepayment by specific statutory designation may be prepaid by the violator subject to the terms and conditions of the statute involved.
- (2) When an offense that is not designated as subject to prepayment by specific statutory designation is cited on the same citation with another offense that is subject to prepayment, the officer shall cite the violator to court for all cited offenses. However, if the offense for which prepayment is not allowed is dismissed by the judge prior to the court date listed on the citation, the offense subject to prepayment by specific statutory designation may be prepaid by the violator, and the violator shall not be required to appear in court.
- (3) An offense which is designated as subject to prepayment is subject to the following conditions:
 - (a) Designation as subject to prepayment does not preclude a physical arrest by a peace officer for that offense;
 - (b) Designation as subject to prepayment shall preclude a requirement that the defendant make a court appearance on a uniform citation;
 - (c) Except as provided for in KRS 189.990(25), for any offense designated as subject to prepayment, the defendant may elect to pay the minimum fine for the offense plus court costs to the circuit clerk before the date of his trial or be tried in the normal manner, unless the citation is marked for mandatory court appearance pursuant to KRS 431.015 or subsection (2) of this section, except that the fine for violations of KRS 189.221, 189.222, 189.226, 189.270, or 189.271 shall be in accordance with KRS 189.990(2)(a) and the defendant shall not be allowed to pay the minimum fine as otherwise allowed by this paragraph; and
 - (d) Prepayment of the fine and costs shown on the citation or accompanying schedule shall be considered as a plea of guilty for all purposes.
- (4) When a peace officer issues a uniform citation and no physical arrest is made he or she shall, where the citation is designated as subject to prepayment, mark the citation as "PAYABLE", except as provided in KRS 431.015 or subsection (2) of this section.
- (5) The Administrative Office of the Courts, after consultation with the Department of Kentucky State Police, the Transportation Cabinet, the Division of Forestry, the Department of Fish and Wildlife Resources, and a representative of law enforcement shall develop a prepayable fine and cost schedule and a uniform statewide instruction sheet for the Commonwealth.

Section 314. KRS 431.650 is amended to read as follows:

- (1) The Kentucky Multidisciplinary Commission on Child Sexual Abuse is hereby created.
- (2) The commission shall be comprised of the following members:
 - (a) The commissioner of the Department for Community Based Services or a designee;
 - (b) The commissioner of the Department for Mental Health and Mental Retardation Services or a designee;
 - (c) One (1) social service worker who is employed by the Department for Community Based Services to provide child protective services, who shall be appointed by the secretary of the Cabinet for Health and Family Services;
 - (d) One (1) therapist who provides services to sexually abused children, who shall be appointed by the secretary of the Cabinet for Health and Family Services;
 - (e) The commissioner of the Department Kentucky State Police or a designee;
 - (f) One (1) law enforcement officer who is a detective with specialized training in conducting child sexual abuse investigations, who shall be appointed by the secretary of the Justice and Public Safety Cabinet;
 - (g) One (1) employee of the Administrative Office of the Courts appointed by the Chief Justice of the Supreme Court of Kentucky;
 - (h) Two (2) employees of the Attorney General's Office who shall be appointed by the Attorney General;
 - (i) One (1) Commonwealth's attorney who shall be appointed by the Attorney General;
 - (j) The commissioner of the Department of Education or a designee;
 - (k) One (1) school counselor, school psychologist, or school social worker who shall be appointed by the commissioner of the Department of Education;
 - (l) The executive director of the Division of Child Abuse and Domestic Violence Services or a designee;
 - (m) One (1) representative of a children's advocacy center who shall be appointed by the Governor;
 - (n) One (1) physician appointed by the Governor; and
 - (o) One (1) former victim of a sexual offense or one (1) parent of a child sexual abuse victim who shall be appointed by the Attorney General.
- (3) Appointees shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.
- (4) The commission shall elect a chairperson annually from its membership.

Section 315. KRS 433.234 is amended to read as follows:

- (1) Willful concealment of unpurchased merchandise of any store or other mercantile establishment on the premises of such store shall be prima facie evidence of an intent to deprive the owner of his property without paying the purchase price therefor.
- (2) All city and county law enforcement agencies shall cause to be made a photograph, a set of fingerprints and a general descriptive report of all persons except juveniles arrested for theft through an act of shoplifting. If convicted, two (2) copies of each item shall be forwarded within thirty (30) days to the Department of Kentucky State Police of the Justice and Public Safety Cabinet.

Section 316. KRS 433.753 is amended to read as follows:

- (1) When any paper, waste material, litter or other refuse is thrown or dropped from a motor vehicle, the operator thereof shall be deemed prima facie to be guilty of criminal littering.
- (2) It shall be the duty of the Department of Kentucky State Police, county sheriffs and police officers, solid waste coordinators appointed by a county or waste management district, city police officers, and all other law enforcement and peace officers within their respective jurisdictions, to enforce the criminal littering laws and the provisions of KRS 224.40-100.
- (3) Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm or corporation for commission of the offense of criminal littering.
- (4) Violators may prepay to the Circuit Court clerk if prepayment is so noted on the citation and if the littering offense is not combined with an offense that is not prepayable.

Section 317. KRS 434.445 is amended to read as follows:

- (1) Any person who knowingly transfers or causes to be transferred any sounds recorded on a phonograph record, disc, wire, tape, film, or other article on which sounds are recorded, with the intent to sell or cause to be sold for profit or used to promote the sale of any product, such article on which sounds are so transferred without the consent of the owner, shall be guilty of a Class D felony. Each individual manufacture of such recorded article shall constitute a separate offense. "Owner," for purposes of this section, means the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film, or other device used for reproducing sounds on phonograph records, discs, tapes, films, or other articles upon which sound is recorded, and from which the transferred recorded sounds are directly derived.
- (2) Any person who knowingly transfers or causes to be transferred to any phonograph record, disc, wire, tape, film, or other article, any performance, whether live before an audience or transmitted by wire or through the air by radio or television, with the intent to sell or cause to be sold for profit or used to promote the sale of any product, such article onto which such performance is or distributes, causes the distribution of, or possesses for one (1) or more of these purposes, to be transferred without the consent of the performer, shall be fined not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) or confined in the penitentiary for not less than one (1) year nor more than five (5) years, or both. Each individual transfer or manufacture of such recorded article shall constitute a separate offense. For purposes of this section, a person who is authorized to maintain custody and control over business records that reflect whether or not the owner of the live performance consented to having the live performance recorded or fixed is a proper witness in a proceeding regarding the issue of consent.
- (3) Any person who knowingly, or with reasonable grounds to know, advertises or offers for sale or resale, or sells or resells, or as a renter, rents or causes the rental of, or distributes or possesses for such purposes any sound recording manufactured without the consent of the owner, as defined in subsection (1) of this section, or any sound recording manufactured without the consent of the performer shall, be guilty of a Class D felony. Possession of five (5) or more duplicate copies or twenty (20) or more individual copies of such recorded articles, produced without the consent of the owner, shall create a rebuttable presumption that such devices are intended for sale or distribution in violation of this section. Each sale or resale of any such article shall constitute a separate offense.
- (4) Any person who knowingly sells or distributes, offers to sell or distribute, possesses for the purpose of sale or distribution any phonograph record, disc, wire, tape, film, or other article now known or later developed on which sounds, images, or both sounds and images have been transferred unless such phonograph record, disc, wire, tape, film, or other article bears the true name and address of the transferor of the sounds and the name of the actual performer or group in a prominent place on its packaging shall be guilty of a Class D felony. Each sale or distribution of any such article shall constitute a separate offense.
- (5) This section does not apply to any person who transfers or causes to be transferred any such sounds or images intended for or in connection with radio or television broadcast or cable transmission or related uses, or for archival purposes, or solely for the personal use of the person transferring or causing the transfer and without any compensation being derived by the person from the transfer.
- (6) It shall be the duty of all peace officers within the Commonwealth of Kentucky and the Department of Kentucky State Police upon discovery to confiscate the recorded devices produced in violation of this section. Any recorded device produced in violation of this section, which has come into the custody of a peace officer, shall be forfeited and destroyed

by the court having jurisdiction. A record of the place where said recorded devices were seized, the kinds and quantities of recorded devices so destroyed, and of the time, place, and manner of the destruction, shall be kept.

Section 318. KRS 439.250 is amended to read as follows:

As used in KRS 439.250 to 439.560, unless the context requires otherwise:

- (1) "Secretary" means the secretary of the Justice and Public Safety Cabinet;
- (2) "Commissioner" means the commissioner of the Department of Corrections;
- (3) "Department" means the Department of Corrections;
- (4) "Deputy commissioner" means the deputy commissioner of the Office~~[Division]~~ of Adult Institutions or the deputy commissioner of the Office~~[Division]~~ of Community Services and~~[Local]~~ Facilities of the Department of Corrections;
- (5) "Board" means the Parole Board created by KRS 439.320.

Section 319. KRS 439.320 is amended to read as follows:

- (1) The Governor shall appoint a Parole Board consisting of seven (7) full-time members and two (2) part-time members, as described in subsection (7) of this section, to be confirmed by the Senate in accordance with KRS 11.160. Each of the two (2) part-time members shall be from a different political party. The Governor shall make each appointment for full-time and part-time members from a list of three (3) names given to him by the Kentucky State Corrections Commission~~-on Correction and Community Service~~. Each member appointed to the board shall have had at least five (5) years of actual experience in the field of penology, correction work, law enforcement, sociology, law, education, social work, medicine, or a combination thereof, or have served at least five (5) years previously on the Parole Board. No more than five (5) board members shall be of the same political party. The board shall be attached to the Justice and Public Safety Cabinet for administrative purposes only; the Department of Corrections shall provide any clerical, stenographic, administrative, and expert staff assistance the board deems necessary to carry out its duties.
- (2) The Governor shall name one (1) full-time member as chairman of the board.
- (3) The full-time members of the board shall give full time to the duties of their office and shall receive necessary traveling expenses and a salary to be determined pursuant to KRS 64.640(2), except the chairman of the board shall receive additional compensation of one thousand dollars (\$1,000) per year for his or her services. Their terms of office shall be four (4) years and until their successors are appointed and have qualified. Their successors shall be appointed thereafter as provided in this section for terms of four (4) years, and a vacancy occurring before expiration of the term of office shall be similarly filled for the unexpired term. The chairman of the board shall serve as such until the expiration of his or her term at which time the Governor shall name his or her successor and designate the chairman of the board. If a vacancy occurs in the chairmanship of the board before the expiration of the term, the Governor may name a successor to serve for the remainder of the unexpired term.
- (4) The organization of the board shall be determined by the chairman and shall be consistent with administrative regulations promulgated pursuant to KRS 439.340. For policy and procedural matters, four (4) members shall constitute a quorum. Parole and final parole revocation hearings may be done by panels of the board, subject to the following requirements:
 - (a) If a two (2) member panel is utilized, both members of the panel shall agree on the decision or the matter shall be referred to the full board;
 - (b) If a three (3) member panel is utilized, two (2) of the three (3) members of the panel shall agree on a decision or the matter shall be referred to the full board; and
 - (c) If a panel of four (4) or more members is utilized, a majority of the panel shall agree on a decision or the matter shall be referred to the full board.
- (5) The Governor may not remove any member of the board except for disability, inefficiency, neglect of duty, or malfeasance in office. Before removal, he or she shall give the member a written copy of the charges against him or her and shall fix the time when he or she can be heard in his or her defense, which shall not be less than ten (10) days thereafter. Upon removal, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the member and the findings thereupon with a record of the proceedings.
- (6) Upon the expiration of the terms of office of the two (2) full-time board members whose terms expire May 23, 1994, the Governor shall appoint two (2) full-time members to serve terms which will expire June 30, 1995. Thereafter, appointments to these two (2) full-time terms shall be for four (4) years and shall be filled as provided for in subsection (3) of this section. The Governor may reappoint present members if they meet the qualifications set forth in subsection (1) of this section.
- (7) The part-time members may participate in considering the grant or revocation of parole at the request of the chairman. No more than one (1) part-time Parole Board member shall serve on any panel of the board as set forth in subsection (4) of this section. The part-time Parole Board member called upon to serve shall be paid at a per diem rate equal to the per diem rate for the salary of a newly appointed full-time member and shall receive necessary travel expenses. The part-time Parole Board member shall serve for a period of four (4) years from the date of appointment and may be reappointed.
- (8) The office of executive director of the Parole Board is created. The office shall be headed by an executive director who shall be appointed by and directly responsible to the secretary of the Justice and Public Safety Cabinet in matters relating

to administration. The executive director shall be responsible for the support services to the Parole Board in the area of financial, personnel, and facilities management; shall provide recommendations on administrative issues affecting the board to the secretary of the Justice and Public Safety Cabinet, the chairman of the Parole Board, and Parole Board members; shall review and draft legislation and promulgate administrative regulations for the board; and shall review parole data and conduct long-range planning as relevant to the planning needs of the board.

Section 320. KRS 439.470 is amended to read as follows:

- (1) The commissioner shall promulgate administrative regulations~~[have the power and duty to make rules]~~ for the conduct of persons placed on probation or parole, except ~~that the~~ commissioner shall not promulgate~~[make]~~ any administrative regulation~~[rule]~~ which conflicts with the conditions of probation imposed by the court or conditions of release imposed by the board.
- (2) The commissioner may utilize an approved monitoring device as defined in KRS 532.200(5) in the supervision of persons placed on probation or parole and to impose a reasonable fee on the probationer or parolee, as a condition of probation or parole, for equipment usage.
- (3) The commissioner, or his or her designee shall:
 - (a) Be responsible for any reports of investigation and supervision as may be requested by the board or the courts;
 - (b) Divide the Commonwealth~~[state]~~ into districts and assign probation and parole officers to serve in the various districts and courts;
 - (c) Direct the work of the officers and other employees assigned to him or her;
 - (d) Formulate methods of investigation, supervision, record keeping, and reports;
 - (e) Conduct training courses for the staff;
 - (f) Negotiate with public or private groups or institutions for further training of employees and authorize the expenditure of funds for that purpose when needed;
 - (g) Develop policies on probation and parole work in the light of other welfare administration policies.

Section 321. KRS 439.483 is amended to read as follows:

- (1) Each probation and parole officer shall be trained in the requirements of the sexual offender registration laws and shall be able to:
 - (a) Register or reregister a sexual offender; and
 - (b) Answer questions about the sexual offender registration law and its requirements.
- (2) The Justice and Public Safety Cabinet shall provide each probation and parole office with sufficient copies of the following documents to handle the expected numbers of registrants:
 - (a) The sexual offender registration statutes and any administrative regulations which are promulgated relating to sexual offender registration;
 - (b) A brochure explaining in lay person's terms the requirements of the sex offender registration laws and administrative regulations;
 - (c) Registration forms;
 - (d) Fingerprint cards; and
 - (e) Other documents and supplies necessary to register a sexual offender.

Section 322. KRS 439.580 is amended to read as follows:

As used in KRS 439.590 to 439.630, unless the context otherwise requires:

- (1) "Secretary" means the secretary of the Justice and Public Safety Cabinet;
- (2) "Commissioner" means the commissioner of the Department of Corrections;
- (3) "Department" means the Department of Corrections;
- (4) "Facility" means the community correctional center; and
- (5) "Relative" means a spouse; child, including step-child, adopted child or child as to whom the prisoner, though not a biological parent, has acted in the place of a parent; parent including a person who, though not a biological parent, has acted in the place of a parent; brother; sister; or grandparents.

Section 323. KRS 441.046 is amended to read as follows:

- (1) All persons arrested or detained in any adult or juvenile detention facility shall be fingerprinted prior to the person's release from custody. A copy of these fingerprints shall be transmitted to the Department of Kentucky State Police for review.
- (2) The jailer shall fingerprint persons for other law enforcement agencies.
- (3) The jailer shall submit the fingerprints to the Department of Kentucky State Police in the manner and at the time required by the Department of Kentucky State Police through administrative regulation.
- (4) The Department of Kentucky State Police shall notify the Department of Corrections and the jailer, in writing, of the

intentional failure of a jailer to comply with subsection (1), (2), or (3) of this section. Upon the first receipt of the notification of an intentional failure to comply with subsection (1), (2), or (3) of this section, the Department of Corrections shall issue a formal written warning to the jailer setting forth the consequences of continued intentional failure to comply with subsection (1), (2), or (3) of this section.

- (5) If the jailer intentionally failed to comply with any fingerprinting requirements of subsection (1), (2), or (3) of this section, after being warned of such intentional failure, the Department of Corrections shall have authority to withhold the state contribution under KRS 441.206 and may require the jailer to return the state contribution funds received under KRS 441.206 for any period in which he or she intentionally failed to comply after being warned.

Section 324. KRS 441.115 is amended to read as follows:

- (1) For the purpose of raising the level of competence of jailers and jail personnel, the department shall maintain a jail staff training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. The training program shall include training on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for Health and Family Services. A curriculum advisory committee composed of jailers, their representatives, and recognized professionals in the field of jail administration shall advise the department concerning the training needs of jailers and jail personnel. The jail staff training program shall be directed and staffed ~~in coordination with the Governmental Services Center at Kentucky State University;~~ by knowledgeable persons who have sufficient experience, training, and education in jail operations. The department shall not charge a fee for training jailers, their deputies, or jailers-elect.
- (2) Beginning in August, 1982, each jailer shall receive an expense allowance to help defray the costs of his participation in the jail staff training program. The expense allowance shall be in the amount of three hundred dollars (\$300) per month payable out of the State Treasury. Expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of the training.
- (3) The allowance authorized in subsections (2) and (4) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.
- (4) In order to receive the expense allowance for their first year in office, jailers who have been elected to office for the first time, shall, before taking office, successfully complete a training program designed for new jailers and conducted by the personnel of the jail staff training program. This provision shall not apply if the jailer-elect is ill and unable to complete the training before taking office. In such cases, the jailer-elect shall successfully complete a new jailer training program during his first year in office in order to receive the expense allowance. The county or urban-county government in which the jailer-elect serves shall pay out of the jail budget, once he takes office, all necessary and reasonable travel expenses incurred by the jailer-elect in attending the new jailer training program.
- (5) All jailers shall successfully complete the training required. If a jailer does not successfully complete the required training within the time specified, he ~~or she~~ shall not receive the expense allowance specified in subsection (2) of this section until he ~~or she~~ successfully completes the required training.

Section 325. KRS 500.090 is amended to read as follows:

- (1) All property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.
- (a) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained.
- (b) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to:
1. The state, if the property was seized by an agency of the state or peace officer thereof;
 2. The county, if the property was seized by the sheriff or an agency or peace officer of the county;
 3. The Department of Fish and Wildlife Resources, if the property was seized by a peace officer of the Department of Fish and Wildlife or was seized by any other officer for violation of KRS Chapter 150;
 4. The city, if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the city property clerk;
 5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten percent (10%) of the proceeds), if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the sheriff or the county police; or
 6. The state, if the property was seized by any combination of agencies listed above.
- (c) Subject to the duty to return confiscated firearms and ammunition to innocent owners pursuant to this section, all

firearms and ammunition confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms and ammunition coming into the custody of a state or local law enforcement agency and not retained for official use shall be transferred to the Department of Kentucky State Police for disposition as provided by KRS 16.220. The transfer shall occur not more than ninety (90) days after the abandonment of the firearm or ammunition to the law enforcement agency or not more than ninety (90) days after its confiscation, unless a court requires the firearm or ammunition for use as evidence, in which case it shall be transferred to the Department of Kentucky State Police not more than ninety (90) days following the order of forfeiture by the court or after the court returns the firearm or ammunition from use as evidence. Prior to the sale of any firearm or ammunition, the law enforcement agency shall make a bona fide attempt to determine if the firearm or ammunition to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm and ammunition to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms and ammunition shall not apply to firearms and ammunition auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms and ammunition of the type auctioned.

- (d) If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.
 - (e) Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official use in the following manner. Property which has been seized by an agency of the state may be retained for official state use. Property which has been seized by an agency of county, city, or urban-county government may be retained for official use by the government whose agency seized the property or for official state use. Property seized by any other unit of government may be retained only for official state use. The expenses for keeping and transferring such property shall be paid by the unit of government by which the property is retained.
- (2) Money which has been obtained or conferred in violation of any section of this code shall, upon conviction, be forfeited for the use of the state. This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.
 - (3) Property forfeited under any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section.
 - (4) The trial court shall remit the forfeiture of property when the lawful claimant:
 - (a) Asserts his or her claim before disposition of the property pursuant to this section;
 - (b) Establishes his or her legal interest in the property; and
 - (c) Establishes that the unlawful use of the property was without his or her knowledge and consent. Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1)(b) of this section.
 - (5) For purposes of this section, "lawful claimant" means owner or lienholder of record.
 - (6) Before property which has had its identity obscured in violation of KRS 514.120 may be sold or retained for official use as provided in this section, the court shall cause a serial or other identifying number to be placed thereon and a record of the number assigned shall be placed in the court order authorizing the sale or retention of the property. This number shall be assigned, whenever applicable, in consultation with the Department of Kentucky State Police and any other state or federal regulatory agency. The purchaser of the property shall be given a document stating that the property had been forfeited pursuant to law and that a number, shown on the document, has been assigned which shall be deemed as compliance of the owner with KRS 514.120. When property is returned to an owner pursuant to this section and its identity has been obscured by another person in violation of KRS 514.120, the court shall provide a document to the owner relieving him or her of liability for its continued possession. This document shall serve as evidence of compliance with KRS 514.120 by the owner or any person to whom he or she lawfully disposes of the property. This section shall not apply to any person after property has been sold or returned in compliance with this section who violates the provisions of KRS 514.120 with respect to that property.
 - (7) Before forfeiture of any property under this section, it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable, the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made or may, in lieu thereof, order the return of the property to the lawful owner or claimant. If the lawful owner or claimant does not assert his or her claim to the property after notification or if he or she renounces his or her claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs.

Section 326. KRS 500.093 is amended to read as follows:

No court or law enforcement agency shall retain a firearm or ammunition for official use for the purpose of avoiding transfer of the firearm or ammunition to the Department of Kentucky State Police under KRS 237.090, 500.090, or other statute to avoid its being sold pursuant to KRS 16.220.

Section 327. KRS 514.120 is amended to read as follows:

- (1) A person is guilty of obscuring the identity of a machine or other property when he or she:
 - (a) Removes, defaces, covers, alters, destroys, or otherwise obscures the manufacturer's serial number or any other distinguishing identification number or mark, including property marked with a Social Security number or motor vehicle operator's license number for identification purposes, upon any automobile or other propelled vehicle, machine, or electrical or mechanical device, or other property (including any part thereof) with intent to render it or other property unidentifiable; or
 - (b) Possesses any automobile or other propelled vehicle, machine, or electrical or mechanical device, or other property (including any part thereof) knowing that the serial number or other identification number or mark, including property marked with a Social Security number for identification purposes, has been removed, defaced, covered, altered, destroyed, or otherwise obscured.
- (2) Possession of any automobile or other propelled vehicle, machine, or electrical or mechanical device, or other property (including any part thereof) on which the serial number or any other distinguishing identification number or mark, including property marked with a Social Security number or motor vehicle operator's license number for identification purposes, has been removed, defaced, covered, altered, destroyed, or otherwise obscured is prima facie evidence of knowledge of that fact.
- (3) A person in possession of any property which is otherwise in violation of this section may apply in writing to the Department of Kentucky State Police, through any law enforcement agency in the county of his or her residence, for assignment of a number for the property providing he or she can show that he or she is the lawful owner of the property pursuant to the provisions of this section, KRS 16.200, and 500.090. If a number is issued in conformity with the provisions of this section, KRS 16.200, and 500.090, then the person to whom it was issued and any person to whom the property is lawfully disposed of shall not be in violation of these sections. A person lawfully holding a certification issued pursuant to KRS 500.090 shall also be deemed in compliance with this section. This section shall apply only when the application has been filed by the defendant prior to arrest or authorization of a warrant of arrest for the defendant by a court.
- (4) Obscuring the identity of a machine or other property is a Class A misdemeanor unless the value of the property is three hundred dollars (\$300) or more, in which case it is a Class D felony.

Section 328. KRS 524.140 is amended to read as follows:

- (1) As used in this section:
 - (a) "Defendant" means a person charged with a:
 1. Capital offense, Class A felony, Class B felony, or Class C felony; or
 2. Class D felony under KRS Chapter 510; and
 - (b) "Following trial" means after:
 1. The first appeal authorized by the Constitution of Kentucky in a criminal case has been decided; or
 2. The time for the first appeal authorized by the Constitution of Kentucky in a criminal case has lapsed without an appeal having been filed.
- (2) No item of evidence gathered by law enforcement, prosecutorial, or defense authorities that may be subject to deoxyribonucleic acid (DNA) evidence testing and analysis in order to confirm the guilt or innocence of a criminal defendant shall be disposed of prior to trial of a criminal defendant unless:
 - (a) The prosecution has determined that the defendant will not be tried for the criminal offense;
 - (b) The prosecution has made a motion before the court in which the case would have been tried to destroy the evidence; and
 - (c) The court has, following an adversarial proceeding in which the prosecution and the defendant were heard, authorized the destruction of the evidence by court order.
- (3) No item of evidence gathered by law enforcement, prosecutorial, or defense authorities that may be subject to deoxyribonucleic acid (DNA) evidence testing and analysis in order to confirm the guilt or innocence of a criminal defendant shall be disposed of following the trial unless:
 - (a) The evidence, together with DNA evidence testing and analysis results, has been presented at the trial, and the defendant has been found guilty, pled guilty, or entered an Alford plea at the trial;
 - (b) The evidence was not introduced at the trial, or if introduced at the trial was not the subject of DNA testing and analysis, and the defendant has been found guilty, pled guilty, or entered an Alford plea at the trial, and the trial court has ordered the destruction of the evidence after an adversarial hearing conducted upon motion of either the prosecution or the defendant;

- (c) The trial resulted in the defendant being found not guilty or the charges were dismissed after jeopardy attached, whether or not the evidence was introduced at the trial or was subject to DNA testing and analysis or not, and the trial court ordered the destruction of the evidence after an adversarial hearing conducted upon motion of either the prosecution or the defendant; or
 - (d) The trial resulted in the dismissal of charges against the defendant, and the defendant may be subject to retrial, in which event the evidence shall be retained until after the retrial, which shall be considered a new trial for the purposes of this section.
- (4) The burden of proof for a motion to destroy evidence that may be subject to DNA testing and analysis shall be upon the party making the motion, and the court may permit the destruction of the evidence under this section upon good cause shown favoring its destruction.
- (5) It is recognized by the General Assembly that the DNA evidence laboratory testing and analysis procedure consumes and destroys a portion of the evidence or may destroy all of the evidence if the sample is small. The consuming and destruction of evidence during the laboratory analysis process shall not result in liability for its consumption or destruction if the following conditions are met:
- (a) The Department of Kentucky State Police laboratory uses a method of testing and analysis which preserves as much of the biological material or other evidence tested and analyzed as is reasonably possible; or
 - (b) If the Department of Kentucky State Police laboratory knows or reasonably believes that the entire sample of evidence to be tested and analyzed that the laboratory, prior to the testing or analysis of the evidence, notifies in writing the court which ordered the testing and analysis and counsel for all parties:
 - 1. That the entire sample of evidence may be destroyed by the testing and analysis;
 - 2. The possibility that another laboratory may be able to perform the testing and analysis in a less destructive manner with at least equal results;
 - 3. The name of the laboratory capable of performing the testing and analysis, the costs of testing and analysis, the advantages of sending the material to that other laboratory, and the amount of biological material or other evidence which might be saved by alternative testing and analysis; and
 - 4. The Department of Kentucky State Police laboratory follows the directive of the court with regard to the testing and analysis; or
 - (c) If the Department of Kentucky State Police laboratory knows or reasonably believes that so much of the biological material or evidence may be consumed or destroyed in the testing and analysis that an insufficient sample will remain for independent testing and analysis that the laboratory follows the procedure specified in paragraph (b) of this subsection.
- (6) Destruction of evidence in violation of this section shall be a violation of KRS 524.100.
- (7) Subject to KRS 422.285(6), the appropriate governmental entity shall retain any biological material secured in connection with a criminal case for the period of time that any person remains incarcerated in connection with that case. The governmental entity shall have the discretion to determine how the evidence is retained pursuant to this section, provided that the evidence is retained in a condition suitable for DNA testing and analysis.

Section 329. KRS 527.020 is amended to read as follows:

- (1) A person is guilty of carrying a concealed weapon when he or she carries concealed a firearm or other deadly weapon on or about his or her person.
- (2) Peace officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.
- (3) Policemen directly employed by state, county, city, or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.
- (4) Persons, except those specified in subsection (5) of this section, licensed to carry a concealed deadly weapon pursuant to KRS 237.110 may carry a firearm or other concealed deadly weapon on or about their persons at all times within the Commonwealth of Kentucky, if the firearm or concealed deadly weapon is carried in conformity with the requirements of that section. Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried. No person or organization, public or private, shall prohibit a person licensed to carry a concealed deadly weapon from possessing a firearm, ammunition, or both, or other deadly weapon in his or her vehicle in compliance with the provisions of KRS 237.110 and 237.115. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.
- (5) (a) The following persons, if they hold a license to carry a concealed deadly weapon pursuant to KRS 237.110, may carry a firearm or other concealed deadly weapon on or about their persons at all times and at all locations within

2007 Regular Session

the Commonwealth of Kentucky, without any limitation other than as provided in this subsection:

1. A Commonwealth's attorney or assistant Commonwealth's attorney;
 2. A county attorney or assistant county attorney;
 3. A justice or judge of the Court of Justice; and
 4. A retired or senior status justice or judge of the Court of Justice.
- (b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.
- (c) A person specified in this section who is issued a concealed deadly weapon license shall be issued a license which bears on its face the statement that it is valid at all locations within the Commonwealth of Kentucky and may have such other identifying characteristics as determined by the Department of Kentucky State Police.
- (6) (a) Except as provided in this subsection, the following persons may carry concealed deadly weapons on or about their person at all times and at all locations within the Commonwealth of Kentucky:
1. An elected sheriff and full-time and part-time deputy sheriffs certified pursuant to KRS 15.380 to 15.404 when expressly authorized to do so by the unit of government employing the officer;
 2. An elected jailer and a deputy jailer who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the jailer; and
3. The department head or any employee of a corrections department in any jurisdiction where the office of elected jailer has been merged with the office of sheriff who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the unit of government by which he or she is employed. (b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.
- (7) (a) A full-time paid peace officer of a government agency from another state or territory of the United States or an elected sheriff from another territory of the United States may carry a concealed deadly weapon in Kentucky, on or off duty, if the other state or territory accords a Kentucky full-time paid peace officer and a Kentucky elected sheriff the same rights by law. If the other state or territory limits a Kentucky full-time paid peace officer or elected sheriff to carrying a concealed deadly weapon while on duty, then that same restriction shall apply to a full-time paid peace officer or elected sheriff from that state or territory.
- (b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.
- (8) A firearm or other deadly weapon shall not be deemed concealed on or about the person if it is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer, regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism. No person or organization, public or private, shall prohibit a person from keeping a firearm or ammunition, or both, or other deadly weapon in a glove compartment of a vehicle in accordance with the provisions of this subsection. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.
- (9) Carrying a concealed weapon is a Class A misdemeanor, unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used, or displayed, in which case it is a Class D felony.

Section 330. KRS 620.030 is amended to read as follows:

- (1) Any person who knows or has reasonable cause to believe that a child is dependent, neglected or abused shall immediately cause an oral or written report to be made to a local law enforcement agency or the Department of Kentucky State Police; the cabinet or its designated representative; the Commonwealth's attorney or the county attorney; by telephone or otherwise. Any supervisor who receives from an employee a report of suspected dependency, neglect or abuse shall promptly make a report to the proper authorities for investigation. If the cabinet receives a report of abuse or neglect allegedly committed by a person other than a parent, guardian or person exercising custodial control or supervision, the

cabinet shall refer the matter to the Commonwealth's attorney or the county attorney and the local law enforcement agency or the Department of Kentucky State Police. Nothing in this section shall relieve individuals of their obligations to report.

- (2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected or abused, regardless of whether the person believed to have caused the dependency, neglect or abuse is a parent, guardian, person exercising custodial control or supervision or another person, or who has attended such child as a part of his or her professional duties shall, if requested, in addition to the report required in subsection (1) of this section, file with the local law enforcement agency or the Department of Kentucky State Police or the Commonwealth's or county attorney, the cabinet or its designated representative within forty-eight (48) hours of the original report a written report containing:
 - (a) The names and addresses of the child and his or her parents or other persons exercising custodial control or supervision;
 - (b) The child's age;
 - (c) The nature and extent of the child's alleged dependency, neglect or abuse (including any previous charges of dependency, neglect or abuse) to this child or his or her siblings;
 - (d) The name and address of the person allegedly responsible for the abuse or neglect; and
 - (e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.
- (3) The cabinet upon request shall receive from any agency of the state or any other agency, institution or facility providing services to the child or his or her family, such cooperation, assistance and information as will enable the cabinet to fulfill its responsibilities under KRS 620.030, 620.040, and 620.050.

Section 331. KRS 620.040 is amended to read as follows:

- (1)
 - (a) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall immediately notify the cabinet or its designated representative, the local law enforcement agency or the Department of Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source.
 - (b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk determined, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse shall be considered high risk and shall not be referred to any other community agency.
 - (c) The cabinet shall, within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or the Department of Kentucky State Police concerning the action that has been taken on the investigation.
 - (d) If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall immediately notify the Commonwealth's or county attorney and the local law enforcement agency or the Department of Kentucky State Police.
- (2)
 - (a) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall immediately notify the cabinet or its designated representative.
 - (b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse shall be considered high risk and shall not be referred to any other community agency.
 - (c) The cabinet need not notify the local law enforcement agency or the Department of Kentucky State Police or county attorney or Commonwealth's attorney of reports made under this subsection.
- (3) If the cabinet or its designated representative receives a report of abuse by a person other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall immediately notify the local law enforcement agency or the Department of Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and they shall investigate the matter. The cabinet or its designated representative shall participate in an investigation of noncustodial physical abuse or neglect at the request of the local law enforcement agency or the Department of Kentucky State Police. The cabinet shall participate in all investigations of reported or suspected sexual abuse of a child.
- (4) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.
- (5)
 - (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain

2007 Regular Session

admission to the location of the child, a search warrant shall be requested from, and may be issued by, the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.

- (b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he or she is returned to the persons having custody of him or her, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.
- (c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.
- (d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he or she shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.
- (6) To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with the child shall be conducted at a children's advocacy center.
- (7)
 - (a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.
 - (b) Membership of the multidisciplinary team shall include, but shall not be limited to, social service workers employed by the Cabinet for Health and Family Services and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.
 - (c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child, or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.
 - (d) The team shall hold regularly scheduled meetings if new reports of sexual abuse are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.
 - (e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases.
 - (f) Multidisciplinary team members and anyone invited by the multidisciplinary team to participate in a meeting shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members and others attending meetings shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.
 - (g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.
 - (h) The multidisciplinary team review of a case may include information from reports generated by agencies, organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.
 - (i) To the extent practicable, multidisciplinary teams shall be staffed by the local children's advocacy center.

Section 332. KRS 620.045 is amended to read as follows:

- (1) The secretaries of the Cabinet for Health and Family Services and the Justice and Public Safety Cabinet are authorized to make state grants and other fund allocations to assist nonprofit corporations in the establishment and operation of regional children's advocacy centers.
- (2) To be eligible for grants from any state government entity, a children's advocacy center shall meet the statutory definition of a children's advocacy center as provided in this chapter and shall operate consistent with administrative regulations promulgated by the Cabinet for Health and Family Services in accordance with KRS Chapter 13A.

Section 333. KRS 635.545 is amended to read as follows:

- (1) The Department of Juvenile Justice shall maintain on file the names and identities of program participants for a period of fifteen (15) years following their participation in the program. The names and identities shall not be disclosed except for the purposes allowed in this section.

- (2) On a biennial basis, the Department of Juvenile Justice shall request from the Administrative Office of the Courts and the Department of Kentucky State Police information concerning whether any of the individuals who participated in the program have been arrested, tried, convicted, or incarcerated for any offense under KRS Chapter 510, KRS 530.020, 530.064(1)(a), 531.310, or any other criminal offense.
- (3) Each two (2) years the Department of Juvenile Justice shall compile the information obtained and present it to the Governor, the Legislative Research Commission, and the Supreme Court. The report shall not contain the names of any of the individual participants but shall contain identifying information which may assist in the evaluation of the program and in determination of whether participants have engaged in further criminal behavior as juveniles or adults.

Section 334. The following KRS sections are repealed:

- 15A.042 Office of Criminal Justice Council -- Divisions -- Duties -- Executive director.
- 15A.050 General counsel.
- 15A.120 Transfer of functions to cabinet.
- 15A.130 Transfer of funds, credits, assets, etc., to cabinet.
- 15A.140 Existing rules and regulations effective until modified or repealed.
- 15A.170 Administrative support services -- Other related programs.
- 15A.180 Retention and protection of reports, documents, records, etc.
- 17.080 Justice Cabinet may make rules and direct proceedings.
- 17.1531 Study on racial bias in capital sentencing.
- 30A.055 Automated warrant system.
- 403.783 Model law enforcement domestic violence policy and procedures manual --Distribution -- Agency submission to Justice Cabinet -- Assistance by cabinet when policy inadequate.
- 439.302 Commission on Correction and Community Service -- Appointment -- Terms -- Expenses.
- 439.304 Meetings, powers, and duties of commission.
- 439.306 Authority of commission and members.

Section 335. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 336. KRS 12.028 or any other provision of law to the contrary notwithstanding, the General Assembly confirms the portion of the Governor's Executive Order 2006-496, filed on May 4, 2006, and Executive Order 2006-805, dated July 10, 2006, relating to the Justice and Public Safety Cabinet, to the extent they are not otherwise confirmed or superseded by this Act.

The Committee on Health and Welfare reported **SB 23**, **SB 26**, **SB 104**, and **SB 105** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 23, AN ACT relating to assistance dogs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 258.500 is amended to read as follows:

- (1) As used in subsections (1) to (11) of this section, "person" means a "person with a disability" as defined by KRS 210.770. "Person" also includes a trainer of an assistance dog.
- (2) If a person is accompanied by an assistance dog, neither the person nor the dog shall be denied admittance to any hotel, motel, restaurant, or eating establishment, nor shall the person be denied full and equal accommodations, facilities, and privileges of all public places of amusement, theater, or resort when accompanied by an assistance dog.
- (3) Any person accompanied by an assistance dog shall be entitled to full and equal accommodations on all public transportation, if the dog does not occupy a seat in any public conveyance, nor endanger the public safety.
- (4) No person shall be required to pay additional charges or fare for the transportation of any accompanying assistance dog.
- (5) No person accompanied by an assistance dog shall be denied admittance and use of any public building, nor denied the use of any elevator operated for public use.
- (6) Any person accompanied by an assistance dog may keep the dog in his immediate custody while a tenant in any apartment, or building used as a public lodging.
- (7) ~~The provisions of this section shall not apply unless the assistance dog has been trained or is being trained by a recognized training agency or school, and is properly harnessed.~~
- (8) ~~(a) Except as provided in paragraph (b) of this subsection, all persons accompanied by an assistance dog shall have in~~

~~their personal possession a certificate issued by the assistance dog training agency or school establishing that their dogs have been so trained.~~

- ~~(b)}~~ All trainers accompanied by an assistance dog shall have in their personal possession identification verifying that they are trainers of assistance dogs.

~~(8)(9)}~~ The provisions of this section shall not apply unless the person complies with the legal limitations applicable to nondisabled persons and unless all requirements of KRS 258.015 and 258.135 have been complied with.

~~(9)(10)}~~ Assistance dogs are exempt from all state and local licensing fees.

~~(10)(11)}~~ Licensing authorities shall accept that the dog for which the license is sought is an assistance dog if the person requesting the license is a person with a disability or the trainer of the dog~~[when a copy of the certificate, as required under subsection (8) of this section, is attached to the licensing form].~~

~~(11)(12)}~~ Emergency medical treatment shall not be denied to an assistance dog assigned to a person regardless of the person's ability to pay prior to treatment.

~~(12)~~ No person shall willfully or maliciously interfere with an assistance dog or the dog's user.

Section 2. KRS 258.991 is amended to read as follows:

Any person violating KRS 258.500(2), (3), (4), (5), (6), (11), or (12) shall be punished by a fine of not less than two hundred and fifty dollars (\$250), nor more than one thousand dollars (\$1,000), or by imprisonment in the county jail for not less than 10 nor more than 30 days, or both. No person shall be charged with a violation of KRS 258.500(2), (3), (4), (5), (6), (11), or (12) if the requirements of KRS 258.500~~(7)(8)}~~ are not met.

SB 26, AN ACT relating to dental services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.240 is amended to read as follows:

~~[(1)]~~ No person shall practice or offer to practice dentistry or dental surgery under the name of any company, association, or corporation, except the name of a professional service corporation established under KRS Chapter 274, or as provided under Section 2 of this Act. Any person practicing or offering to practice dentistry or dental surgery shall practice under his or her own name, ~~[or]~~ the name of the professional service corporation which includes his or her name, or the name of a deceased or incapacitated dentist for whom the person practicing dentistry has contracted to perform continuing operations. No such person shall conduct a dental office in his or her name nor advertise his or her name in connection with any dental office unless he or she personally performs services as a dentist or dental surgeon in such office or personally supervises such services as are performed in such office during a portion of the time such office is operated by him or her only, and shall not use his or her name in connection with that of any other dentist, except as provided for deceased or incapacitated dentists in Section 2 of this Act.

~~[(2)]~~ No person shall be an incorporator, director, officer, or shareholder in more than three (3) professional service corporations rendering dental or dental surgery services. No dentist or dental surgeon or group of dentists or dental surgeons shall practice in more than three (3) locations.]

SECTION 2. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) The executor or administrator of a deceased dentist's estate, or the legal guardian or authorized representative of a dentist who has become incapacitated, may contract with another dentist or dentists to continue the operations of the deceased or incapacitated dentist's practice if the practice of the deceased or incapacitated dentist is a:

(a) Sole proprietorship;

(b) Corporation in which the deceased or incapacitated dentist is the sole shareholder; or

(c) Limited liability company in which the deceased or incapacitated dentist is the sole member.

(2) Contracts to continue the operations of a deceased or incapacitated dentist's practice may extend until the practice is sold.

(3) Prior to contracting with another dentist or dentists to continue operations of a deceased or incapacitated dentist's practice the executor, administrator, guardian, or authorized representative shall file a notification of intent to contract for continuation of practice with the Board of Dentistry on a form prescribed by the board. The notification shall include the following information:

(a) The name and license number of the deceased or incapacitated dentist;

(b) The name and address of the dental practice;

(c) The name, address, and tax identification number of the estate;

(d) The name and license number of each dentist who will provide services in the dental practice;

(e) An affirmation, under penalty of perjury, that the information provided is true and correct and that the executor, administrator, guardian, or authorized representative understands that any interference by the executor, administrator, guardian, or authorized agent or any agent or assignee of the executor, administrator,

guardian, or authorized representative with the contracting dentist's or dentists' practice of dentistry or professional judgment or any other violation of this chapter is grounds for an immediate termination of the operations of the dental practice; and

(f) Any other information the board deems necessary for the administration of this chapter.

- (4) Within thirty (30) days after the death or incapacitation of a dentist, the executor, administrator, guardian, or authorized representative shall send notification of the death or incapacitation by mail to the last known address of each patient of record that has received treatment by the deceased or incapacitated dentist within the previous twelve (12) months, with an explanation of how copies of the practitioner's records may be obtained. This notice may also contain any other relevant information concerning the continuation of dental practice.
- (5) The provisions of this section and Section 1 of this Act shall not be interpreted to relieve any person providing dental services from the requirements of KRS 313.020 or 313.190.

SB 104, AN ACT relating to mental illness.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 210.365 is amended to read as follows:

- (1) As used in this section:
- (a) "Crisis intervention team" (CIT) training means a forty (40) hour training curriculum based on the Memphis Police Department Crisis Intervention Team model of best practices for law enforcement intervention with persons who may have a mental illness, substance abuse disorder, mental retardation, developmental disability, or dual diagnosis that meets the requirement of subsections (2) to (5) of this section and is approved by the Kentucky Law Enforcement Council;
- (b) "Department" means the Department for Mental Health and Mental Retardation Services;
- (c) "Prisoner" has the same meaning as set out in KRS 441.005; and
- (d) ~~[(b)]~~ "Qualified mental health professional" has the same meaning as set out in KRS 202A.011.
- (2) The department shall, in collaboration with the Justice Cabinet, the regional community mental health-mental retardation boards, and representatives of the Kentucky statewide affiliate of the National Alliance on Mental Illness, coordinate the development of CIT training designed to train law enforcement officers to effectively respond to persons who may have a mental illness, substance abuse disorder, mental retardation, developmental disability, or dual diagnosis, to reduce injuries to officers and citizens, to reduce inappropriate incarceration, to reduce liability, and to improve risk management practices for law enforcement agencies.
- (3) The CIT training shall include but not be limited to:
- (a) An introduction to crisis intervention teams;
- (b) Identification and recognition of the different types of mental illnesses, substance abuse disorders, mental retardation, developmental disabilities, and dual diagnoses;
- (c) Interviewing and assessing a person who may have a mental illness, substance abuse disorder, mental retardation, a developmental disability, or dual diagnosis;
- (d) Identification and common effects of psychotropic medications;
- (e) Suicide prevention techniques;
- (f) Community resources and options for treatment;
- (g) Voluntary and involuntary processes for hospitalization of a person with a mental illness, substance abuse disorder, mental retardation, developmental disability, or dual diagnosis; and
- (h) Hostage or other negotiations with a person with a mental illness, mental retardation, substance abuse disorder, developmental disability, or dual diagnosis.
- (4) The curriculum shall be presented by a team composed of, at a minimum:
- (a) A law enforcement training instructor who has completed a forty (40) hour CIT training course and a CIT training instructor's course which has been approved by the Kentucky Law Enforcement Council, and at least forty (40) hours of direct experience working with a CIT;
- (b) A representative from the local community mental health-mental retardation board serving the region where CIT training is conducted;
- (c) A consumer of mental health services; and
- (d) A representative of the Kentucky statewide affiliate of the National Alliance on Mental Illness.
- (5) (a) The department shall submit the CIT training curriculum and the names of available instructors approved by the department to conduct or assist in the delivery of CIT training to the Kentucky Law Enforcement Council no later than July 1, 2007.

(b) The Kentucky Law Enforcement Council shall notify the department of approval or disapproval of the CIT training curriculum and trainers within thirty (30) days of submission of the curriculum and the names of instructors.

(c) The Kentucky Law Enforcement Council may waive instructor requirements for non-law enforcement trainers whose names are submitted by the department.

If the curriculum or trainers are not approved, the department shall have an opportunity to revise and resubmit the curriculum and to submit additional names of instructors if necessary.

(6) If the curriculum is approved, the Kentucky Law Enforcement Council shall:

(a) Notify the Kentucky State Police and all law enforcement agencies employing peace officers certified under KRS 15.380 to 15.404 of the availability of the CIT training; and

(b) Notify all instructors and entities approved for law enforcement training under KRS 15.330 of the availability of the CIT training.

(7) Any law enforcement training entity approved by the Kentucky Law Enforcement Council may use the CIT training model and curriculum in law enforcement in-service training as specified by subsection (1) of this section that is consistent with the Memphis CIT national model for best practices.

(8) No later than one (1) year after the effective date of this Act, the department shall submit to the Kentucky Law Enforcement Council a CIT training instructors' curriculum and the names of available instructors approved by the department to conduct or assist in the delivery of CIT training instructors' training. Additional instructors may be submitted on a schedule determined by the Kentucky Law Enforcement Council.

(9) All CIT trained law enforcement officers shall report to his or her agency on forms provided with the CIT curriculum on encounters with persons with mental illness, substance abuse disorders, mental retardation, developmental disabilities, and dual diagnoses. The law enforcement agency shall aggregate reports received and submit nonidentifying information to the department on a monthly basis. Except for information pertaining to the number of law enforcement agencies participating in CIT training, the reports to the department shall include the information specified in subsection (10) of this section.

(10) The department shall aggregate all reports from law enforcement agencies under subsection (9) of this section and submit nonidentifying statewide information to the Justice Cabinet, the Criminal Justice Council, the Cabinet for Health and Family Services, and to the Interim Joint Committee on Health and Welfare by December 1, 2008, and annually thereafter. The report shall include but not be limited to:

(a) The number of law enforcement officers trained per agency;

(b) Law enforcement responses to persons with mental illness, substance abuse disorders, mental retardation, developmental disabilities, and dual diagnoses;

(c) Incidents of harm to the law enforcement officer or to the citizen;

(d) The number of times physical force was required and the type of physical force used; and

(e) The outcome of the encounters that may include but not be limited to incarceration or hospitalization.

(11) To implement the requirements of subsections (2) to (5) and (8) to (10) of this section, the department may use public or private funds as available and may develop a contract with a nonprofit entity that is a Kentucky statewide mental health advocacy organization that has a minimum of five (5) years of experience in implementation of the CIT training program in Kentucky.

(12) The Cabinet for Health and Family Services shall create a telephonic behavioral health jail triage system to screen prisoners for mental health risk issues, including suicide risk. The triage system shall be designed to give the facility receiving and housing the prisoner an assessment of his or her mental health risk, with the assessment corresponding to recommended protocols for housing, supervision, and care which are designed to mitigate the mental health risks identified by the system. The triage system shall consist of:

(a) A screening instrument which the personnel of a facility receiving a prisoner shall utilize to assess inmates for mental health, suicide, mental retardation, and acquired brain injury risk factors; and

(b) A continuously available toll-free telephonic triage hotline staffed by a qualified mental health professional which the screening personnel may utilize if the screening instrument indicates an increased mental health risk for the assessed prisoner.

~~(13)~~(13) In creating and maintaining the telephonic behavioral health jail triage system, the cabinet shall consult with:

(a) The Department of Corrections;

(b) The Kentucky Jailers Association;

(c) The Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses; and

(d) The regional community mental health and mental retardation services programs created under KRS 210.370 to 210.460.

- ~~(14)~~~~(4)~~ The cabinet may delegate all or a portion of the operational responsibility for the triage system to the regional community mental health and mental retardation services programs created under KRS 210.370 to 210.460 if the regional program agrees and the cabinet remains responsible for the costs of delegated functions.
- ~~(15)~~~~(5)~~ The cabinet shall design into the implemented triage system the ability to screen and assess prisoners who communicate other than in English or who communicate other than through voice.
- ~~(16)~~~~(6)~~ The cost of operating the telephonic behavioral health jail triage system shall be borne by the cabinet.
- ~~(17)~~~~(7)~~ Records generated under this section shall be treated in the same manner and with the same degree of confidentiality as other medical records of the prisoner.
- ~~(18)~~~~(8)~~ Unless the prisoner is provided with an attorney during the screening and assessment, any statement made by the prisoner in the course of the screening or assessment shall not be admissible in a criminal trial of the prisoner, unless the trial is for a crime committed during the screening and assessment.
- ~~(19)~~~~(9)~~ The cabinet may, after consultation with those entities set out in subsection ~~(13)~~~~(3)~~ of this section, promulgate administrative regulations for the operation of the telephonic behavioral health jail triage system and the establishment of its recommended protocols for prisoner housing, supervision, and care.

SB 105, AN ACT relating to the discipline of dental professionals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 313.330 is amended to read as follows:

The board may, upon complaint or upon its own motion, after a hearing conducted in accordance with KRS Chapter 13B, *issue a private admonishment, reprimand, or place on probation, or may revoke, suspend, refuse to renew, or refuse to issue a license to any dental hygienist who* ~~revoke, suspend, or refuse to renew the license of any dental hygienist by entering a final order to that effect, together with its findings in respect thereto, if it shall be determined that the licensee~~:

- (1) Has violated any of the provisions of KRS 313.260 to 313.350 or any regulation *promulgated* ~~made~~ thereunder;
- (2) Has made a material false statement in his *or her* application for examination;
- (3) No longer possesses good moral character;
- (4) Directly or indirectly advertises or solicits for dental hygiene business; or
- (5) Is grossly negligent in his *or her* profession.

A private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(l). A private admonishment shall not constitute disciplinary action, but may be used by the board for statistical purposes or in subsequent disciplinary action against the same licensee, certificate holder, or applicant.

Section 2. KRS 313.130 is amended to read as follows:

The board may, *upon complaint or upon its own motion, after a hearing conducted in accordance with KRS Chapter 13B,* issue a private admonishment, reprimand, or place on probation, or may revoke, suspend, refuse to renew, or refuse to issue a license to any dentist for any of the following causes:

- (1) Conviction of any felony or conviction of only those misdemeanors involving moral turpitude, in which case the record of conviction or a copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence.
- (2) Renting or lending to any person his license or diploma to be used as a license or diploma, or illegally or fraudulently obtaining a license from the board.
- (3) Unprofessional conduct, gross ignorance, or inefficiency in his profession or failure to accumulate a sufficient number of points for continuing dental education as prescribed by the board under the provisions of KRS 313.080.
- (4) Violating any of the provisions of this chapter or any lawful order, rule, or regulation made or issued under the provisions of this chapter.
- (5) Addiction to a drug habit.
- (6) Chronic or persistent alcoholism.
- (7) Such physical or mental disability, or other condition, that continued practice would be dangerous to patients or to the public.

A private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(l). A private admonishment shall not constitute disciplinary action but may be used by the board for statistical purposes or in subsequent disciplinary action against the same licensee, certificate holder, or applicant.

Calendar

HB 246, 296, SB 10, HB 180, 18, 254, 255, 506, SB 68, HB 183, SB 22, HB 74, 358, 363, 364, 365, 421, 423, 438, HCR 159,

2007 Regular Session

SB 65, and **SJR 48** taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Jenkins moved that the rules be suspended to adopt a Resolution.

Representative Jenkins withdrew the motion to suspend the rules to adopt a Resolution.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 112, 127, 129, 206, 207, 220, 283, 288, 313, 361, 464, 543, HCR 16, 107, 151, HJR 13, HR 123, HJR 144, HB 397, 444, 471, 472, 496, 526, 552, HCR 155, SB 83, HB 246, 296, 358, 438, and 506** have been posted for passage in the Regular Orders of the Day for March 2, 2007.

Representative Jenkins moved that the rules be suspended to act on a Resolution. Agreed.

Representative Jenkins moved the adoption of the following **HR 166**:

HR 166, A RESOLUTION recognizing March as Sexual Assault Awareness Month and honoring Kentucky's 13 regional rape crisis centers.

WHEREAS, Kentucky has a shockingly high rate of sexual violence that must be brought into the public's focus, because it cannot be reduced until it is openly addressed; and

WHEREAS, according to national surveys, one in six women and one in 33 men have been victims of an attempted or completed rape, and over 175,000 women in Kentucky have been forcibly raped at some point in their lives; and

WHEREAS, every Kentuckian is directly or indirectly affected and impacted by sexual violence; and

WHEREAS, emotional and physical scars resulting from sexual violence are often severe and long lasting; and

WHEREAS, it is important to recognize the strength, courage, and challenges faced by victims and survivors of sexual violence and their families and friends as they struggle to cope, and to acknowledge that not all victims of sexual violence survive at the time of assault or survive the horrific long-term trauma that often occurs in the wake of sexual violence; and

WHEREAS, a coalition of rape crisis centers, known as the Kentucky Association of Sexual Assault Programs, has emerged to directly confront rape and sexual assault with the cooperation of law enforcement agencies, churches, health care providers, military officials, juvenile justice professionals, and other helping professionals from Kentucky's diverse communities; and

WHEREAS, last year, Kentucky's regional rape crisis centers responded to approximately 8,000 crisis calls, provided over 18,000 counseling sessions, performed more than 7,900 advocacy services; and provided over 5,600 educational programs for more than 185,000 Kentuckians; and

WHEREAS, it is important to recognize the compassion and dedication of the individuals involved in these efforts, to applaud their commitment, and to increase public awareness of this significant problem; and

WHEREAS, raising awareness about societal myths and behaviors that perpetuate rape and providing information and prevention strategies to all citizens is critical to the health and well-being of Kentucky's citizens;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body recognizes March as Sexual Assault Awareness Month in Kentucky and applauds Kentucky's 13 regional rape crisis centers for their many years of dedicated efforts to assist victims and for their efforts to raise awareness of sexual assault.

Section 2. When the House adjourns this day, it does so in honor of Kentucky's rape crisis centers.

Section 3. The Clerk of the House is hereby directed to transmit a copy of this Resolution to Ms. Eileen Recktenwald, Executive Director, Kentucky Association of Sexual Assault Programs, P.O. Box 4028, Frankfort, Kentucky 40604.

There being no objection, **HR 166** was adopted.

Orders of the Day

HB 190 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HB 190** be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See March 1, 2007, roll call on **HB 190** - Appendix.)

HB 190 was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 190** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 437, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Glenn moved the adoption of the Committee Substitute to **HB 437**. Agreed.

Representative Glenn moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 437**. Agreed.

Representative Glenn moved that **HB 437**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See March 1, 2007, roll call on **HB 437** - Appendix.)

HB 437, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Glenn moved that the vote by which **HB 437**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 284, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 284**. Agreed.

Representative Vincent moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 284**. Agreed.

Representative Damron moved that **HB 284**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See March 1, 2007, roll call on **HB 284** - Appendix.)

HB 284, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 284**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 467 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Napier moved that **HB 467** be passed.

On the roll call the vote was: **Yeas 95, Nays 3.** (See March 1, 2007, roll call on **HB 467** - Appendix.)

HB 467 was passed and the title agreed to.

Representative Napier moved that the vote by which **HB 467** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 137 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved that **HJR 137** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0.** (See March 1, 2007, roll call on **HJR 137** - Appendix.)

HJR 137 was adopted.

Representative Westrom moved that the vote by which **HJR 137** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 289 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved that **HB 289** be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See March 1, 2007, roll call on **HB 289** - Appendix.)

HB 289 was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 289** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 154 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HCR 154** be adopted.

On the roll call the vote was: **Yeas 95, Nays 0.** (See March 1, 2007, roll call on **HCR 154** - Appendix.)

HCR 154 was adopted.

Representative Adkins moved that the vote by which **HCR 154** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 449, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved the adoption of the Committee Substitute to **HB 449**. Agreed.

Representative Denham moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 449**. Agreed.

Representative Denham moved that **HB 449**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See March 1, 2007, roll call on **HB 449** - Appendix.)

HB 449, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 449**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 362, with Committee Substitutes, Committee Amendment, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute No. 2 to **HB 362**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 1 to the Committee Substitute No. 1 to **HB 362**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 2 to the Committee Substitute No. 2 to **HB 362**. Agreed.

Representative J. Lee moved the adoption of Floor Amendment No. 3 to the Committee Substitute No. 2 to **HB 362**. Agreed.

Representative Burch moved that **HB 362**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 1, 2007, roll call on **HB 362** - Appendix.)

HB 362, by way of Committee Substitute, as amended, was passed.

Representative Burch moved the adoption of Committee Amendment No. 1 Title to **HB 362**. Agreed.

Representative Burch moved that the vote by which **HB 362**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 380, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Dedman moved the adoption of the Committee Substitute to **HB 380**. Agreed.

Representative Dedman moved that **HB 380**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 1, 2007, roll call on **HB 380** - Appendix.)

HB 380, by way of Committee Substitute, was passed and the title agreed to.

Representative Dedman moved that the vote by which **HB 380**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 114, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pasley moved the adoption of Floor Amendment No. 1 to **HB 114**. Agreed.

Representative Pasley moved that **HB 114**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 1, 2007, roll call on **HB 114** - Appendix.)

HB 114, as amended, was passed and the title agreed to.

Representative Pasley moved that the vote by which **HB 114**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 306, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the Committee Substitute to **HB 306**. Agreed.

Representative Rasche moved that **HB 306**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 1, 2007, roll call on **HB 306** - Appendix.)

HB 306, by way of Committee Substitute, was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 306**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 465, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved the adoption of the Committee Substitute to **HB 465**. Agreed.

Representative Wilkey moved that **HB 465**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 88, Nays 8.** (See March 1, 2007, roll call on **HB 465** - Appendix.)

HB 465, by way of Committee Substitute, was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 465**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 347 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Keene moved that **HB 347** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See March 1, 2007, roll call on **HB 347** - Appendix.)

HB 347 was passed and the title agreed to.

Representative Keene moved that the vote by which **HB 347** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 213, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved the adoption of Floor Amendment No. 1 to **HB 213**. Agreed.

Representative Miller moved that **HB 213**, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See March 1, 2007, roll call on **HB 213** - Appendix.)

HB 213, as amended, was passed.

Representative Miller moved the adoption of Floor Amendment No. 2 Title to **HB 213**. Agreed.

Representative Miller moved that the vote by which **HB 213**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 549, with Committee Substitute, Committee Amendment, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clark moved the adoption of the Committee Substitute to **HB 549**. Agreed.

Representative Stacy moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 549**. Agreed.

Representative Simpson moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 549**. Agreed.

Representative Clark moved that **HB 549**, by way of Committee Substitute, as amended, be passed.

Representative Wayne moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 549**.

Floor Amendment No. 3 to the Committee Substitute to **HB 549** was rejected by voice vote.

On the roll call on the passage of **HB 549** by way of Committee Substitute, as amended, the vote was: **Yeas 79, Nays 13.** (See March 1, 2007, roll call on **HB 549** - Appendix.)

HB 549, by way of Committee Substitute, as amended, was passed.

Representative Clark moved the adoption of Committee Amendment No. 1 Title **HB 549**. Agreed.

Representative Clark moved that the vote by which **HB 549**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SB 80, 171, 190, 197, 198, 212, SJR 6, and 125.** (5:10 p.m.)

Orders of the Day (Continued)

HB 66 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Higdon moved that **HB 66** be passed.

On the roll call the vote was: **Yeas 92, Nays 0.** (See March 1, 2007, roll call on **HB 66** - Appendix.)

HB 66 was passed and the title agreed to.

Representative Higdon moved that the vote by which **HB 66** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 141 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved that **HCR 141** be adopted.

On the roll call the vote was: **Yeas 91, Nays 0.** (See March 1, 2007, roll call on **HCR 141** - Appendix.)

HCR 141 was adopted.

Representative Pullin moved that the vote by which **HCR 141** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 426 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **HB 426** be passed.

On the roll call the vote was: **Yeas 90, Nays 1.** (See March 1, 2007, roll call on **HB 426** - Appendix.)

HB 426 was passed and the title agreed to.

Representative Wilkey moved that the vote by which **HB 426** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 410, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 410**. Agreed.

Representative Marzian moved that **HB 410**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 0.** (See March 1, 2007, roll call on **HB 410** - Appendix.)

HB 410, by way of Committee Substitute, was passed.

Representative Marzian moved the adoption of Committee Amendment No. 1 Title to **HB 410**. Agreed.

Representative Marzian moved that the vote by which **HB 410**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 490, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved the adoption of the Committee Substitute to **HB 490**. Agreed.

Representative Yonts moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 490**. Agreed.

Representative Yonts moved that **HB 490**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 85, Nays 4.** (See March 1, 2007, roll call on **HB 490** - Appendix.)

HB 490, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 490**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 462 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved that **HB 462** be passed.

On the roll call the vote was: **Yeas 88, Nays 1.** (See March 1, 2007, roll call on **HB 462** - Appendix.)

HB 462 was passed and the title agreed to.

Representative Simpson moved that the vote by which **HB 462** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 329, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeCesare moved the adoption of the Committee Substitute to **HB 329**. Agreed.

Representative DeCesare moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 329**. Agreed.

Representative DeCesare moved that **HB 329**, by way of Committee Substitute, as amended, be passed.

Representative DeCesare moved that **HB 329** be laid on the Clerk's desk.

On the roll call the vote was: **Yeas 88, Nays 0.** (See March 1, 2007, roll call on **HB 329** - Appendix.)

The motion to lay **HB 329** on the Clerk's desk was adopted.

HB 76, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thompson moved the adoption of the Committee Substitute to **HB 76**. Agreed.

Representative Thompson moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 76**. Agreed.

Representative Thompson moved that **HB 76**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 91, Nays 0.** (See March 1, 2007, roll call on **HB 76** - Appendix.)

HB 76, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Thompson moved that the vote by which **HB 76**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the posting requirement be waived on **HB 224, SB 112, and SB 152**. Agreed.

Representative Adkins moved that the posting requirement be waived retroactively on **HB 492, 493, 495, and 476**. Agreed.

Representative Wayne moved to withdraw **HB 535**. Agreed.

Representative Adkins moved that **HB 476** be reassigned to the Committee on Elections, Constitutional Amendments and Intergovernmental Affairs. Agreed.

Representative Adkins moved that **HB 304** be recommitted to the Committee on Labor and Industry. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Local Government: **SB 126**

Report of Committees

The Committee on Natural Resources and Environment reported **HCR 160**, with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 160, A CONCURRENT RESOLUTION creating a Save Our Streams Task Force.

WHEREAS, Kentucky is blessed with thousands of miles of free-flowing creeks, streams, and rivers and wetlands, lakes, and other bodies of water that support community water supplies, agriculture, tourism, recreation, hunting, trapping, fishing, industries, and other beneficial purposes; and

WHEREAS, the efforts of several agencies' and organizations' programs, the efforts of local and state conservation organizations, public and private schools, local and state governments, and private businesses and civic organizations have had success advocating for improved water quality on many streams and other bodies of water; and

WHEREAS, despite successes, these entities and the water resources of the Commonwealth can benefit from increased coordination; and

WHEREAS, increasing the emphasis on education to promote the value of our water resources, and the many practical ways in which our water resources can be cared for and protected, will result in more effective long-term stewardship of those resources; and

WHEREAS, improved coordination among all these groups as they seek to improve and protect our water resources is increasingly essential to maximizing public involvement and extending care and stewardship to all of our water resources;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is hereby directed to create a Save Our Streams Task Force that shall develop a framework for establishing water resource partnership programs in each of Kentucky's counties. The task force shall review and report on existing and available resources for local communities wishing to establish such programs. The report shall include but not be limited to a framework and strategies for improving water-related education and integrating water resource awareness and stewardship with school curricula at each level, including hands-on approaches to education and service, and identification of funding needs and proposed funding mechanisms to encourage and support development of water resource stewardship partnerships involving schools and higher education institutions, civic and conservation organizations, local governments, local businesses and other partners, and a "model" watershed partnership program that actively involves students in patterning water resource stewardship.

Section 2. The task force shall be composed of one representative from each of the following: Kentucky Environmental Education Council, Kentucky Association for Environmental Education, Kentucky Department of Education, Kentucky Department of Fish and Wildlife Resources, University of Kentucky Agricultural Extension Service, Kentucky League of Sportsmen, Kentucky Waterways Alliance, Kentucky Solid Waste Coordinators Association, Kentucky Soil and Water Conservation Commission, and the Kentucky Watershed Watch Executive Committee, and by one member representing the Kentucky Division of Water, and one member representing the Kentucky Division of Conservation, and by two members from the Kentucky House of Representatives, chosen by the Speaker of the House, and two members of the Senate, chosen by the President of the Senate. The task force shall be co-chaired on an alternating basis by a Representative of the House of Representatives and a Senator from the Senate, selected by the Speaker of the House of Representatives and the President of the Senate, respectively.

Section 3. The task force shall meet at least three times between July 1, 2007, and the date of completion and approval by the task force of the final report. The task force shall submit a final report, along with recommendations for any proposed legislation, to the Legislative Research Commission for referral to the appropriate committee or committees, by January 1, 2008.

Section 4. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Substitute to **HCR 160** is as follows:

HCR 160, A CONCURRENT RESOLUTION creating a Save Our Streams Task Force.

WHEREAS, Kentucky is blessed with thousands of miles of free-flowing creeks, streams, and rivers and wetlands, lakes, and other bodies of water that support community water supplies, agriculture, tourism, recreation, hunting, trapping, fishing,

industries, and other beneficial purposes; and

WHEREAS, the efforts of several agencies' and organizations' programs, the efforts of local and state conservation organizations, public and private schools, local and state governments, and private businesses and civic organizations have had success advocating for improved water quality on many streams and other bodies of water; and

WHEREAS, despite successes, these entities and the water resources of the Commonwealth can benefit from increased coordination; and

WHEREAS, increasing the emphasis on education to promote the value of our water resources, and the many practical ways in which our water resources can be cared for and protected, will result in more effective long-term stewardship of those resources; and

WHEREAS, improved coordination among all these groups as they seek to improve and protect our water resources is increasingly essential to maximizing public involvement and extending care and stewardship to all of our water resources;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is hereby directed to create a Waterways Alliance Task Force that shall develop a framework for establishing water resource partnership programs in each of Kentucky's counties. The task force shall review and report on existing and available resources for local communities wishing to establish such programs. The report shall include but not be limited to a framework and strategies for improving water-related education and integrating water resource awareness and stewardship with school curricula at each level, including hands-on approaches to education and service, and identification of funding needs and proposed funding mechanisms to encourage and support development of water resource stewardship partnerships involving schools and higher education institutions, civic and conservation organizations, local governments, local businesses and other partners, and a "model" watershed partnership program that actively involves students in patterning water resource stewardship.

Section 2. The task force shall be composed of one representative from each of the following: Kentucky Environmental Education Council, Kentucky Association for Environmental Education, Kentucky Department of Education, Kentucky Department of Fish and Wildlife Resources, University of Kentucky Agricultural Extension Service, Kentucky League of Sportsmen, Kentucky Farm Bureau, Kentucky Chamber of Commerce, Alliance of Kentucky Coal, Kentucky Oil and Gas Association, Kentucky Forest-Industries Association, Kentucky Solid Waste Coordinators Association, Kentucky Soil and Water Conservation Commission, and the Kentucky Watershed Watch Executive Committee, and by one member representing the Kentucky Division of Water, and one member representing the Kentucky Division of Conservation, and by two members from the Kentucky House of Representatives, chosen by the Speaker of the House, and two members of the Senate, chosen by the President of the Senate. The task force shall be co-chaired on an alternating basis by a Representative of the House of Representatives and a Senator from the Senate, selected by the Speaker of the House of Representatives and the President of the Senate, respectively.

Section 3. The task force shall meet at least three times between July 1, 2007, and the date of completion and approval by the task force of the final report. The task force shall submit a final report, along with recommendations for any proposed legislation, to the Legislative Research Commission for referral to the appropriate committee or committees, by January 1, 2008.

Section 4. Provisions of this Resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee Amendment No. 1 Title to **HCR 160** is as follows:

HCR 160, On page 1, line 1, by amending the title to read "A CONCURRENT RESOLUTION creating a Waterways Alliance Task Force."

The Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs reported **HB 224**, with Committee Amendment attached thereto, and **HB 476** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 224, AN ACT relating to the runoff primary and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.245 is amended to read as follows:

- (1) The candidate for office, other than the offices of Governor and Lieutenant Governor, receiving the highest number of votes in a primary election for the office for which he is a candidate shall be the nominee of his party for that office and shall receive the certificate of nomination.
- (2) ~~A slate of candidates for Governor and Lieutenant Governor that receives not less than forty percent (40%) of its party's votes cast shall be the nominee of its party for those offices and that slate of candidates shall receive the certificate of~~

~~nomination; except that if two (2) slates of candidates receive forty percent (40%) or more of their party's votes, the slate receiving the higher number of votes shall be its party's nominee, and no runoff primary shall be conducted.~~

- (3) ~~A slate of candidates for Governor and Lieutenant Governor that receives the highest number of its party's votes but which number is less than forty percent (40%) of the votes cast for all slates of candidates of that party, shall be required to participate in a runoff primary with the slate of candidates of the same party receiving the second highest number of votes.~~
- (4) The slate of candidates for Governor and Lieutenant Governor receiving the highest number of votes in a ~~runoff~~ primary shall be the nominees of that party for Governor and Lieutenant Governor, and that slate of candidates shall receive the certificate of nomination.
- ~~(3)(5) [Subject to the foregoing provisions relating to a runoff primary, if two (2) or more slates of candidates in a primary election are found to have received the next highest and equal number of votes for the nomination for election to the offices of Governor and Lieutenant Governor, the slate which will appear on the ballot in a runoff primary shall be determined by lot in the manner the state board directs, in the presence of not less than three (3) other persons.~~
- (6) ~~Subject to the foregoing provisions relating to a runoff primary, if two (2) or more candidates or slates of candidates in a runoff primary or~~ primary election are found to have received the highest and an equal number of votes for nomination to the same office, the election shall be determined by lot in the manner the board directs, in the presence of not less than three (3) other persons. This section does not apply to presidential primaries.

Section 2. KRS 116.055 is amended to read as follows:

Before a person shall be qualified to vote in a primary election, he shall possess all the qualifications required of voters in a regular election. In addition, he shall be a registered member of the party in whose primary election he seeks to vote, and shall have been registered as a member of that party on December 31 immediately preceding the primary election, or, in the case of new registrations made after December 31 immediately preceding the primary election, he shall have registered and remained registered as a member of that party. No person shall be allowed to vote for any party candidates or slates of candidates other than that of the party of which he is a registered member. The qualifications shall be determined as of the date of the primary, without regard to the qualifications or disqualifications as they may exist at the succeeding regular election, except that minors seventeen (17) years of age who will become eighteen (18) years of age on or before the day of the regular election shall be entitled to vote in the primary if otherwise qualified. However, any registered voter, whether registered as a member of a party or as an independent, shall be qualified to vote in primary elections for candidates listed in all nonpartisan races. ~~[Any voter eligible to vote in a primary election shall also be eligible to vote in a subsequent runoff primary if one shall be necessary.]~~

Section 3. KRS 117.085 is amended to read as follows:

- (1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. Except as provided in paragraph (b) of this subsection, all applications for an absentee ballot shall be transmitted only by mail to the voter or in person at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The absentee ballot application may be requested by the voter, the spouse, parents, or children of the voter, but shall be restricted to the use of the voter. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, those who are incarcerated in jail but have yet to be convicted, military personnel confined to a military base on election day, and persons who qualify under subparagraph 6. of paragraph (a) of this subsection, no absentee ballots shall be mailed to a voter who resides within the county in which he is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his application.
- (a) The following voters may apply to cast their votes by mail-in absentee ballot if the application is received not later than the close of business hours seven (7) days before the election:
1. Voters permitted to vote by absentee ballot pursuant to KRS 117.075;
 2. Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas;
 3. Students who temporarily reside outside the county of their residence and other voters who temporarily reside outside the state but who are still eligible to vote in this state;
 4. Persons who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime;
 5. Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before an election of electors for President and Vice President of the United States, who shall be permitted to cast an absentee ballot for electors for President and Vice President of the United States only; and
 6. Persons who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because their employment location requires them to be absent from the county all hours and all days

2007 Regular Session

absentee voting is conducted in the county clerk's office.

- (b) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens, may apply for an absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail or by facsimile machine. The application may be used to register, reregister, and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to the application form upon receipt.
- (c) Absentee voting shall be conducted in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections during normal business hours for at least the twelve (12) working days before the election. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election.
- (d) Any qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of subsection (1) of this section who shall be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (e) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas who shall be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (f) Students who temporarily reside outside the county of their residence and other voters who temporarily reside outside the state but who are still eligible to vote in this state who shall be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (g) Voters who have surgery scheduled that will require hospitalization on election day, and the spouse of the voter, may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (h) Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before a presidential election shall be permitted to cast an absentee ballot for President and Vice President only, by making application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (i) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, any alternate precinct election officer, any deputy county clerk, any staff for the State Board of Elections, and any staff for the county board of elections may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he is registered receives his appointment while absentee voting is being conducted in the county, such officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The applications shall be restricted to the use of the voter only.
- (j) Any pregnant woman who is in her last trimester of pregnancy at the time she wishes to vote under this paragraph may at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application to vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections. The application form for those persons shall be prescribed by the State Board of Elections, which shall contain the woman's sworn statement that she is in fact in her last trimester of pregnancy at the time she wishes to vote.
- (k) The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for the absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or

their designees do not serve as precinct election officers for the absentee voting, the county clerk or deputy county clerks shall supervise the absentee voting.

- (l) Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.
- (m) Residents of Kentucky who are members of the Armed Forces confined to a military base on election day and learn of that confinement within seven (7) days or less of an election and are not eligible for a paper absentee ballot under subsection (1) of this section may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (2) The clerk shall type the name of the voter permitted to vote by absentee ballot on the application form for that person's use and no other. The absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.
- (3) If the county clerk finds that the voter is properly registered as stated in his application and qualifies to receive an absentee ballot by mail, he shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed. An absentee ballot may be transmitted by facsimile machine to a resident of Kentucky who is a member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas.
- (4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.
- (5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election ~~and fifteen (15) days prior to each runoff primary~~.
- (6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, precinct number, and signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.
- (7) Any person who has received an absentee ballot by mail but who knows at least seven (7) days before the date of the election that he will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his absentee ballot and vote in person. He shall return his absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he is properly registered.
- (8) Any voter qualified for a mail-in absentee ballot who does not receive a requested mail-in ballot within a reasonable amount of time shall contact the county clerk, who shall reissue a second ballot. The county clerk shall keep a record of the absentee ballots issued and returned by mail, and the absentee voting that is performed on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, to verify that only the first voted ballot to be returned by the voter is counted. Upon the return of any ballot after the first ballot is returned, the clerk shall mark on the outer envelope of the sealed ballot the words "Cancelled because ballot reissued."

Section 4. KRS 117.275 is amended to read as follows:

- (1) At the count of the votes in any precinct, any candidate or slate of candidates and any representatives to witness and check the count of the votes therein, who are authorized to be appointed as is provided in subsection (7) of this section, shall be admitted and be permitted to be present and witness the count.
- (2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever, mechanism or other device of the voting equipment so that the voting and counting mechanism will be prevented from

operation, and they shall sign a certificate stating:

- (a) That the voting equipment has been locked against voting and sealed;
 - (b) The number of voters, as shown on the public counters;
 - (c) The number registered on the protective or accumulative counter or device, if any; and
 - (d) The number or other designation of the voting equipment, which certificate shall be returned by the judges of election to the officials authorized by law to receive it. The judges shall compare the number of voters, as shown by the counter of the voting equipment, with the number of those who have voted as shown by the protective or accumulative counter or device, if any.
- (3) Where voting equipment is used which does not print the candidates' names, lever numbers, and total votes received on a general return sheet or record for that equipment, the procedure to be followed shall be: the judges, in the presence of the representatives mentioned in subsection (1) of this section, if any, and of all other persons who may be lawfully within the polling place, shall make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the counters, giving full view of all the counter numbers. The judges shall, under the scrutiny of the representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate or slate of candidates and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the election officers. The total votes cast for each candidate, and slate of candidates, and for and against each question, shall be entered on the general and quadruplicate return sheets and statement. The proclamation of the result of the votes cast shall be announced distinctly and audibly by one (1) of the judges, who shall read the name and the vote cast for each candidate, and slate of candidates, and the vote for and against each question submitted. During the proclamation, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the voting equipment, and any necessary corrections shall be made by the judges, and the door or other cover of the voting equipment shall then be closed and locked.
- (4) If any officer shall decline to sign the return, he shall state his reason in writing, and a copy thereof, signed by him, shall be enclosed with the return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the officers shall write his name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and the write-in roll, if any write-in votes were cast in the precinct, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties, but a local governing body of a dominant political party may decline a copy of the precinct election return by filing a written declination with the county board of elections prior to the election, and upon this declination, a printed copy shall not be issued to the political party so declining. The declination on file shall be effective for that election and any subsequent elections until revoked by the local governing body of a dominant political party by filing a written revocation with the county board of elections. The envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes and write-in votes, the county board shall mail the tabulation sheets showing the results from each precinct to the State Board of Elections and the county clerk shall mail or deliver the precinct lists from each precinct to the State Board of Elections.
- ~~(5) In primary elections at which each party's slates of candidates seeking the nomination of their parties for Governor and Lieutenant Governor are voted on, the Secretary of State, upon receiving the certified results of voting from each county's precincts for those offices, shall determine whether a runoff primary shall be necessary for either or both parties pursuant to KRS 118.245. The Secretary of State shall, within twenty-four (24) hours of making his determination, inform the affected slates of candidates, the county clerks, the county boards of elections, the State Board of Elections, the Registry of Election Finance, and the news media of his determination, and the date of the runoff primary, which shall be subject to change if an election contest or vote recount shall be requested.~~
- (6) As soon as possible after the completion of the count, the two (2) judges shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the county clerk in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.
- ~~(6)(7)~~ In primary elections, each candidate, slate of candidates, or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, independent candidate, or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election.
- ~~(7)(8)~~ If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the

precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed in an envelope. The two (2) judges shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots, and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the Secretary of State. The county board of elections shall authorize the candidates, slates of candidates, or their representatives, and representatives of the news media to be present during the counting of the paper ballots. Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months, the county clerk shall retain the paper ballots for sixty (60) days, after which time they shall be destroyed in a manner to render them unreadable by the county board of elections if no contest or recount action has been filed.

Section 5. KRS 117.295 is amended to read as follows:

- (1) For a period of ten (10) days following any primary election, and for a period of thirty (30) days following any general or special election, the voting machine shall remain locked against voting, except that it may be opened and all the data and figures therein examined, upon the order of any court of competent jurisdiction, or judge thereof, or by direction of any legislative committee authorized and empowered to investigate and report upon contested elections affected by the use of a voting machine, and all the data and figures shall be examined by the court, judge or committee in the presence of the officer having the custody of the machine. In the event of a contest of election, the court in which the contest is pending or the committee before which the contest is being heard may, upon motion of any party to the contest, issue an order requiring that the voting machines shall remain continuously locked for further time as may be reasonable or necessary, with due regard for the preparation of the machines for a succeeding primary, runoff primary, regular, or special election, but in no event shall the order compel that the machines remain locked to a time within thirty (30) days next preceding any approaching primary,~~runoff primary,~~ regular, or special election.
- (2) During the period when the machine is required to be kept locked, the keys thereto shall remain in the possession of the county board of elections. After that period, it shall be the duty of the county board of elections to return the keys to the custody of the county clerk.

Section 6. KRS 118.025 is amended to read as follows:

- (1) Except as otherwise provided by law, voting in all elections shall be by secret ballot on voting machines.
- (2) The general laws applying to regular, special, and primary,~~and runoff primary~~ elections shall apply to elections conducted with the use of voting machines, and all provisions of the general laws applying to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.
- (3) Primary elections for the nomination of candidates or slates of candidates to be voted for at the next regular election shall be held on the first Tuesday after the third Monday in May of each year.
- (4) ~~[A runoff primary shall be held thirty-five (35) days after the date of the May primary, if it shall be necessary, pursuant to KRS 118.245, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday. However, if either a primary election is contested or a recount of the votes cast in a primary is requested, a runoff primary shall be held on the first Tuesday following the thirty-fifth day following the conclusion of any contest proceeding or recount, if it shall be necessary, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday.]~~The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.
- (5) If the law authorizes the calling of a special election on a day other than the day of the regular election in November, the election shall be held on a Tuesday.
- (6) If the law requires that a special election be held within a period of time during which the voting machines must be locked as required by KRS 117.295, the special election shall be held on the fourth Tuesday following the expiration of the period during which the voting machines are locked.

Section 7. KRS 118.035 is amended to read as follows:

- (1) The polls shall be opened on the day of a primary,~~runoff primary,~~ special election, or regular election at 6 a.m., prevailing time, and shall remain open until each voter who is waiting in line at the polls at 6 p.m., prevailing time, has voted. At 6 p.m., prevailing time, if voters are waiting at the polls to vote, the precinct election sheriff shall announce that a voter wishing to vote must immediately get in line. When all voters waiting at the polls at that time are in line, the precinct election sheriff shall then determine which voter is the last in line, and that voter shall be the last voter permitted to vote. The precinct election sheriff shall wait in line with the last voter who shall be permitted to vote until that voter has voted and shall inform a voter who subsequently arrives at the polls that no one shall be permitted to vote after the last voter in line at 6 p.m., prevailing time. After the last voter waiting in line at 6 p.m., prevailing time, has voted, the polls shall then be closed.
- (2) As provided in Section 148 of the Constitution of Kentucky, any person entitled to a vote at any election in this state shall, if he has made application for leave prior to the day he appears before the county clerk to request an application for or to

execute an absentee ballot, be entitled to absent himself from any services or employment in which he is then engaged or employed for a reasonable time, but not less than four (4) hours on the day he appears before the clerk to request an application for or to execute an absentee ballot, during normal business hours of the office of the clerk or to cast his ballot on the day of the election between the time of opening and closing the polls. The employer may specify the hours during which an employee may absent himself.

- (3) No person shall be penalized for taking a reasonable time off to vote, unless, under circumstances which did not prohibit him from voting, he fails to vote. Any qualified voter who exercises his right to voting leave under this section but fails to cast his vote, under circumstances which did not prohibit him from voting, may be subject to disciplinary action.
- (4) Any person selected to serve as an election officer shall be entitled to absent himself from any services or employment in which he is then engaged or employed for a period of an entire day to attend training or to serve as an election officer. The person shall not, because of so absenting himself, be liable to any penalty. The employer may specify the hours during which the employee may absent himself. No person shall refuse an employee the privilege hereby conferred, or discharge or threaten to discharge an employee or subject an employee to a penalty, because of the exercise of the privilege.

Section 8. KRS 118.215 is amended to read as follows:

- (1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate or slate of candidates for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups, slates of candidates, or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes, with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:
 - (a) Not later than the second Monday after the filing deadline for the primary;
 - (b) ~~Not less than twenty five (25) days before a runoff primary;~~
 - (c) ~~Not later than the second Monday after the filing deadline for the general election, except as provided in paragraph (d) of this subsection; and~~
 - (d) ~~Not later than the Thursday after the first Tuesday in September preceding a general election, for those years in which there is an election for President and Vice President of the United States.~~
- (2) Except as otherwise provided in subsection (3) of this section, all independent candidates or slates of candidates whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates or slates of candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.
- (3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.
- (4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate or slate of candidates who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate or slate of candidates who has filed the required nomination papers.
- (5) If the county clerk determines that the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not later than the last Tuesday in February preceding the primary or the last Tuesday in August preceding the general election. The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions, and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates or slates of candidates for an office or offices and public questions submitted for a yes or no vote. All candidates or slates of candidates for any particular office shall be placed either on the machine ballot or on the paper ballot. Supplemental paper ballots may also be used to conduct the voting, in the instance of a small precinct as provided in KRS 117.066.

- (6) The ballot position of a candidate or slate of candidates shall not be changed after the ballot position has been designated by the county clerk.

Section 9. KRS 118.225 is amended to read as follows:

- (1) For the purpose of determining the order in which the names of candidates or slates of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots with the designation of the respective offices, the Secretary of State shall prepare lists of the counties of each congressional district of the state. He shall arrange the surnames of all candidates or slates of candidates for each office in alphabetical order for the First Congressional District, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.
- (2) For all other offices for which nomination papers and petitions are filed with the Secretary of State, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the last Tuesday in January preceding the primary~~[, twenty-six (26) days before a runoff primary,]~~ or the Thursday following the second Tuesday in August preceding the general election.
- (3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2 p.m., standard time, on the Thursday following the last Tuesday in January before the primary or the Thursday following the second Tuesday in August preceding the general election.
- (4) If the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the State Board of Elections, as provided in KRS 118.215.

Section 10. KRS 121.015 is amended to read as follows:

As used in this chapter:

- (1) "Registry" means the Kentucky Registry of Election Finance;
- (2) "Election" means any primary~~[, runoff primary,]~~ regular, or special election to fill vacancies regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary~~[, runoff primary,]~~ regular, or special election shall be considered a separate election;
- (3) "Committee" includes the following:
 - (a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office, but does not include an entity established solely by a candidate which is managed solely by a candidate and a campaign treasurer and whose name is generic in nature, such as "Friends of (the candidate)," and does not reflect that other persons have structured themselves as a committee, designated officers of the committee, and assigned responsibilities and duties to each officer with the purpose of managing a campaign to support or oppose a candidate in an election;
 - (b) "Caucus campaign committee," which means members of one (1) of the following caucus groups who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election, or a committee:
 1. House Democratic caucus campaign committee;
 2. House Republican caucus campaign committee;
 3. Senate Democratic caucus campaign committee; and
 4. Senate Republican caucus campaign committee;
 - (c) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends money in excess of one thousand dollars (\$1,000);
 - (d) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee, political issues committee, inaugural committee, caucus campaign committee, or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties, which functions on a regular basis throughout the year;
 - (e) An executive committee of a political party; and
 - (f) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;
- (4) "Contributing organization" means a group which merely contributes to candidates, slates of candidates, campaign

committees, caucus campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by the groups in excess of one hundred dollars (\$100) shall be reported to the registry;

- (5) "Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a political office in this state designed to raise funds for any purpose not charitable, religious, or educational;
- (6) "Contribution" means any:
 - (a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, a slate of candidates, its authorized agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement; or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds the contribution limits provided in KRS 121.150;
 - (b) Payment by any person other than the candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;
 - (c) Goods, advertising, or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or
 - (d) Payment by any person other than a candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;
- (7) Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include:
 - (a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, a slate of candidates, committee, or contributing organization;
 - (b) A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; or
 - (c) An independent expenditure by any individual or permanent committee;
- (8) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, except federal office;
- (9) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;
- (10) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists;
- (11) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for a statewide-elected state office or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents;
- (12) "Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them;
- (13) "Electronic reporting" means the use of technology, having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities, by which an individual or other entity submits, compiles, or transmits campaign finance reports to the registry, or by which the registry receives, stores, analyzes, or discloses the reports;
- (14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures;

- (15) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record;
- (16) "Filer" means any candidate, a slate of candidates, committee, or other individual or entity required to submit financial disclosure reports to the registry; and
- (17) "Filer-side software" means software provided to or used by the filer that enables transmittal of financial reports to the registry.

Section 11. KRS 121.150 is amended to read as follows:

- (1) No contribution shall be made or received, directly or indirectly, other than an independent expenditure, to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee. Any person making an independent expenditure, shall report these expenditures when the expenditures by that person exceed five hundred dollars (\$500) in the aggregate in any one (1) election, on a form provided or using a format approved by the registry and shall sign a statement on the form, under penalty of perjury, that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made.
- (2) Except as provided in KRS 121.180(10), the solicitation from and contributions by campaign committees, caucus campaign committees, political issues committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate or a slate of candidates to contribute to religious, civic, or charitable groups.
- (3) No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of fifty dollars (\$50), and all anonymous contributions in excess of fifty dollars (\$50) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall accept anonymous contributions in excess of one thousand dollars (\$1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars (\$1,000) in the aggregate which are received in any one (1) election shall escheat to the state.
- (4) No candidate, slate of candidates, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of fifty dollars (\$50) in the aggregate from each contributor in any one (1) election. No candidate, slate of candidates, committee, or contributing organization, nor anyone on their behalf, shall accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order which identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section. No person shall make a cash contribution in excess of fifty dollars (\$50) in the aggregate in any one (1) election to a candidate, slate of candidates, committee, or contributing organization, nor anyone on their behalf.
- (5) No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars (\$100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.
- (6) No candidate, slate of candidates, campaign committee, political issues committee, nor anyone acting on their behalf, shall accept a contribution of more than one thousand dollars (\$1,000) from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, his campaign committee, nor anyone acting on their behalf shall accept a contribution of more than one hundred dollars (\$100) from any person or more than two hundred dollars (\$200) from any permanent committee or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall contribute more than one thousand dollars (\$1,000) to any one (1) candidate, campaign committee, political issues committee, nor anyone acting on their behalf, in any one (1) election; except that no person shall contribute more than one hundred dollars (\$100) and no permanent committee or contributing organization shall contribute more than two hundred dollars (\$200) to any one (1) school board candidate, his campaign committee, nor anyone acting on their behalf, in any one (1) election.
- (7) Permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.
- (8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.
- (9) No person shall contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.
- (10) No person shall contribute more than one thousand five hundred dollars (\$1,500) to all permanent committees and contributing organizations in any one (1) year.
- (11) No person shall contribute more than two thousand five hundred dollars (\$2,500) to the state executive committee of a

political party and its subdivisions and affiliates in any one (1) year. No person shall contribute more than two thousand five hundred dollars (\$2,500) to a caucus campaign committee in any one (1) year. Contributions a person makes to any executive committee other than the state executive committee in excess of one thousand dollars (\$1,000) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.

- (12) No person shall make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, a slate of candidates, committee, contributing organization, or anyone on their behalf. No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf shall accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a candidate, a slate of candidates, committee, contributing organization, or anyone on their behalf.
- (13) No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars (\$50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars (\$25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars (\$10,000) in any one (1) election.
- (14) Subject to the provisions of subsection ~~(18)~~~~(19)~~ of this section, no candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.
- ~~(15)~~ Subject to the provisions of subsection ~~(19)~~ of this section, no slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall contribute for runoff primary election expenses after the date of the runoff primary.
- ~~(16)~~ Subject to the provisions of subsection ~~(18)~~~~(19)~~ of this section, no candidate or slate of candidates for any state, county, city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.
- ~~(16)~~~~(17)~~ Subject to the provisions of subsection ~~(18)~~~~(19)~~ of this section, no candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.
- ~~(17)~~~~(18)~~ The provisions of subsections (14) and ~~(15)~~~~(16)~~ of this section shall apply only to those candidates in a primary or regular election which shall be conducted subsequent to January 1, 1989. The provisions of ~~subsection (16)~~~~subsections (15) and (17)~~ of this section shall apply only to those candidates or slates of candidates in a ~~runoff primary or~~ special election which shall be conducted subsequent to January 1, 1993.
- ~~(18)~~~~(19)~~ A candidate, slate of candidates, or a campaign committee may solicit and accept contributions after the date of a primary election, ~~runoff primary election,~~ regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180.
- ~~(19)~~~~(20)~~ No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars (\$50,000).
- ~~(20)~~~~(21)~~ No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.
- ~~(21)~~~~(22)~~ Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.
- ~~(22)~~~~(23)~~ No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.
- ~~(23)~~~~(24)~~ (a) A candidate or a slate of candidates for elective public office shall not accept contributions from permanent committees which, in the aggregate, exceed fifty percent (50%) of the total contributions accepted by the candidate or a slate of candidates in any one (1) election or ten thousand dollars (\$10,000) in any one (1) election, whichever

is the greater amount. The percentage of the total contributions or dollar amounts of contributions accepted by a candidate or a slate of candidates in an election that is accepted from permanent committees shall be calculated as of the day of each election. Funds in a candidate's or a slate of candidates' campaign account which are carried forward from one (1) election to another shall not be considered in calculating the acceptable percentage or dollar amount of contributions which may be accepted from permanent committees for the election for which the funds are carried forward. A candidate or a slate of candidates may, without penalty, contribute funds to his campaign account not later than sixty (60) days following the election so as not to exceed the permitted percentage or dollar amount of contributions which may be accepted from permanent committees or the candidate or a slate of candidates may, not later than sixty (60) days after the end of the election, refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

- (b) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from executive committees of any county, district, state, or federal political party in any one (1) election.
- (c) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from caucus campaign committees.

~~(24)~~~~(25)~~ No candidate or slate of candidates for any office in this state shall accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account. No person shall make a contribution, including an in-kind contribution, from funds in a federal campaign account to any candidate or slate of candidates for any office in this state.

Section 12. KRS 121.180 is amended to read as follows:

- (1) (a) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any preelection finance reports required by subsection (3) of this section if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that contributions will not be accepted or expended in excess of three thousand dollars (\$3,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot. For a candidate for judicial office who desires to be exempt from filing preelection campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (1)1. or 2. of this subsection. A separate form shall be required for each primary,~~runoff primary,~~ regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.
- (b) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of one thousand dollars (\$1,000) in any one (1) election. For a candidate for judicial office who desires to be exempt from filing any campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (1)1. or 2. of this subsection. A separate form shall be required for each primary,~~runoff primary,~~ regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.
- (c) For a primary election, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline.~~For a runoff primary election, a slate of candidates shall file its request for exemption not later than five (5) days after the date of the preceding primary election and shall be bound by its terms unless rescinded in writing not later than ten (10) days after the date of the preceding primary election.~~ For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than twenty-five (25) days after the date of the preceding primary election,~~for runoff primary, if one is held,~~ except as provided in subparagraph 2. of paragraph (d) of this subsection. For a special election, a candidate or slate of candidates shall

file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date on which the nomination for a special election is made. A political issues committee chairman shall file a request for exemption not later than ten (10) days after the date on which the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the date on which the request for exemption is filed.

- (d) 1. A candidate or slate of candidates that revokes a request for exemption in a timely manner may exercise the remaining option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars (\$3,000) in an election. If a candidate or slate of candidates elects to exercise a different option, the candidate or slate of candidates shall file the appropriate form with the officer who received the filing papers of the candidate or slate of candidates not later than the deadline for filing a revocation.
- 2. A candidate for any city or county office or for any school board office, who is exempted from some or all campaign finance reporting requirements pursuant to paragraph (a) or (b) of this subsection but who accepts contributions or makes expenditures in excess of the exempted amount in an election, shall file all applicable reports required for the remainder of that election, based upon the amount of contributions or expenditures the candidate accepts or receives in that election. The filing of applicable required reports by a candidate after the exempted amount is exceeded shall serve as notice to the registry that the initial exemption has been rescinded. No further notice to the registry shall be required and no penalty for exceeding the initial exempted amount shall be imposed against the candidate, except for failure to file applicable reports required after the exempted amount is exceeded.
- (e) Any candidate or slate of candidates that is subject to an August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in subparagraph 1. of paragraph (d) of this subsection.
- (f) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed either request for exemption for that election may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in subparagraph 1. of paragraph (d) of this subsection.
- (g) Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.
- (h) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.
- (i) If the opponent of a candidate or slate of candidates is replaced due to his withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.
- (j) A person intending to be a write-in candidate for any office in a regular or special election may execute a request for exemption under paragraph (a) or (b) of this subsection and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline for the regular or special election. A person intending to be a write-in candidate who revokes a request for exemption in a timely manner may exercise the remaining exemption option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars (\$3,000) in an election. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a person intending to be a write-in candidate who elects to exercise a different exemption option shall file the appropriate form with the officer who received the initial request for exemption not later than fifteen (15) days after the filing deadline for the regular or special election.
- (k) Except as provided in subparagraph 2. of paragraph (d) of this subsection, the campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues committee whose chairman has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner and

no new request for exemption has been executed.

- (I) 1. Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate, slate of candidates, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), (e), or (j) of this subsection that accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, in lieu of other penalties prescribed by law, pay a fine of not more than five hundred dollars (\$500) plus the amount by which the spending limit was exceeded.
 2. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate, slate of candidates, campaign committee, or political issues committee that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.
- (2) (a) State and county executive committees, and caucus campaign committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, or made, since the date of the last report, including:
 1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
 2. For other contributions in excess of one hundred dollars (\$100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;
 3. The total amount of cash contributions received during the reporting period; and
 4. A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars (\$25), and the amount, date, and purpose of each expenditure.
 - (b) This report shall be in the hands of the registry or postmarked within five (5) days after the thirtieth day following the primary~~[- runoff primary if slates of candidates of that party participate,]~~ and regular elections. If an individual gives a reportable contribution to a caucus campaign committee or to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required, by this subsection, to be in the hands of the registry or postmarked within five (5) days after the thirtieth day following each regular election.
- (3) (a) Except for candidates or slates of candidates, campaign committees, or political issues committees exempted from reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions or expends, expects to accept contributions or expend, or contracts to expend more than three thousand dollars (\$3,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars (\$3,000) in any one (1) election, shall make a full report to the registry, on a form provided or using a format approved by the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:
 1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
 2. For each contribution in excess of one hundred dollars (\$100) made to a candidate or slate of candidates for a statewide-elected state office, or to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor; and
 3. For each contribution in excess of one hundred dollars (\$100) made to any candidate or campaign committee other than those specified in subparagraph 2. or a political issues committee, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

2007 Regular Session

4. The total amount of cash contributions received during the reporting period; and
 5. A complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars (\$25), and the amount, date, and purpose of each expenditure.
- (b) Reports of all candidates, slates of candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:
1. Candidates as defined in KRS 121.015(8), slates of candidates, campaign committees, political issues committees, and fundraisers which register in the year before the year an election in which the candidate, a slate of candidates, or public question shall appear on the ballot, shall file financial reports with the registry at the end of the first calendar quarter after persons become candidates or slates of candidates, or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates, slates of candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place;
 2. All candidates, slates of candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;
 3. All candidates, slates of candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the election; and
 4. All reports to the registry shall be received by the registry or postmarked within five (5) days after each filing deadline.
- (4) Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(b) of this section, all candidates, regardless of funds received or expended, campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election.
- (5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars (\$100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer and the employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. When any individual purchase or the aggregate purchases of any item enumerated above from any candidate or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars (\$100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer, or if the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years following the date of the election.
- (6) Each permanent committee, except a federally registered out-of-state permanent committee, inaugural committee, or contributing organization shall make a full report to the registry, on a form provided or using a format approved by the registry, of all money, loans, or other things of value, received by it from any source, and all expenditures authorized, incurred, or made, since the date of the last report, including:
- (a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
 - (b) For other contributions in excess of one hundred dollars (\$100), the full name, address, age if under the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;
 - (c) An aggregate amount of cash contributions, the amount contributed by each contributor, and the date of each contribution; and
 - (d) A complete statement of all expenditures authorized, incurred, or made, including independent expenditures. This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures on a form provided or using a format approved by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be postmarked or received not later than five (5) days after each filing deadline.

- (7) If the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed annually, to be received by the registry or postmarked not later than ten (10) days after November 1 of each year, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit, or until the year before the candidate or a slate of candidates seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed, in which case the candidate or a slate of candidates shall file the supplemental annual report not later than ten (10) days after November 1 of that year or at the end of the first calendar quarter of that year after the candidate or slate of candidates files nomination papers for the next year's primary or regular election. All contributions shall be subject to KRS 121.150.
- (8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate paper copy of each report filed either on paper or electronically with the registry shall be filed by the candidate, slate of candidates, or committee with the county clerk in the county in which the candidate or persons running as a slate of candidates reside at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.
- (9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate or slate states in writing or on forms provided by the registry that:
- (a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;
 - (b) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and
 - (c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.
- (10) No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public issue which will appear on the ballot to further the candidacy of the person for a different public office, to support or oppose a different public issue, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars (\$100) per event or affair. Any funds or contributions solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in whole or in part to further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to a caucus campaign committee, or to the state or county executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain the funds to further the same public issue or to seek election to the same office or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.
- (11) (a) Any publisher of newspapers or magazines, owner or lessor of billboards, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public who receives funds for the purchase of advertising services or material, shall file with the registry a copy of the material or communication purchased which supports or opposes any slate of candidates or committee; a copy of the receipt for the funds paid; the name and address of each purchaser; and the source of the funds for the purchase if different than the purchaser.
- (b) A radio or television station or network that receives funds for the purchase of advertising services or material that supports or opposes a slate of candidates or committee shall file with the registry a copy of the documentation of paid political campaign advertisements that is required to be maintained by the Federal Communications Commission, along with a cover letter from the manager of the station or network or the manager's designee.
- (c) All information required to be reported by paragraphs (a) and (b) of this subsection shall be in the hands of the registry or postmarked not later than the thirtieth day following the primary~~, runoff primary,~~ and regular elections that are held subsequent to the date that the broadcasting or printing of the advertisement occurs.

2007 Regular Session

- (d) The provisions of this subsection shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor.
- (e) Notwithstanding KRS 121.990, penalties for violation of this subsection shall be assessed in accordance with the provisions of KRS 121.140(2).
- (12) (a) For the purposes of this subsection, "election cycle," as applied to contributions, expenditures, or loans to support or oppose a candidate for a particular office, means the period of time beginning January 1 following a regular election for the office and ending December 31 following the next regular election for that office.
- (b) For the purpose of this subsection, "election cycle," as applied to contributions, expenditures, or loans to support or oppose a constitutional amendment or public question which appears on the ballot, means the period of time beginning January 1 following a regular election for any state legislative office and ending December 31 following the next regular election for any state legislative office.
- (c) If adequate and appropriate agency funds are available to implement this subsection, beginning on January 1, 2002, the option of electronic reporting shall be made available by the registry for all of the following:
 - 1. Candidates for statewide office and slates of candidates that during the election cycle receive contributions or loans in the aggregate of twenty-five thousand dollars (\$25,000) or more, or at any time have a balance in a campaign account or accounts in the aggregate of twenty-five thousand dollars (\$25,000) or more;
 - 2. Candidates for the General Assembly that during the election cycle receive contributions or loans in the aggregate of twelve thousand five hundred dollars (\$12,500), or at any time have a balance in an aggregate of twelve thousand five hundred dollars (\$12,500) or more; and
 - 3. Campaign committees, political issues committees, permanent committees, registered fundraisers, contributing organizations, and individuals and entities making independent expenditures that during the election cycle receive contributions or loans in an aggregate of twenty-five thousand dollars (\$25,000) or more, make expenditures in an aggregate of twenty-five thousand dollars (\$25,000) or more, or at any time have a balance in an aggregate of twenty-five thousand dollars (\$25,000) or more.
- (13) Filers specified in subsection (12) of this section shall also continue to file required campaign finance reports in paper format until the registry deems it is no longer necessary. The paper copy shall continue to be the official version for audit and other legal purposes.
- (14) Filers not required to file reports electronically, as set forth in this section, are strongly encouraged to do so voluntarily.
- (15) The date that an electronic or on-line report shall be deemed to have been filed with the registry shall be the date on which it is received by the registry.
- (16) All electronic or on-line filers shall affirm, under penalty of perjury, that the report filed with the registry is complete and accurate.
- (17) Filers who submit computer disks which are not readable, cannot be copied, or are not accompanied by any requisite paper copy shall be deemed to not be in compliance with the requirements set forth in this section.
- (18) No candidate is obligated to file any reports electronically.

Section 13. KRS 117.066 is amended to read as follows:

- (1) In the case of a precinct comprised of a small number of registered voters, the county board of elections may, pursuant to KRS 117.055, utilize the facilities of another precinct as a voting location. Additionally, the county board of elections may petition the State Board of Elections to allow the precinct election officers of the larger precinct to serve as precinct election officers for the precinct that is the subject of the petition. The petition shall designate both the smaller precinct and the larger precinct with which it is to be included, the type of voting machine or machines to be used, and whether supplemental paper ballots are to be used. The petition shall contain a full explanation of the reasons why inclusion is desirable.
- (2) If the petition submitted pursuant to subsection (1) of this section is approved by the State Board of Elections, the election shall be conducted according to the following provisions:
 - (a) One voting machine may be utilized for both precincts if the State Board of Elections certifies that separate ballots may be placed upon the voting machine to be used without endangering the integrity of the ballots or without violating any other election law. Otherwise, separate voting machines shall be used for each precinct. In the instance of a precinct which has a small number of voters such that the use of a separate voting machine would be cost-prohibitive, the county clerk may make application to the State Board of Elections to use supplemental paper ballots under KRS 118.215 to conduct the voting for the small precinct on election day. If the use of supplemental paper ballots is approved by the State Board of Elections, at the close of voting on election day, the locked ballot box shall be transported to the county board of elections and ballots shall be counted by the county board of elections as provided by KRS 117.275~~(7)(8)~~;
 - (b) Separate precinct voter rosters shall be maintained for each precinct, and steps shall be taken to insure that voters cast their ballot in their duly authorized precinct; and
 - (c) A separate set of elections forms and reports required by this chapter and the State Board of Elections shall be

maintained for each precinct.

Section 14. Whereas local governments have been burdened with the technical, logistical, and financial cost of runoff elections for candidates who have essentially been nominated by their party to run in the regular election, and such candidates have to invest more time and money in the primary instead of focusing on the regular election, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 to **HB 224** is as follows:

HB 224, On page 15, line 1, after the first "primary," by placing brackets around and by striking through "runoff primary,".

HB 476, AN ACT relating to elections, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

If a runoff primary is held pursuant to KRS 118.025 and 118.245, the cost of the runoff primary shall be borne completely by the Commonwealth.

Section 2. There is hereby appropriated to the State Board of Elections, to be distributed to the counties to pay for the cost of a runoff primary, \$5,412.499 from the general fund during the 2006-2007 fiscal year.

Section 3. Whereas local governments have been unduly burdened with the technical, logistical, and financial cost of runoff primaries, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Floor Amendments

Floor Amendment No. 1 to **HB 35**, by Representative Crimm:

HB 35, On page 1, line 1, by deleting "SUBTITLE 20 OF" and by deleting "304" and inserting in lieu thereof "65"; and On page 1, by deleting lines 9 to 13 in their entirety and inserting in lieu thereof:

"(2) A city, county, charter county, urban-county government, consolidated local government, or unified local government which stipulates that a swimming pool located on a property must be equipped with an enclosure that isolates the swimming pool shall permit the property owner to equip the pool with an approved safety pool cover in lieu of such enclosure."

Floor Amendment No. 2 Title to **HB 35**, by Representative Crimm:

HB 35, Amend the title to read as follows: "AN ACT relating to local government regulation of swimming pools."

Floor Amendment No. 1 to **HB 183**, by Representative Farmer:

HB 183, On page 6, after line 8, insert:

"Section 8. Whereas some Veterans Administration beneficiaries under a disability suffer due to the current system for appointing and supervising their guardians or conservators, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."

Floor Amendment No. 2 Title to **HB 183**, by Representative Farmer:

HB 183, Amend the title to read as follows: "AN ACT relating to the Kentucky Department of Veterans' Affairs acting as a fiduciary and declaring an emergency."

Floor Amendment No. 13 to the Committee Substitute to **HB 327**, by Representative Siler:

HB 327, On page 2, after line 22, insert the following:

"Section 2. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 13. Local Government Economic Development Fund, at pages 1148 to 1151, is amended to read as follows:

13. LOCAL GOVERNMENT ECONOMIC DEVELOPMENT FUND

General Fund

51,716,800

50,453,700

(1) **Coal Severance Tax Collections Calculations and Transfers:** The above appropriations from the General Fund are based on the official estimate presented by the Office of State Budget Director for coal severance tax collections during the biennium, distributed in accordance with KRS 42.450 to 42.495.

(2) **Trover Clinic Grant:** Notwithstanding KRS 42.4582 and 42.4585, the quarterly calculation and transfer of the funds shall be made only after each quarterly installment of the annual appropriation of \$1,000,000 in fiscal year 2006-2007 and \$1,000,000 in fiscal year 2007-2008 has been credited to the Trover Clinic Grant within the Governor's Office for Local Development.

(3) **Community Development Office:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$669,700 in fiscal year 2006-2007 and \$728,000 in fiscal year 2007-2008 is appropriated as General Fund moneys to the Community Development Office in the Governor's Office for Local Development.

(4) **Kentucky Infrastructure Authority:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$370,000 in fiscal year 2006-2007 and \$311,700 in fiscal year 2007-2008 is appropriated as General Fund moneys to the Kentucky Infrastructure Authority.

(5) **Tourism Marketing Program:** Notwithstanding KRS 42.4588, \$1,000,000 in fiscal year 2006-2007 and \$1,000,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Tourism Marketing Program within the Commerce Cabinet. Fees for professional artists and entertainers performing on the Kentucky Music Trail shall be paid from the Tourism Marketing Program.

(6) **Read to Achieve:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$4,000,000 in fiscal year 2006-2007 and \$4,000,000 in fiscal year 2007-2008 is appropriated as General Fund moneys to the Read to Achieve Program within the Department of Education.

(7) **Drug Courts:** Notwithstanding KRS 42.4588, \$1,300,000 in fiscal year 2006-2007 and \$1,800,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Drug Court Program in the Office of Drug Control Policy, Justice Administration budget unit.

(8) **Kentucky Wood Products Competitiveness Corporation:** Notwithstanding KRS 42.4586, no funds shall be transferred to the Secondary Wood Products Development Fund.

(9) **Kentucky Workers' Compensation Funding Commission:** Notwithstanding KRS 342.122(1)(c), no General Fund appropriation is provided to the Kentucky Workers' Compensation Funding Commission in fiscal year 2006-2007 and fiscal year 2007-2008.

(10) **Energy Research and Development Fund:** Notwithstanding KRS 42.4588, \$3,500,000 in fiscal year 2006-2007 and \$3,500,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund to the Office of Energy Policy within the Commerce Cabinet as General Fund moneys. These funds shall be used for research projects relating to clean coal, new combustion technology, thin-seam coal extraction research, synthetic natural gas produced from coal through gasification processes, and the development of alternative transportation fuels produced by processes that convert coal or biomass resources or extract oil from oil shale and shall be targeted solely to Kentucky's Local Government Economic Development Fund-eligible counties. The Office of Energy Policy shall coordinate its efforts with those of Kentucky's universities and related Kentucky Community and Technical College System programs in order to maximize Kentucky's opportunities for federal funding and receive research grants and awards from federal and other sources of funding for the development of clean coal technology, coal-to-liquid-fuel conversion, alternate transportation fuels, and biomass energy resources.

(11) **School Facilities Construction Commission:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund in fiscal year 2006-2007 shall be made only after funds totaling \$4,617,900, and in fiscal year 2007-2008 shall be made only after funds totaling \$4,617,900, is appropriated as General Fund moneys to the School Facilities Construction Commission to provide debt service to support previously authorized bonds.

(12) **Kentucky Infrastructure Authority:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$4,091,900 in fiscal year 2006-2007 and \$4,091,900 in fiscal year 2007-2008 is appropriated as General Fund moneys to the Finance and Administration Cabinet, Debt Service budget unit to provide General Fund debt service to support previously authorized bonds for the Water and Sewer Resources Development Fund for Coal Producing Counties.

(13) **KIA Infrastructure for Economic Development Fund for Coal-Producing Counties:** Notwithstanding KRS 42.4588, funds totaling \$7,450,000 in fiscal year 2006-2007 and \$7,450,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the General Fund to be used by the Finance and Administration Cabinet Debt Service budget unit to support previously authorized bonds for the Infrastructure for Economic Development Fund for Coal-Producing Counties, Bond Pool.

(14) **Debt Service:** All necessary debt service amounts shall be appropriated from the General Fund and shall be fully paid regardless of whether there are sufficient moneys available to be transferred from coal severance tax-supported funding program accounts to other accounts of the General Fund.

(15) **Flood Matching/State Owned Dam Repair Pool:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$800,000 in fiscal year 2006-2007 and \$800,000 in fiscal year 2007-2008 is appropriated as General Fund moneys to the Governor's Office for Local Development.

Notwithstanding KRS 42.4588, \$700,000 in fiscal year 2006-2007 and \$700,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Flood Matching/State Owned Dam Repair Pool within the Governor's Office for Local Development.

(16) **Osteopathic Medicine Scholarship Program:** The transfer of moneys from the General Fund to the Local Government Economic Development Fund shall be made after the transfer to the Osteopathic Medicine Scholarship Program has been made pursuant to KRS 164.7891(11) and (12) in the amount of \$1,024,300 in fiscal year 2006-2007 and \$1,024,300 in fiscal year 2007-2008, within the Kentucky Higher Education Assistance Authority.

(17) **Operation Unite:** Notwithstanding KRS 42.4588, funds totaling \$1,250,000 in fiscal year 2006-2007 and \$1,250,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Office of Drug Control Policy for Operation Unite in relation to the Federal Task Force on Drug Abuse.

(18) **Mining Engineering Scholarship Program:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$200,000 in fiscal year 2006-2007 and \$200,000 in fiscal year 2007-2008 is appropriated as General Fund moneys to the University of Kentucky for the Mining Engineering Scholarship Program.

(19) **404 Permitting Program:** Notwithstanding KRS 42.4588, \$300,000 in fiscal year 2006-2007 and \$300,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the U.S. Clean Water Act section for 404 Permitting Program in the Environmental and Public Protection Cabinet, Division of Water. These funds will only be made available after the Commonwealth assumes primacy over the 404 Permitting Program.

(20) **School Technology:** Notwithstanding 42.4588, \$5,000,000 in fiscal year 2006-2007 and \$5,000,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Office of Operations and Support Services within the Department of Education for school technology purposes.

(21) **Parameters for County Flexibility:** Notwithstanding KRS 42.4588(2), Local Government Economic Development Fund allocations may be used to support the nonrecurring investments in public health and safety, economic development, public infrastructure, information technology development and access, and public water and wastewater development, with the concurrence of both the respective fiscal court and the Governor's Office for Local Development or the Kentucky Infrastructure Authority, as appropriate.

(22) **Support of the 12 Multicounty Regional Industrial Park Authorities:** Notwithstanding KRS 42.4588, funds totaling \$300,000 in fiscal year 2006-2007 and \$300,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Governor's Office for Local Development to be distributed equally to the 12 multicounty regional industrial park authorities located in coal counties to be used for marketing and maintenance of the industrial parks and for procurement of property and casualty insurance on the parks.

(23) **Coal Severance Tax Receipts:** The appropriations of severance tax receipts made in this Act shall not lapse but shall be carried forward at the end of each fiscal year.

(24) **Buckhorn Children's Home:** Notwithstanding KRS 42.4588, funds totaling \$500,000 in fiscal year 2006-2007 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Governor's Office for Local Development to be distributed as a grant to the Buckhorn Children's Home.

(25) **Infrastructure for Economic Development Fund for Coal Producing Counties:** Notwithstanding KRS 42.4592, the quarterly calculation of the allocation of moneys to coal-producing counties through the Local Government Economic Development Fund shall be made only after each quarterly installment of the annual appropriation of \$1,164,000 in fiscal year 2007-2008 is appropriated as General Fund moneys to the Kentucky Infrastructure Authority for debt service on \$100,000,000 Bond Funds for the Infrastructure for Economic Development Fund for Coal-Producing Counties.

Notwithstanding KRS 42.4588, funds totaling \$8,148,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the Kentucky Infrastructure Authority for debt service on \$100,000,000 Bond Funds for the Infrastructure for Economic Development Fund for Coal-Producing Counties.

(26) **Industrial Park Priority:** Notwithstanding KRS 42.4588(2), any county that is providing at least \$1,000,000 from their Local Government Economic Development Fund, Single County Account for an industrial park project, shall be given higher priority when applying for Local Government Economic Development Fund, Multi-County Fund dollars for the same project.

(27) **Pharmacy Scholarship Fund:** Notwithstanding KRS 42.4582 and 42.4585, the quarterly calculation and transfer of the funds in fiscal year 2007-2008 shall be made only after each quarterly installment of the annual appropriation of \$1,000,000 has been credited to the Pharmacy Scholarship Fund within the Kentucky Higher Education Assistance Authority.

(28) **Kentucky Geological Survey:** Notwithstanding KRS 42.4588, funds totaling \$250,000 in fiscal year 2007-2008 shall be transferred from the Local Government Economic Development Fund, Multi-County Fund, to the University of Kentucky for the Kentucky Geological Survey.

(29) Regional Industrial Parks: *Notwithstanding KRS 42.4588, any regional industrial park that merges with an industrial development project may use available 42.4592(1)(c) funds to finance the merger. As used in this section, "regional industrial park" and "industrial development project" means any park or project defined under KRS 42.4588(11).";*

Renumber subsequent sections accordingly;

On page 43, line 8, delete "12" and insert "13" in lieu thereof; and

On page 43, line 15, delete "12" and insert "13" in lieu thereof.

Floor Amendment No. 1 to the Committee Substitute to **HB 180**, by Representative Ballard:

HB 180, On page 1, line 11, delete "and"; and

On page 1, delete lines 12 through 13 in their entirety, and insert in lieu thereof:

"(g) One (1) representative selected from the Joint Executive Council of Veterans Organizations of Kentucky; and

(h) One (1) representative from Catholic organizations."; and

On page 1, line 14, after the phrase "at-large members, the" delete "two (2)" and insert in lieu thereof "one (1)"; and

On page 1, line 15, delete "representatives" and insert in lieu thereof "representative"; and

On page 1, line 16, after the word "Kentucky," insert "the one (1) representative from the Catholic organizations"; and

On page 1, lines 19 and 20, delete "Joint Executive Council of Veterans Organizations of Kentucky" and insert in lieu thereof "organizations"; and

On page 1, lines 21 and 22, delete "the Joint Executive Council of Veterans Organizations of Kentucky" and insert in lieu thereof "organization"; and

On page 6, line 13, delete "I. Except as provided in subparagraph 2. of this paragraph"; and

On page 6, line 24, after the word "drawing" insert "or a charity fundraising event, including special limited charity fundraising events"; and

On page 6, line 26, after "located" insert ". For raffles, the organization shall notify" and place brackets around and strike through "if the organization notifies"; and

On page 7, line 14, delete "subparagraph" and remove all brackets and strike-throughs on that line; and

On page 7, delete lines 16 through 19 in their entirety; and

On page 10, after line 5, insert the following:

"Section 3. KRS 238.505 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Office" means the Office of Charitable Gaming within the Environmental and Public Protection Cabinet;
- (2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity fundraising events conducted for fundraising purposes by charitable organizations licensed and regulated under the provisions of this chapter. Charitable gaming shall not include slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races;
- (3) "Charitable organization" means a nonprofit entity organized for charitable, religious, educational, literary, civic, fraternal, or patriotic purposes;
- (4) "Bingo" means a specific game of chance in which participants use cards or paper sheets, or card-minding device representations thereof, divided into horizontal and vertical spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random;
- (5) "Charity game ticket" means a game of chance using a folded or banded paper ticket, or a paper card with perforated break-open tabs, the face of which is covered or otherwise hidden from view to conceal a number, letter, symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners and shall include charity game tickets that utilize a seal card. Charity game ticket shall include pulltabs;
- (6) "Seal card" means a board or placard used in conjunction with charity game tickets, that contains a seal or seals which, when removed or opened, reveal predesignated winning numbers, letters, or symbols;
- (7) "Raffle" means a game of chance in which a participant is required to purchase a ticket for a chance to win a prize, with the

winner to be determined by a random drawing;

- (8) "Charity fundraising event" means an ~~[a fundraising]~~ activity of limited duration at which games of chance approved by the office are conducted, including bingo, raffles, charity game tickets, special limited charitable games, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding. Examples of such activities include events that attract patrons for community, social, and entertainment purposes apart from charitable gaming, such as fairs, festivals, carnivals, licensed charitable gaming organization conventions, and bazaars;
- (9) "Manufacturer" means a person who assembles from raw materials or subparts any charitable gaming equipment or supplies used in the conduct of charitable gaming, including a person who converts, modifies, and adds to or removes parts from, charitable gaming equipment and supplies. The term shall not include:
 - (a) Any person who services or repairs charitable gaming supplies and equipment, so long as that person replaces or repairs an incidental, malfunctioning, or nonfunctioning part with a similar or identical part; and
 - (b) Any distributor who cuts, collates, and packages for distribution any gaming supplies and equipment purchased in bulk;
- (10) "Distributor" means a person who sells, markets, leases, or otherwise furnishes to a charitable organization charitable gaming equipment or supplies, or both, used in the conduct of charitable gaming. "Distributor" shall not include:
 - (a) A resident printer who prints raffle tickets at the request of a licensed charitable organization; and
 - (b) A licensed charitable organization that affects a one-time donation of charitable gaming supplies or equipment to another licensed charitable organization if the donation is first approved by the office.
- (11) "Charitable gaming facility" means a person, including a licensed charitable organization, that owns or is a lessee of premises which are leased or otherwise made available to two (2) or more licensed charitable organizations during a one (1) year period for the conduct of charitable gaming;
- (12) "Gross receipts" means all moneys collected or received from the conduct of charitable gaming;
- (13) "Adjusted gross receipts" means gross receipts less all cash prizes and the amount paid for merchandise prizes purchased;
- (14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and deductions authorized under this chapter;
- (15) "Charitable gaming supplies and equipment" means any material, device, apparatus, or paraphernalia customarily used in the conduct of charitable gaming, including bingo cards and paper, charity game tickets, and other apparatus or paraphernalia used in conducting games of chance at charity fundraising events subject to regulation under this chapter. The term shall not include any material, device, apparatus, or paraphernalia incidental to the game, such as pencils, daubers, playing cards, or other supplies that may be purchased from normal sources of supply;
- (16) "Door prize" means a prize awarded to a person based solely upon the person's attendance at an event or the purchase of a ticket to attend an event;
- (17) "Special limited charitable game" means roulette; blackjack; poker; keno; money wheel; baccarat; pusher-type games; any dice game where the player competes against the house; and any other game of chance as identified, defined, and approved by administrative regulation of the office;
- (18) "Special limited charity fundraising event" means any type of charity fundraising event, commonly known as and operated as a "casino night," "Las Vegas night," or "Monte Carlo night," at which the predominant number or types of games offered for play are special limited charitable games;
- (19) "Session or bingo session" means a single gathering at which a bingo game or series of successive bingo games are played, excluding bingo played at a charity fundraising event;
- (20) "Immediate family" means:
 - (a) Spouse and parents-in-law;
 - (b) Parents and grandparents;
 - (c) Children and their spouses; and
 - (d) Siblings and their spouses;
- (21) "Affiliate" means any corporation, partnership, association, or other business or professional entity or any natural person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a licensed manufacturer, distributor, or charitable gaming facility;
- (22) "Secretary" means the secretary of the Environmental and Public Protection Cabinet;
- (23) "Executive director" means the executive director of the Office of Charitable Gaming within the Department of Public Protection;
- (24) "Chairperson" means the chief executive officer and any officer, member, or employee of a licensed charitable organization who will be involved in the management and supervision of charitable gaming as designated in the organization's charitable gaming license application under KRS 238.535(9)(g);
- (25) "Year" means calendar year except as used in KRS 238.545(4), 238.547(1), and 238.555(7), when "year" means the licensee's license year; and

- (26) "Card-minding device" means any mechanical, electronic, electromechanical, or computerized device that is interfaced with or connected to equipment used to conduct a game of bingo and that allows a player to store, display, and mark a bingo card face. A card-minding device shall not be designed and manufactured to resemble any electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker machine, or any similar video gaming device."

Floor Amendment No. 1 to **HB 296**, by Representative Jenkins:

HB 296, On page 2, after line 18, by inserting the following new section:

"Section 2. Because of the increase in the security, indemnity, and bond requirements for self-insured employers, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon otherwise becoming a law."

Floor Amendment No. 2 Title to **HB 296**, by Representative Jenkins:

HB 296, Amend the title to read "AN ACT relating to workers' compensation self-insurance and declaring an emergency."

Floor Amendment No. 1 to **HCR 159**, by Representative Greer:

HCR 159, On page 2, line 3, by adding "and" at the end of the line;

On page 2, lines 4 and 5, by deleting same and inserting the following in lieu thereof:

"(9) The Kentucky Cabinet for Health and Family Services."

Floor Amendment No. 2 to the Committee Substitute to **HB 180**, by Representative Marzian:

HB 180, On page 1, line 2, after the word "of" insert an opening bracket and strike through the words "nine (9)" then insert a closing bracket.

On page 1, line 2, after the word "of" insert the words "eleven (11)".

On page 1, line 11, after the word "large" delete "; and".

On page 1, line 13, after the word "Kentucky" insert ";" and a hard return to start a new line, then insert the following text:

"(h) One (1) representative of the Catholic charities in Kentucky; and

(i) One (1) representative of Kentucky's volunteer firefighter organizations"

On page 1, line 16, after the first word "Kentucky," insert "the representative of the Catholic charities in Kentucky, the representative of Kentucky's volunteer firefighter organizations,".

On page 1, line 22, after the word "Kentucky" insert "The representative of the Catholic charities in Kentucky shall be selected from a list of at least three (3) names submitted to the Governor by the Catholic Conference of Kentucky. The representative of Kentucky's volunteer firefighter organizations shall be selected from a list of at least three (3) names submitted to the Governor by the Kentucky Firefighters Association".

On page 2, line 10, after the period, begin the next sentence with the words, "Six (6)" then insert an opening bracket and strike through the words "Five (5)" and insert a closing bracket.

Floor Amendment No. 1 to the Committee Substitute to **HB 51**, by Representative Thompson:

HB 51, On page 1, line 7, after "Guard" insert "or Reserve Component"; and

On page 1, line 17, delete "or" and insert a ";" in lieu thereof; and

On page 1, line 17, after "Guard" insert ", or Reserve Component".

House Floor Amendment No. 1 to **SB 22**, by Representative Pullin:

SB 22, On page 1, line 3, after "section" delete ";" and insert in lieu thereof: ";"

(a)"; and

On page 1, line 5, after "families" delete ";" and insert "; and" in lieu thereof; and

On page 1, between lines 5 and 6, insert:

"(b) "Employee" has the same meaning as in KRS 18A.225."; and

On page 1, line 6, delete "**2008**" and insert "**2009**" in lieu thereof.

Floor Amendment No. 5 to the Committee Substitute to **HB 549**, by Representative Floyd:

HB 549, On page 1, by deleting lines 3 through 6; and

On page 1, line 7, by deleting "**(2)**" and inserting in lieu thereof "**(1)**"; and

On page 1, line 7, by deleting "**further**"; and

On page 1, line 10, by deleting "**(3)**" and inserting in lieu thereof "**(2)**".

Floor Amendment No. 14 to **HB 327**, by Representative Moberly:

HB 327, On page 1, line 1 to page 107, line 7 delete and insert the following in lieu thereof:

"Section 1. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 5. Department of Veterans' Affairs, at pages 1144 and 1145, is amended to read as follows:

5. DEPARTMENT OF VETERANS' AFFAIRS

	2006-07	2007-08
General Fund	17,519,000	16,669,700
[General Fund	15,436,200	16,669,700]
Restricted Funds	24,713,700	24,905,700
TOTAL	42,232,700	41,575,400
[TOTAL	40,149,900	41,575,400]

(1) **Weekend and Holiday Premium Pay Incentive:** The Kentucky Veterans' Centers are authorized to continue the weekend and holiday premium pay incentive component of the Personnel Pilot Program for the 2006-2008 fiscal biennium.

(2) **Congressional Medal of Honor Recipients - Travel and Per Diem:** The Commissioner of the Department of Veterans' Affairs may approve travel and per diem expenses incurred when Kentucky residents who have been awarded the Congressional Medal of Honor attend veterans, military, or memorial events in the Commonwealth of Kentucky.

(3) **Military Burial Honor Guard Program:** Included in the above General Fund appropriation is an additional \$35,000 in each fiscal year to support the Military Burial Honor Guard Program/Veterans' Service Organizational Burial Honor Guard Trust Fund for providing proper support and decorum for veterans' funeral honors. These funds shall not lapse nor be utilized for other than the intended purposes.

Pursuant to KRS 36.390, the Department of Military Affairs shall coordinate with the Department of Veterans' Affairs and the Board of Embalmers and Funeral Directors on the implementation of the Military Burial Honor Guard Program. The Board of Embalmers and Funeral Directors shall mail program notification letters to all licensed embalmers and funeral directors with information related to the program description and contacts for the Military Burial Honor Guard Program. These letters shall be mailed with the annual renewal notifications prior to July 1 each year. New applicants will receive their notification of the program at the time of licensing. The Board of Embalmers and Funeral Directors shall establish a section on the Board's Web site pertaining to the Military Burial Honor Guard Program. The Department of Military Affairs and the Department of Veterans' Affairs shall report to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection prior to January 1, 2007, on the implementation of the Military Burial Honor Guard Program. The report shall include recommendations on organizational related matters, training and continuing education needs, equipment requirements for organizations performing or coordinating the honors ceremonies, and the expenditure of funds.

(4) **Debt Service:** Included in the above General Fund appropriation is \$84,000 in fiscal year 2006-2007 and \$168,000 in fiscal year 2007-2008 for debt service to support new bonds for the Western Kentucky Veterans' Center as set forth in Part II, Capital Projects Budget, of this Act.

(5) Operating Budget: Included in the above General Fund appropriation is \$2,082,800 in fiscal year 2006-2007 to provide additional operating support.

Section 2. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 30. Teachers' Retirement System, at pages 1160 and 1161, is amended to read as follows:

30. TEACHERS' RETIREMENT SYSTEM

	2006-07	2007-08
General Fund	182,326,100	183,323,100
[General Fund	157,326,100	183,323,100]

2007 Regular Session

Restricted Funds	9,409,300	10,361,500
TOTAL	191,735,400	193,684,600
[TOTAL	166,735,400	193,684,600]

(1) **State Retirement Obligations:** Notwithstanding KRS 161.550, General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716.

(2) **Administrative Costs:** In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2006-2007 or fiscal year 2007-2008 for the cost of administration.

(3) **Amortization of Sick Leave:** Included in the above General Fund appropriation is \$4,293,800 in fiscal year 2006-2007 and \$9,211,000 in fiscal year 2007-2008 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2006-2008 fiscal biennium.

(4) **Cost-of-Living Increase for Retirees:** Included in the above General Fund appropriation is \$4,312,800 in fiscal year 2006-2007 and \$7,865,100 in fiscal year 2007-2008 to provide, when combined with the annual one and one-half percent retirement allowance increase as provided for under KRS 161.620, a total increase in retirement allowances of eligible system members and beneficiaries of two and three-tenths percent in fiscal year 2006-2007 and an additional two and one-tenths in fiscal year 2007-2008.

(5) **Supplemental Health Insurance Funding:** Notwithstanding KRS 161.675(4)(a) included in the above General Fund appropriation is \$50,000 in each fiscal year to enable the retirement system to provide a subsidy from July 1, 2006, through December 31, 2007, for those retired state members over age 65 that insure their spouses under age 65 through the state health insurance plan. The amount of the subsidy for those over age 65 shall not exceed the amount of the subsidy for members under age 65 that choose couple, family, or parent plus coverage. The spousal subsidy is not subject to KRS 161.714.

(6) **State Medical Insurance Fund Stabilization Contribution:** Notwithstanding KRS 161.420 and 161.550, a portion of the state employer contribution in a sufficient amount shall be allocated to the Teachers' Retirement System Medical Insurance Fund instead of the State Accumulation Fund. Also included in the above General Fund appropriation is \$14,133,200 in fiscal year 2007-2008 to amortize the cost of the State Medical Insurance Fund Stabilization Contribution with the remainder to be amortized under the schedule set forth in KRS 161.553.

(7) **Dependent Subsidy for Retirees under age 65:** Notwithstanding KRS 161.675(4)(a), from July 1, 2006, through December 31, 2007, for all retirees under the age of 65 who participate in the Kentucky Group Health Insurance Program through the Kentucky Teachers' Retirement System, the Kentucky Teachers' Retirement System shall pay the same dependent subsidy that Executive Branch agencies pay for their active employees who have similar coverage. The dependent subsidy is not subject to KRS 161.714.

(8) **Ad Hoc State Contribution:** Included in the above General Fund appropriation is \$12,974,100 in fiscal year 2006-2007 and \$29,444,100 in fiscal year 2007-2008 for an ad hoc contribution to the State Accumulation Fund.

(9) **Highly Skilled Educators' Retirement Benefits:** Salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled.

(10) Additional Contribution to the Medical Insurance Fund: Included in the above General Fund appropriation is \$25,000,000 in fiscal year 2006-2007 for the Teachers' Retirement System Medical Insurance Fund.

Section 3. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; B. Commerce Cabinet; 5. Parks, at pages 1163 and 1164, is amended to read as follows:

5. PARKS

	2006-07	2007-08
General Fund	27,978,400	31,145,400
Restricted Funds	55,217,700	56,335,600
TOTAL	83,196,100	87,481,000

(1) **Park Capital Maintenance and Renovation Fund:** Notwithstanding KRS 148.810, the General Assembly authorizes the use of the Park Capital Maintenance and Renovation Fund for any ongoing cost of the Department of Parks.

(3) **Nicholas Hildreth School:** Included in the above Restricted Funds appropriation is \$60,000 in fiscal year 2006-2007 to move the Nicholas Hildreth School to Blue Licks Battlefield State Park.

(5) Kentucky State Parks Foundation: The Department of Parks is hereby authorized to transfer the sum of \$521,728 of private funds to the Kentucky State Parks Foundation.

Section 4. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; G. Finance and Administration Cabinet; 1. General Administration, at page 1183, is amended to read as follows:

1. GENERAL ADMINISTRATION

	2006-07	2007-08
General Fund	10,281,500	10,442,600
Restricted Funds	34,891,600	34,756,000
Road Fund	400,000	400,000
TOTAL	45,573,100	45,598,600

(1) **Affordable Housing Trust Fund:** Included in the above Restricted Funds appropriation is \$4,300,000 in fiscal year 2006-2007 and \$4,300,000 in fiscal year 2007-2008 for the Affordable Housing Trust Fund. The Kentucky Housing Corporation shall provide from the Kentucky Housing Corporation Housing Assistance Fund to the Affordable Housing Trust Fund \$500,000 in fiscal year 2006-2007 and \$500,000 in fiscal year 2007-2008.

(2) **Trooper Island, Inc.:** The Kentucky Housing Corporation shall provide from the Kentucky Housing Corporation Housing Assistance Fund to Trooper Island, Inc., \$250,000 in fiscal year 2006-2007 and \$250,000 in fiscal year 2007-2008.

(3) **Gubernatorial Transition:** Funds that are necessary to meet the Commonwealth's obligations for gubernatorial transition, up to but not to exceed \$220,000 in fiscal year 2007-2008, shall be deemed a necessary government expense, and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705).

(4) **State Capitol Annex:** The Secretary of the Finance and Administration Cabinet shall ensure that the New State Capitol Annex space allocated to the legislative branch by KRS 56.463(4)(b), and designated for occupancy by the October 1, 2003, Resolution of the Legislative Research Commission adopted pursuant to KRS 56.463(4)(b) and as specified in this section, shall be vacated by the executive branch and available for immediate occupancy by the legislative branch as follows:

The legislative branch shall occupy the following additional space on the second, third, and fourth floors of the New State Capitol Annex:

Going west from the center (north/south) hallway on each floor, all space (approximately 4,096 square feet on each floor) south of the east/west hallway to and including the ninth pilaster, and going south from the center (north/south) hallway on each floor from the first to the third pilaster on the west side of the hallway, except for the elevators, public restrooms, and mechanical maintenance areas. The occupancy by the legislative branch of the space described in this paragraph shall be effective on or before April 15, 2007; and

Going south from the center (north/south) hallway on each floor, all space (approximately 3,328 square feet on each floor) on the west side of the hallway beginning at the third pilaster at the north/south hallway to the south end of the building, except for the elevators, public restrooms, and mechanical maintenance areas. The occupancy by the legislative branch of the space described in this paragraph shall be effective on or before April 15, 2008.

The Secretary of the Finance and Administration Cabinet shall be authorized to lease such additional space as may be necessary to comply with the provisions of this section.

Expenditures required by the implementation of this section by the executive branch shall be deemed necessary government expenses and shall be paid from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705), or, if the expenditures required to implement this section exceed the funds available in those accounts, notwithstanding KRS 45.770, the Finance and Administration Cabinet shall transfer sufficient funds in the Capital Construction and Equipment Purchase Contingency Account to a capital project account to be used for expenditures necessary to implement the requirements of this section. Prior to making a transfer, the Finance and Administration Cabinet shall present the proposed transfer to the Capital Projects and Bond Oversight Committee for review at least 14 days prior to a meeting of the committee as required by KRS 45.800. No portion of funds transferred for this purpose shall be used for capital improvements or any other purpose.

Any expenditure authorized by the Legislative Research Commission relating to implementation of KRS 56.463(4)(b) and funded by previous appropriations to the legislative branch shall not be governed by KRS 7A.010, 7A.120, 45.750 to 45.810, 48.010(14), and 48.020.

If the Secretary of the Finance and Administration Cabinet fails or refuses to fully and timely comply with the requirements of this section, the Legislative Research Commission may petition the Franklin Circuit Court for a writ of mandamus to compel the Secretary's compliance.

Section 5. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; H. Cabinet for Health and Family Services; 5. Public Health, at pages 1191 to 1193, is amended to read as follows:

5. PUBLIC HEALTH

	2006-07	2007-08
General Fund (Tobacco)	14,000,900	14,721,100
General Fund	73,812,100	76,735,300
[General Fund	70,899,700	73,823,000]
Restricted Funds	71,482,700	71,599,000
Federal Funds	169,426,000	169,878,400
TOTAL	328,721,700	332,933,800

[TOTAL 325,809,300 330,021,500]

(1) **Health Kentucky:** Included in the above General Fund appropriation is \$150,000 in fiscal year 2006-2007 for Health Kentucky, Inc.

(2) **Tobacco Settlement Funds:** Included in the above General Fund (Tobacco) appropriation is \$7,149,800 in fiscal year 2006-2007 and \$7,599,900 in fiscal year 2007-2008 for the Health Access Nurturing Development Services Program; \$1,000,000 in fiscal year 2006-2007 and \$1,140,100 in fiscal year 2007-2008 for Healthy Start initiatives; \$1,750,000 in each fiscal year for Universal Children's Immunizations; \$400,000 in each fiscal year for the Folic Acid Program; \$775,000 in each fiscal year for Early Childhood Mental Health; \$210,500 in each fiscal year for Early Childhood Oral Health; \$2,215,600 in fiscal year 2006-2007 and \$2,345,600 in fiscal year 2007-2008 for the Smoking Cessation Program; and \$500,000 in each fiscal year for the Kentucky Early Intervention Services First Steps Program.

(3) **Governor's Council on Wellness and Physical Activity:** Included in the above General Fund appropriation is \$1,000,000 in fiscal year 2006-2007 and \$1,500,000 in fiscal year 2007-2008 for the Governor's Council on Wellness and Physical Activity to develop and implement a statewide fitness program available to all Kentuckians that promotes fitness and wellness for persons of all ages and fitness levels.

(4) **Local and District Health Department Payments:** The Department for Public Health shall not impose a cap or other restriction on the number or amount of services that a Local or District Health Department may provide. The Department for Public Health shall submit all requests for payment for services provided to the Department for Medicaid Services that are submitted by a Local or District Health Department.

(5) **Medicaid State Match for Preventive Services Through Local and District Health Departments:** Included in the Medicaid Benefits appropriation is the total General Fund state matching dollars required in each fiscal year to fully support preventive health services provided to Medicaid recipients through Local and District Health Departments.

(6) **Health Insurance for Local and District Health Departments:** Included in the above General Fund appropriation is \$6,174,000 each fiscal year to assist the Local and District Health Departments with the required increased employer contribution for employee health insurance. These funds shall be distributed to the Local and District Health Departments at least quarterly.

(7) **Diabetes Services:** Included in the above General Fund appropriation is \$2,300,000 in fiscal 2006-2007 and \$3,050,000 in fiscal year 2007-2008 for continuation of base services through Local or District Health Departments.

(8) **Diabetes Research Board:** Included in the above General Fund appropriation is \$200,000 in each fiscal year, which shall be allocated to the Diabetes Research Board.

(9) **Diabetes Centers of Excellence:** Included in the above General Fund appropriation is \$750,000 each fiscal year to establish three regional Diabetes Centers of Excellence. Services within the Centers will be based on the number of Medicaid recipients diagnosed with diabetes within the area. These centers shall be designed to provide education, intervention therapy, and case management services and shall demonstrate the effectiveness of this intervention with outcomes and reduced Medicaid expenditures for this disease.

(10) **Local and District Health Department Infrastructure Pool:** Included in the above General Fund appropriation is \$466,000 in fiscal year 2007-2008 to provide debt service to support \$10,000,000 in bonds for a Local and District Health Department Infrastructure Pool to be administered by the Department for Public Health to address a portion of the construction and renovation needs of the local public health agencies as set forth in Part II, Capital Projects Budget, of this Act. The Department for Public Health shall establish an application process to participate in this pool, and that process shall require in-kind or matching funds from the local agency of not less than 25 percent of the grant requested. No individual grant from this pool shall exceed \$500,000. If the amount of bond funds available from the pool is not sufficient to cover all applications, the department shall determine the distribution of pool assets.

(11) **Kentucky Prescription Drug Patient Assistance Program:** Included in the above General Fund appropriation is \$125,000 in fiscal year 2006-2007 and \$200,000 in fiscal year 2007-2008 to establish the Kentucky Prescription Drug Patient Assistance Program to create a statewide network to link low-income Kentuckians with prescription drug patient assistance programs offered by pharmaceutical companies and to provide assistance in obtaining and completing the required documents. The Department may contract with the University of Kentucky, local health departments, or other organizations to develop a network and provide this assistance.

(a) As used in this subsection, "prescription drug patient assistance programs" means the programs offered by pharmaceutical companies under which the companies provide drugs to low-income individuals at no charge or at a substantially reduced cost. The term does not include the provision of a drug as part of a clinical trial.

(b) The Kentucky Prescription Drug Patient Assistance Program is established within the Cabinet for Health and Family Services, Department for Public Health. The purposes of the program are to:

1. Create an Internet-based statewide network to link low-income Kentuckians with prescription drug patient assistance programs offered by pharmaceutical companies;
2. Provide assistance in obtaining and completing the required documents;
3. Establish guidelines related to the security and privacy of protected health information provided through the

Internet-based statewide network; and

4. Explore the feasibility of the standardization of the application process for prescription drug patient assistance programs.

(c) If funds are available, the program created in paragraph (b) of this subsection shall:

1. Provide information on the eligibility guidelines and drug coverage provided through any drug assistance program offered by the cabinet;

2. Provide information on the process for applying to pharmaceutical companies for free or discounted prescription drugs;

3. Provide information to individuals, physicians, pharmacists, and pharmacies regarding eligibility for prescription drug patient assistance programs;

4. Increase awareness of the various prescription drug patient assistance programs offered by pharmaceutical companies;

5. Establish an Internet-based statewide network to provide information on prescription drug patient assistance programs;

6. Link individuals to local community resources to assist with completing required documents; and

7. Use the e-health network Web site to provide a link to information on prescription drug assistance programs, eligibility guidelines, and applications. The e-health network link shall have the capability of supporting the completion and transmission of the applications online to health care providers for any required signatures.

(d) The cabinet may consult or contract with the University of Kentucky College of Pharmacy, University of Kentucky College of Agriculture Cooperative Extension, local health departments, libraries, the Kentucky Cancer Caucus, or other organizations to develop a network of agencies to assist individuals in accessing prescriptions through the prescription drug patient assistance programs.

(e) The cabinet may seek funding for the Internet-based statewide network created under paragraph (b) of this subsection from pharmaceutical companies or any other private entity. Any funding provided by a private entity shall be on a voluntary basis.

(f) The cabinet may promulgate an administrative regulation to establish guidelines related to the security and privacy of protected health information provided through the Internet-based statewide network created under paragraph (b) of this subsection.

(12) **Area Health Education Centers:** Included in the above General Fund appropriation is \$1,500,000 in fiscal year 2006-2007 and \$1,500,000 in fiscal year 2007-2008 to support the Area Health Education Centers. The Cabinet for Health and Family Services shall contract with the University of Louisville and the University of Kentucky to provide the required support and the amount of that contract shall be in addition to any other appropriations received by the universities and shall not become part of the universities' base budgets for purposes of the Council on Postsecondary Education funding formula.

(13) **Central Kentucky Blood Center:** Included in the above General Fund appropriation is \$500,000 in fiscal year 2006-2007 to provide assistance toward the construction of new facilities and purchase of equipment related to blood collection and distribution.

(14) **Kentucky AIDS Drug Assistance Program:** Included in the above General Fund appropriation is \$250,000 in each fiscal year for the Kentucky AIDS Drug Assistance Program (KADAP).

(15) **Poison Control Center:** Additional support of \$150,000 is provided in the above General Fund appropriation in each fiscal year for the Poison Control Center.

(16) **Lead Poisoning and Screening Program:** Included in the above General Fund appropriation is \$50,000 in each fiscal year for the Lead Poisoning and Screening Program. With these funds, the Department for Public Health shall review all federal Medicaid or Medicare compliance issues with respect to lead poisoning and screening and report its findings to the General Assembly. The report shall include a proposed plan of action to correct any deficiencies or areas where programs and services are offered or supported by the Cabinet and are not in compliance with federal requirements related to lead poisoning and screening.

(17) **Osteoporosis Prevention and Education Program:** Included in the above General Fund appropriation is \$90,000 in each fiscal year to establish, promote, and maintain a statewide multigenerational osteoporosis prevention and education program.

(18) Pandemic Influenza Antiviral Drugs: Included in the above General Fund appropriation is \$2,912,400 in fiscal year 2006-2007 and \$2,912,300 in fiscal year 2007-2008 for the purchase of Pandemic Influenza antiviral drugs.

Section 6. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; J. Personnel Cabinet, at pages 1201 and 1202, is amended to read as follows:

1. GENERAL OPERATIONS

2007 Regular Session

General Fund	1,805,600	932,200
Restricted Funds	19,569,900	20,785,200
TOTAL	21,375,500	21,717,400

(1) **Flexible Benefit Account:** Notwithstanding KRS 18A.225(2)(g), any funds from the calendar year 2005 and calendar year 2006 public employee health insurance program accruing to the Flexible Benefit Account, not otherwise appropriated in fiscal year 2006-2007 and in fiscal year 2007-2008, and in excess of the amount reflected in Part V, Funds Transfer, of this Act shall be credited to the General Fund Surplus Account.

(2) **Public Employees Self-Insured Health Insurance Premiums:** Beginning with the employer premium due for coverage effective July 1, 2006, under the Public Employees Self-Insured Health Insurance Program, the employer rate shall be reduced by 12 percent for the balance of Plan Year 2006. For Plan Year 2007, the increase in employer and employee premiums for coverage under the Public Employees Self-Insured Health Insurance Program shall not exceed 10.4 percent for the Essential Plan and 9 percent for the Enhanced and Premier Plan over the Plan Year 2006 rates as adjusted by this Act.

2. PUBLIC EMPLOYEES DEFERRED COMPENSATION AUTHORITY

	2006-07	2007-08
Restricted Funds	6,009,200	6,172,400

3. WORKERS' COMPENSATION BENEFITS AND RESERVE

	2006-07	2007-08
Restricted Funds	24,798,500	26,204,400

4. STATE SALARY AND COMPENSATION FUND

	2006-07	2007-08
General Fund	8,000,000	24,000,000

(1) **Employee Compensation:** The above General Fund appropriation provides a pool of funds to be allocated in accordance with the procedures contained in Part IV, State Salary/Compensation and Employment Policy, of this Act. Included in the above \$8,000,000 General Fund appropriation in fiscal year 2006-2007 is \$3,842,500 which shall not be allocated, transferred, or expended and shall continue into fiscal year 2007-2008 and shall only be expended in that fiscal year for this same purpose.

5. STATE GROUP HEALTH INSURANCE FUND

	2006-07	2007-08
General Fund	2,476,000	2,476,000

(1) **Group Health Insurance:** The above General Fund appropriation is provided to support a dependent subsidy for full-time employees of quasi-governmental employers, excluding state agencies, participating in the State Group Health Insurance program. To participate in this fund, each quasi-governmental employer must certify to the Secretary of the Personnel Cabinet that no funds received from the pool are being utilized to fund any benefits for persons other than full-time employees.

6. RETIREMENT CONTRIBUTION SUPPLEMENT POOL

	2006-07	2007-08
<u>General Fund</u>	<u>23,969,100</u>	<u>-0-</u>

(1) Retirement Contribution Supplement Pool: The Retirement Contribution Supplement Pool is hereby created in the Personnel Cabinet. The above General Fund appropriation for this pool shall be utilized to supplement existing state agency budgets to implement the employer retirement contribution rates from April 1, 2007, through June 30, 2007, as set forth in Part IV, State Salary/Compensation and Employment Policy, of this Act. The Retirement Contribution Supplement Pool shall be supplemented by Restricted Funds, Federal Funds, the Road Fund, and other General Fund amounts otherwise appropriated to state agencies to implement the employer retirement contribution rates from April 1, 2007, through June 30, 2007. Included in this appropriation is \$826,200 for state agencies with employees covered by the State Police Retirement System. Included in this appropriation is \$2,402,400 for state agencies with hazardous duty employees covered by the Kentucky Employees Retirement Systems. Included in this appropriation is \$2,422,800 for local and district health departments, \$3,858,600 for regional MH/MR boards, and \$1,989,400 for the Council on Postsecondary Education with nonhazardous duty employees covered by the Kentucky Employees Retirement Systems. The balance of this appropriation shall be allocated to state agencies with nonhazardous duty employees covered by the Kentucky Employees Retirement Systems.

The State Budget Director shall notify the Secretary of the Finance and Administration Cabinet of the respective amount of General Fund moneys from the Retirement Contribution Supplement Pool to transfer to each affected budget unit and such funds shall be transferred. Funds allocated to the local and district health departments and the regional MH/MR boards shall be transferred from the Personnel Cabinet directly to those individual entities, no later than May 1, 2007, based on their shares of the increased cost incurred as a result of the implementation of the employer retirement contribution rates from April 1, 2007, through June 30, 2007. The State Budget Director shall report to the Interim Joint Committee on Appropriations and Revenue on the implementation of the employer retirement contribution rates from April 1, 2007, through June 30, 2007, and the Retirement Contribution Supplement Pool.

Notwithstanding KRS 45.229, any balance remaining in the Retirement Contribution Supplement Pool at the end of a fiscal year shall not lapse. Any balance remaining at the end of a fiscal year shall be utilized solely for the purpose as directed by this Act.

Section 7. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; L. Transportation Cabinet; 4. Highways, at pages 1210 to 1214, is amended to read as follows:

4. HIGHWAYS

	2005-06	2006-07	2007-08
Restricted Funds	-0-	361,842,500	72,686,700
Federal Funds	30,085,900	654,147,700	675,013,800
Road Fund	-0-	667,409,400	670,193,200
Highway Bonds	-0-	350,000,000	-0-
TOTAL	30,085,900	2,033,399,600	1,417,893,700

(1) **Debt Service:** Included in the above Federal Funds appropriation is \$15,162,700 in fiscal year 2006-2007 and \$15,126,700 in fiscal year 2007-2008 for debt service on Grant Anticipation Revenue Vehicle (GARVEE) Bonds appropriated for this purpose in 2005 Ky. Acts, ch. 173, Part I, L., 4., (16) (HB 267).

(2) **New Grant Anticipation Revenue Vehicle (GARVEE) Debt Service:** Included in the above Federal Funds appropriation is \$34,963,000 in fiscal year 2006-2007 and \$34,963,000 in fiscal year 2007-2008 for GARVEE Bonds debt service payments relating to projects financed by \$290,000,000 in GARVEE Bonds hereby authorized by the General Assembly to be issued in fiscal year 2006-2007 for payment of the GARVEE Bond road projects.

(3) **State Supported Construction Programs:** Included in the above Road Fund appropriation is \$306,587,500 in fiscal year 2006-2007 and \$300,213,300 in fiscal year 2007-2008 for the State Supported Construction Program.

(4) **State Resurfacing Program:** Included in the State Supported Construction Program is \$80,402,200 in fiscal year 2006-2007 and \$87,320,000 in fiscal year 2007-2008 from the Road Fund for the State Resurfacing Program.

(5) **Biennial Highway Construction Program:** Included in the State Supported Construction Program is \$188,445,300 in fiscal year 2006-2007 and \$175,153,200 in fiscal year 2007-2008 from the Road Fund for state construction projects in the fiscal biennium 2006-2008 Biennial Highway Construction Program. Included in the above Road Fund appropriation is \$2,500,000 in fiscal year 2006-2007 and \$2,500,000 in fiscal year 2007-2008 to support the Kentucky Pride Fund created in KRS 224.43-505.

(6) **Kentucky Pride Fund Program Report:** The Environmental and Public Protection Cabinet shall provide to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation a program and financial status report of all expenditures related to the Kentucky Pride Fund. The status report shall be provided to the Interim Joint Committee on Transportation no later than October 1 of each year.

(7) **Highway Construction Contingency Account:** Included in the State Supported Construction Program is \$37,740,000 in fiscal year 2006-2007 and \$37,740,000 in fiscal year 2007-2008 for the Highway Construction Contingency Account. Included in the above Road Fund appropriation is \$2,500,000 in fiscal year 2006-2007 and \$2,500,000 in fiscal year 2007-2008 to support the Kentucky Pride Fund created in KRS 224.43-505.

(8) **2006-2008 Biennial Highway Construction Plan:** Projects in the enacted 2004-2006 Biennial Highway Construction Plan are authorized to continue their current authorization into the 2006-2008 fiscal biennium.

(9) **Kentucky Transportation Center:** Notwithstanding KRS 177.320(4), included in the above Road Fund appropriation is \$290,000 in fiscal year 2006-2007 and \$290,000 in fiscal year 2007-2008 for the Kentucky Transportation Center.

(10) **New Highway Equipment Purchases:** Notwithstanding KRS 48.710(3), Restricted Funds are appropriated in the amounts of \$1,500,000 in fiscal year 2006-2007 and \$1,500,000 in fiscal year 2007-2008 from the sale of surplus equipment to purchase new highway equipment.

(11) **State Match Provisions:** The Transportation Cabinet is authorized to utilize state construction moneys or Toll Credits to match federal highway moneys.

(12) **Excess Debt Service/Lease-Rental Appropriations:** Any Road Fund appropriations that are not needed to pay lease-rental payments to the Kentucky Turnpike Authority or debt service on the Transportation Cabinet office building shall be credited to the State Construction Account.

(13) **Federal Aid Highway Funds:** If additional federal highway moneys are made available to Kentucky by the United States Congress, the funds shall be used according to the following priority: (a) Any demonstration-specific or project-specific money shall be used on the project identified; and (b) All other funds shall be used to ensure that projects in the fiscal biennium 2006-2008 Biennial Highway Construction Plan are funded. If additional federal moneys remain after these priorities are met, the Transportation Cabinet may select projects from the Four-Year Preconstruction Program.

(14) **Demonstration Projects:** The Transportation Cabinet is authorized to select up to ~~fifteen~~^{ten} design/build demonstration road related projects. Notwithstanding any conflicting provisions of KRS Chapters 45A, 176, and 177, for

procurement purposes, the Transportation Cabinet shall utilize a qualifications-based bidding process within the context of the provisions of KRS Chapter 176. The Secretary of the Transportation Cabinet shall determine the nature and scope of each design/build project.

(15) Road Fund Cash Management: The Secretary of the Transportation Cabinet is authorized to continue the Cash Management Plan to address the policy of the General Assembly to expeditiously initiate and complete projects in the fiscal biennium 2006-2008 Biennial Highway Construction Plan. Notwithstanding KRS Chapter 45, specifically including KRS 45.242 and 45.244, the Secretary may concurrently advance projects in the Biennial Highway Construction Plan by employing management techniques that maximize the Cabinet's ability to contract for and effectively administer the project work. Under the approved Cash Management Plan, the Secretary is directed to continuously ensure that the unspent project and Road Fund balances available to the Transportation Cabinet are sufficient to meet expenditures consistent with appropriations provided.

(16) Biennial Highway Construction Program: In the event that federally funded projects contained in the enacted fiscal biennium 2006-2008 Biennial Highway Construction Program are delayed due to unforeseen circumstances, or if additional Federal Funds are received in excess of the amounts contemplated in this Act, the Transportation Cabinet may advance projects from the Highway Preconstruction Program Plan only to the extent required to ensure that the Commonwealth makes full use of all available Federal Funds.

(17) Programmatic Adjustments: The Secretary of the Transportation Cabinet is authorized to adjust the specific sums comprising the Highways appropriation programs enumerated above for the purposes of enhancing public safety, maximizing available Federal Funds, supporting economic development, and accelerating state construction projects.

(18) Grant Anticipation Revenue Vehicle (GARVEE) Bonds: Included in the above Restricted Funds appropriation is \$290,000,000 in fiscal year 2006-2007 for GARVEE Bond Funds.

(19) Carry Forward of Appropriation Balances: Notwithstanding KRS 45.229, unexpended Road Fund, Federal Funds, and Restricted Funds appropriations in the Highways budget unit for the Construction program, the Maintenance program, and the Research program in fiscal year 2005-2006 and fiscal year 2006-2007 shall not lapse and shall carry forward.

(20) Road Fund Support for Aviation: The Cabinet may utilize an amount not to exceed \$10,000,000 of its annual Road Fund appropriations for the Department of Aviation, including but not limited to providing financial aid to governmental units and local air boards for the development, construction, reconstruction, maintenance, and repair of airport runways, aprons, and taxiways at public airports and public use airports as defined in KRS 183.011(20) and (21), as identified in Part I, L.2., Aviation, of this Act.

(21) Paving and Rehabilitation: The Kentucky Transportation Cabinet is encouraged to provide grading and paving rehabilitation efforts on I-64 from Grayson to the West Virginia border at the level equal to that accomplished on I-64 in Bath County, Rowan County, and the remainder of Carter County.

(22) Interlocal Agreement: Any local government may be permitted to enter into a cooperative agreement with the Transportation Cabinet to maintain traffic control devices on state maintained roads within the local government's jurisdiction and shall be reimbursed by the Transportation Cabinet for the actual cost of such maintenance. The agreement may permit local governments to make temporary repairs to state maintained road surfaces within the local government's jurisdiction and shall be reimbursed by the Transportation Cabinet for the actual cost of the temporary repairs.

(23) Rest Area Closure: Notwithstanding KRS 177.240, the Transportation Cabinet may close the following five rest area sites:

- (a) Hart County - One site located on I-65 southbound at milepost 55.1;
- (b) Hardin County - Two sites located on I-65 northbound and southbound at milepost 81.0;
- (c) Madison County - Two sites located on I-75 northbound and southbound at milepost 82.3.

(24) Pavement Management: The Secretary of the Transportation Cabinet may implement a Pavement Management Program to promote pavement preventive maintenance and maintain a higher level of pavement quality between resurfacing cycles. The Transportation Cabinet may expend an amount not to exceed \$8,000,000 for this purpose for the 2006-2008 biennium.

(25) Miscellaneous Road Fund Projects: The Transportation Cabinet may undertake the following miscellaneous road projects, using the suggested Road Fund allocations contained therein:

(a) Campbell County Street Reconstruction: Reconstruct Chateau Drive in Dayton, Kentucky, for \$100,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;

(b) Clark County Resurfacing: Resurface KY 15 from milepost 0 to 4.216 near Crow Ridge Road in Clark County for \$280,000 from Road Fund resources in fiscal year 2006-2007;

(c) Fayette County Traffic Control Device: Add a left turn signal to both sides of the traffic control signal at the intersection of Russell Cave Road and Asbury Lane in Lexington, Fayette County, Kentucky before November 2006, to be paid from Road Fund resources;

(d) Fayette County Traffic Control Device: Install a traffic light at Helmsdale and Man-O-War for \$20,000 from Road Fund resources in fiscal year 2006-2007;

(e) Fayette County Traffic Control Device: Install a traffic light at Todds Road and Autumn Ridge for \$20,000 from

Road Fund resources in fiscal year 2006-2007;

(f) Floyd County Traffic Control Device: Install a traffic control device on KY 80 at Duff Elementary School in Floyd County for \$20,000 from Road Fund resources in fiscal year 2006-2007;

(g) Franklin County Tunnel Maintenance: Implement a tunnel clearance project adjacent to the Kentucky River for \$500,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;

(h) Hopkins County Sidewalks: Construct sidewalks on US 41, South Main Street in the City of Madisonville for \$390,000 from the Highway Construction Contingency Account in fiscal year 2007-2008;

(i) Jefferson County, Louisville Kennedy Bridge: complete the painting of the Kennedy Bridge on Interstate 65 in Louisville, Kentucky within the current biennium;

(j) Jefferson County Traffic Control Device: Install a traffic control device at the intersection of Rockford Lane and Dover Road in Jefferson County, Shively, Kentucky for \$25,000 from Road Fund resources in fiscal year 2006-2007;

(k) Jefferson County Sound Barriers: installed on the north side of I-264/Watterson Expressway from the west side of the Newburg Interchange going west 1,500 feet;

(l) Jefferson County Bridge Preservation: Restore and reconstruct the historic bridge on Old Taylorsville Road over Chenoweth Run Creek, for \$210,000 from the Municipal Bond Pool;

(m) Jessamine County Resurfacing: Resurface KY 1541 from milepost 6.936 near Sulphur Well Road to KY 39 at milepost 9.668 near Logana Road in Jessamine County for \$136,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;

(n) Kenton County Traffic Control Device: Install a traffic control device at the intersection of Oak and Adella in the City of Ludlow for \$20,000 from Road Fund resources in fiscal year 2006-2007;

(o) Menifee County Resurfacing: Resurface last 0.5 miles of Carrington Green Road at the Bath County line for \$10,000 from Road Fund resources in fiscal year 2006-2007;

(p) Rowan County Street and Parking Improvements: Improve streets and parking in the City of Morehead for \$150,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;

(q) Russell County Guardrail Installation: Install approximately 500 feet of guardrail on KY 1058 between mile marker 2 and 3 in Russell County, to be paid from Road Fund resources;

(r) Russell County Bridge Replacement: Replace the bridge on Payne Road in Russell County for \$100,000 from Road Fund resources in fiscal year 2006-2007;

(s) Simpson County Resurfacing: Resurface Cedar Bluff Road in Simpson County beginning at US 31W to the Warren County line for \$110,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;

(t) Simpson County Widening and Resurfacing: Widen and resurface Rapids-Hickory Flat Road in Simpson County for \$143,000 from the Highway Construction Contingency Account in fiscal year 2006-2007;

(u) Simpson County Widening and Resurfacing: Widen and resurface Neely Road in Simpson County for \$137,000 from the Highway Construction Contingency Account in fiscal year 2006-2007; and

(v) Simpson County Highway Access: Create an access point on the south side of KY 100 at 300 feet east of the intersection with US 31W in Simpson County, to be paid from Road Fund resources.

(26) **Louisville Bridges Project Plan Report:** The Secretary of the Transportation Cabinet shall submit to the Legislative Research Commission by December 1, 2006, a long-term planning report for the Louisville Bridges Project. The planning report shall include project strategy, timeline, projected and actual financial data, construction schedule, total cost and cost to complete, anticipated revenues, revenue sources, and the overall financial impact on state transportation funds of the Louisville Bridges Project with respect to the federally funded component and the state-funded component, over the life of the project. The Transportation Cabinet shall also submit to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Transportation a copy of the Initial Financial Plan at the same time as it files the plan with the Federal Highway Administration, but in no event later than December 31, 2006.

(27) Safety Projects: The Kentucky Transportation Cabinet may spend an amount not to exceed \$10,000,000 of Road Fund resources for safety related projects such as guard rails, pedestrian walkways, and sight distance improvements for the 2006-2008 biennium. The Kentucky Transportation Cabinet may spend an amount not to exceed \$9,000,000 of Road Fund resources specifically for matching federal dollars associated with the runway 9-27 safety relocation at Bluegrass Field, Lexington, Kentucky for the 2006-2008 biennium.

Section 8. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects: K. Postsecondary Education; 6. Murray State University, at pages 1234 to 1235, is amended to read:

6. MURRAY STATE UNIVERSITY

001. New Residential College - Richmond Hall

Agency Bonds

-0-

13,077,000

-0-

002. Capital Renewal E&G Pool

2007 Regular Session

	Restricted Funds	-0-	12,457,000	-0-
003.	Administrative Enterprise Resource Planning System			
	Restricted Funds	-0-	8,000,000	-0-
004.	Capital Renewal H&D Pool			
	Restricted Funds	-0-	5,445,000	-0-
005.	Renovate Pogue Library			
	Restricted Funds	-0-	4,000,000	-0-
006.	Renovate Ordway Hall			
	Restricted Funds	-0-	3,962,000	-0-
007.	ADA Compliance E&G Pool			
	Restricted Funds	-0-	3,092,000	-0-
008.	Centralized Technology Refresh Program			
	Restricted Funds	-0-	2,600,000	-0-
009.	Telephone Switching System - Additional Reauthorization (\$1,525,000 Restricted Funds)			
	Restricted Funds	-0-	1,975,000	-0-
010.	Renovate White Hall HVAC System			
	Restricted Funds	-0-	1,000,000	-0-
011.	Campus Backbone 10 GigE Upgrade			
	Restricted Funds	-0-	775,000	-0-
012.	Construct Open-Sided Stall Barn at Expo Center			
	Restricted Funds	-0-	770,000	-0-
013.	ADA Compliance H&D Pool			
	Restricted Funds	-0-	615,000	-0-
014.	Life Safety Projects E&G Pool			
	Restricted Funds	-0-	590,000	-0-
015.	Central Processing Computer System Upgrade			
	Restricted Funds	-0-	522,000	-0-
016.	Online Centralized Data Access/Warehouse			
	Restricted Funds	-0-	520,000	-0-
017.	Acquire Land			
	Restricted Funds	-0-	501,000	-0-
018.	Renovate A. Carman Pavilion - Phase II			
	Restricted Funds	-0-	500,000	-0-
019.	Renovate Wells Hall Interior			
	Restricted Funds	-0-	500,000	-0-
020.	Construct Public Safety Building- Additional Reauthorization (\$1,500,000 Restricted Funds)			
	Restricted Funds	-0-	500,000	-0-
021.	Life Safety Projects H&D Pool			
	Restricted Funds	-0-	300,000	-0-
022.	Abate Asbestos H&D Pool			
	Restricted Funds	-0-	276,000	-0-
023.	Guaranteed Energy Savings Performance Contracts			
024.	Construct New Science Complex - Phase III			
	Bond Funds	-0-	15,000,000	-0-

(1) Purpose of Funds: Funds for construction of the New Science Complex - Phase III will be used for the chemistry building and the physics building.

Section 9. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 7. Northern

Kentucky University, at pages 1235 to 1237, is amended to read as follows:

7. NORTHERN KENTUCKY UNIVERSITY

001.	Construct New Student Union			
	Agency Bonds	-0-	17,360,000	-0-
002.	Acquire New Residence Hall			
	Restricted Funds	-0-	10,000,000	-0-
003.	Construct Alumni Welcome Center			
	Other Funds	-0-	7,800,000	-0-
004.	Relocate Master Plan Infrastructure			
	Restricted Funds	-0-	6,130,000	-0-
005.	Acquire Land/Campus Master Plan			
	Restricted Funds	-0-	6,000,000	-0-
006.	Construct Track and Field Stadium			
	Other Funds	-0-	5,500,000	-0-
007.	Construct Soccer Stadium			
	Restricted Funds	-0-	5,500,000	-0-
008.	Major Item of Equipment Pool			
	Restricted Funds	-0-	5,410,000	-0-
009.	Construct Central Plaza Phase II			
	Restricted Funds	-0-	4,900,000	-0-
010.	Replace Power Distribution Infrastructure			
	Restricted Funds	-0-	4,800,000	-0-
011.	Repair Structural Floor Heaving/E&G Buildings			
	Restricted Funds	-0-	4,000,000	-0-
012.	Enhance Instructional Information Technology			
	Restricted Funds	-0-	3,800,000	-0-
013.	E&G Minor Projects Pool			
	Restricted Funds	-0-	3,200,000	-0-
014.	Enhance Information Technology Infrastructure			
	Restricted Funds	-0-	2,900,000	-0-
015.	Housing/Minor Projects Pool			
	Restricted Funds	-0-	2,200,000	-0-
016.	Replace Administrative Application System Phase II			
	Restricted Funds	-0-	2,000,000	-0-
017.	Construct Intramural Fields			
	Restricted Funds	-0-	1,900,000	-0-
018.	Replace E&G Fire Alarm Systems			
	Restricted Funds	-0-	1,400,000	-0-
019.	Relocate Early Childcare Center			
	Restricted Funds	-0-	1,000,000	-0-
020.	Replace Elevators Landrum Hall/Lucas Administrative Center			
	Restricted Funds	-0-	990,000	-0-
021.	Replace Air Handlers			
	Restricted Funds	-0-	980,000	-0-
022.	Restore Albright Health Center Roof			
	Restricted Funds	-0-	680,000	-0-
023.	Replace Business, Education, and Psychology Center Roof			
	Restricted Funds	-0-	680,000	-0-

2007 Regular Session

024.	Enhance Softball Field			
	Restricted Funds	-0-	600,000	-0-
025.	Renovate University Center			
	Restricted Funds	-0-	600,000	-0-
026.	Kenton County - Lease			
027.	Guaranteed Energy Savings Performance Contracts			
028.	Construct Center for Informatics			
	Bond Funds	-0-	35,500,000	-0-
029.	Construct Parking Garage #3			
	Agency Bonds	-0-	15,400,000	-0-

030. Acquire/Renovate Student Housing

<u>Agency Bonds</u>	-0-	23,500,000	-0-
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Section 10. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 8. University of Kentucky, at pages 1251 and 1252, is amended to read as follows:

	Restricted Funds	-0-	3,310,000	-0-
	TOTAL	-0-	4,310,000	-0-
256.	Renovate Memorial Coliseum			
	Other Funds	-0-	4,731,000	-0-
257.	Construct Commonwealth Stadium Suite Addition			
	Other Funds	-0-	2,300,000	-0-
258.	Construct New Alumni Center			
	Other Funds	-0-	17,344,000	-0-
259.	Gluck Equine Research Center – Phase II – Design			
	Other Funds	-0-	1,500,000	-0-
	Restricted Funds	-0-	2,000,000	-0-
	TOTAL	-0-	3,500,000	-0-
260.	KY Transportation Center Building – Phase I – Design			
	Other Funds	-0-	1,500,000	-0-
	Federal Funds	-0-	2,500,000	-0-
	TOTAL	-0-	4,000,000	-0-
261.	Expand Arboretum Visitor Center			
	Other Funds	-0-	2,870,000	-0-
262.	Biomedical Research Building – Design			
	Restricted Funds	-0-	7,600,000	-0-
263.	Renovate Student Center Food Court			
	Restricted Funds	-0-	1,643,000	-0-
264.	Renovate K-Lair Building			
	Restricted Funds	-0-	4,650,000	-0-
265.	Renovate SECAT Building at Coldstream			
	Restricted Funds	-0-	2,000,000	-0-
266.	Purchase Furniture and Equipment – Patient Care Facility			
	Restricted Funds	-0-	27,000,000	-0-
267.	<u>Upgrade Existing Residence Halls</u>			
	<u>Agency Bonds</u>	-0-	7,013,000	-0-

269.	Fayette County - Administrative - Office Lease
270.	Fayette County - Health Affairs - Office Lease 2
271.	Fayette County - Health Affairs - Office Lease 3
272.	Fayette County - Health Affairs - Office Lease
273.	Fayette County - Lease - Blazer Parkway

274.	Fayette County - Lease - Med Center Contract			
275.	Fayette County - Lease - Med Center Off-Campus Facility			
276.	Fayette County - Lease - Med Center Grant Projects			
277.	Fayette County - Lease - Pharmacy Contracted Program			
278.	Fayette County - Lease - Med College Off - Campus Clinic			
279.	Fayette County - Lease - Kentucky Utilities Building			
280.	Guaranteed Energy Savings Performance Contracts			
287.	<u>Lease-Purchase Samaritan Clinical Facility</u>			
	<u>Restricted Funds</u>	-0-	70,000,000	-0-
288.	<u>Renovate Samaritan Clinical Facility</u>			
	<u>Restricted Funds</u>	-0-	10,000,000	-0-
289.	<u>Lease-Purchase IT System for the Samaritan Clinical Facility</u>			
	<u>Restricted Funds</u>	-0-	10,000,000	-0-

Section 11. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 9. University of Louisville, at pages 1252 to 1255, is amended to read as follows:

9. UNIVERSITY OF LOUISVILLE

001.	Construct HSC Research Facility Phase III - Additional			
	Bond Funds	-0-	69,680,000	-0-
	<u>Agency Bonds</u>	-0-	15,800,000	-0-
002.	Construct Center for Predictive Medicine			
	Federal Funds	-0-	22,200,000	-0-
	Agency Bonds	-0-	13,000,000	-0-
	TOTAL	-0-	35,200,000	-0-
003.	Renovate Ekstrom Library			
	Restricted Funds	-0-	22,081,000	-0-
004.	Capital Renewal Pool			
	Restricted Funds	-0-	22,000,000	-0-
005.	Major Item of Equipment Pool			
	Restricted Funds	-0-	100,000	1,700,000
	Federal Funds	-0-	7,501,000	3,290,000
	Other Funds	-0-	6,250,000	2,470,000
	TOTAL	-0-	13,851,000	7,460,000
006.	Expand & Renovate - Founders Union Building			
	Restricted Funds	-0-	12,190,000	-0-
007.	Utility Distribution - South Belknap Campus			
	Restricted Funds	-0-	6,821,000	-0-
008.	Construct Student Health Facility			
	Restricted Funds	-0-	6,650,000	-0-
009.	Renovate Kersey Library			
	Restricted Funds	-0-	4,630,000	-0-
010.	Renovate Medical School Tower - 55A, Phase II			
	Restricted Funds	-0-	4,225,000	-0-
011.	Purchase Digital Communications System			
	Restricted Funds	-0-	4,000,000	-0-
012.	Purchase Real Estate Near Health Sciences Campus - Parcel II			
	Restricted Funds	-0-	3,875,000	-0-
013.	Renovate Code Improvement Pool			
	Restricted Funds	-0-	3,191,000	-0-
014.	Purchase Networking System			

2007 Regular Session

	Restricted Funds	-0-	3,000,000	-0-
015.	Purchase Enterprise Application System			
	Restricted Funds	-0-	2,000,000	-0-
016.	Purchase Computer Processing System			
	Restricted Funds	-0-	2,000,000	-0-
017.	Expand & Renovate Oppenheimer Hall - Additional Reauthorization (\$6,276,000 Restricted Funds)			
	Restricted Funds	-0-	1,654,000	-0-
018.	Purchase Electronic Research Information System			
	Restricted Funds	-0-	1,080,000	-0-
019.	Purchase Robotic Telescope System			
	Federal Funds	-0-	1,000,000	-0-
020.	Purchase Storage System			
	Restricted Funds	-0-	1,000,000	-0-
021.	Lease Digital Output System			
	Restricted Funds	-0-	1,000,000	-0-
022.	Lease-Purchase Visualization System			
	Restricted Funds	-0-	1,000,000	-0-
023.	Purchase Artificial Turf Practice Field Facility			
	Restricted Funds	-0-	750,000	-0-
024.	Housing Capital Renewal Pool			
	Restricted Funds	-0-	710,000	-0-
025.	Purchase Health Research Data System			
	Restricted Funds	-0-	700,000	-0-
026.	Renovate Natural Science Building - Additional Reauthorization (\$12,840,000 Restricted Funds)			
	Restricted Funds	-0-	540,000	-0-
027.	Shelby Campus Dormitories Demolition			
	Restricted Funds	-0-	436,000	-0-
028.	Purchase New Computers for CBPA			
	Restricted Funds	-0-	300,000	-0-
029.	Purchase PCs, Printers, Scanners			
	Restricted Funds	-0-	200,000	-0-
030.	Purchase Linux Cluster Computer System			
	Restricted Funds	-0-	125,000	-0-
031.	Renovate Chemistry Fume Hood Redesign, Phase II - Additional Reauthorization (\$4,534,000 Restricted Funds)			
	Restricted Funds	-0-	76,000	-0-
032.	Construct Athletic Academic Support Facility			
	Other Funds	-0-	5,000,000	-0-
033.	Construct Boathouse for Women's Rowing Program			
	Other Funds	-0-	2,947,000	-0-
034.	Construct Cardinal Club Golf Practice Facility			
	Other Funds	-0-	685,000	-0-
035.	Construct Diversity Center for Excellence			
	Other Funds	-0-	-0-	5,898,000
036.	Construct Executive MBA/Business Program			
	Other Funds	-0-	6,040,000	-0-

	Restricted Funds	-0-	20,500,000	-0-
	TOTAL	-0-	26,540,000	-0-
037.	Construct Glass and Visual Arts Research Center			
	Other Funds	-0-	3,015,000	-0-
038.	Construct Eastern Parkway Improvement			
	Restricted Funds	-0-	2,200,000	-0-
039.	Expand Tragar Field Hockey Stadium			
	Other Funds	-0-	3,200,000	-0-
040.	Expand and Renovate Dental School			
	Other Funds	-0-	2,000,000	-0-
	Restricted Funds	-0-	35,170,000	-0-
	TOTAL	-0-	37,170,000	-0-
041.	Purchase Support Service Land (Northeast Quad)			
	Restricted Funds	-0-	5,095,000	-0-
042.	Renovate PJCS Scoreboard/Video Replacement			
	Other Funds	-0-	1,800,000	-0-
043.	Renovate Life Sciences Building			
	Restricted Funds	-0-	18,240,000	-0-
<u>045.</u>	<u>Construct HSC Parking Structure II</u>			
	<u>Agency Bonds</u>	-0-	28,500,000	-0-
048.	Construct Utilities, Remove Overhead Lines			
	Reauthorization (\$3,194,000 Restricted Funds)			
049.	Expand Ambulatory Care Building Academic Addition			
	Reauthorization (\$43,061,800 ~~Other~~ ~~Restricted~~ Funds)			
050.	Purchase Real Estate Near HSC and Renovate Offices			
	Reauthorization (\$20,500,000 Restricted Funds)			
051.	Renovate Shelby Campus Infrastructure			
	Reauthorization (\$8,740,000 Restricted Funds)			
052.	Jefferson County - Lease			
053.	Medical Center One - Lease			
054.	Guaranteed Energy Savings Performance Contracts			
<u>055.</u>	<u>Expand Papa John's Cardinal Stadium</u>			
	<u>Restricted Funds</u>	-0-	30,000,000	-0-
	<u>Other Funds</u>	-0-	37,000,000	-0-
	<u>TOTAL</u>	-0-	67,000,000	-0-

Section 12. 2006 Kentucky Acts Chapter 252, Part IV, State Salary/Compensation and Employment Policy; 8. Employer Retirement Contribution Rates, at page 1403, is amended to read as follows

8. **Employer Retirement Contribution Rates:** Notwithstanding KRS 61.565, the employer contribution rates for the Kentucky Employees Retirement Systems from July 1, 2006, through March 31 ~~June 30~~, 2007, shall be 7.75 percent, consisting of 4.83 percent for pension and 2.92 percent for insurance, for nonhazardous duty employees and 22.0 percent, consisting of 8.75 percent for pension and 13.25 percent for insurance, for hazardous duty employees; for the same period the employer contribution for employees of the State Police Retirement System shall be no more than 25.5 percent, consisting of 12.44 percent for pension and 13.06 percent for insurance. Notwithstanding KRS 61.565, the employer contribution rates for the Kentucky Employees Retirement Systems from April 1, 2007, through June 30, 2007, shall be 14.47 percent, consisting of 4.83 percent for pension and 9.64 percent for insurance, for nonhazardous duty employees and 28.72 percent, consisting of 8.75 percent for pension and 19.97 percent for insurance, for hazardous duty employees; for the same period the employer contribution for employees of the State Police Retirement System shall be 32.22 percent, consisting of 12.44 percent for pension and 19.78 percent for insurance. Notwithstanding KRS 61.565, the employer contribution rates for the Kentucky Employees Retirement Systems from July 1, 2007, through June 30, 2008, shall be 8.5 percent, consisting of 5.47 percent for pension and 3.03 percent for insurance, for nonhazardous duty employees and 24.25 percent, consisting of 9.79 percent for pension and 14.46 percent for insurance for hazardous duty employees; for the same period the employer contribution for employees of the State Police Retirement System shall be no more than 28.0 percent, consisting of 14.23 percent for pension and 13.77 percent for insurance.

Any General Fund moneys directed to be appropriated by Part VII, General Fund Surplus Expenditure Plan, of this Act prior to the effective date of this Act during the 2006-2008 biennium to the Kentucky Retirement Systems to address a portion of the actuarially unfunded liability shall be appropriated to the Kentucky Retirement Systems Insurance Fund as established in KRS 61.701 and shall be allocated in proportion to the contributions required according to KRS 61.702(2) for the Kentucky Employees Retirement System Insurance Fund and the State Police Retirement System Insurance Fund.

Section 13. 2006 Kentucky Acts Chapter 252, Part VII, General Fund Surplus Expenditure Plan, at pages 1409 and 1410, is amended to read as follows:

(1) Pursuant to KRS 48.700 and notwithstanding KRS 48.140, there is established a plan for the expenditure of General Fund surplus moneys pursuant to a General Fund Surplus Expenditure Plan contained in this Part for fiscal years 2006-2007 and 2007-2008. Pursuant to the enactment of the Surplus Expenditure Plan, General Fund moneys in the General Fund undesignated fund balance in excess of the amount specified in Part III, General Provisions, Section 27, of this Act are appropriated to the following:

(a) Necessary Government Expenses, including but not limited to Emergency Orders formally declared by the Governor in an Executive Order; and

(b) Increased support to the Budget Reserve Trust Fund;

(c) ~~The Kentucky Retirement Systems to address a portion of the actuarially unfunded liability; and~~

(d) ~~The Kentucky Teachers' Retirement System's medical insurance fund as established in KRS 161.420 to augment the state medical insurance stabilization contribution as established in KRS 161.550}.~~

(2) The Secretary of the Finance and Administration Cabinet shall determine, within 30 days after the close of the fiscal year 2005-2006, and the close of fiscal year 2006-2007, based on the official financial records of the Commonwealth, the amount of actual General Fund undesignated fund balance for the General Fund Surplus Account that may be available for expenditure pursuant to the Plan respectively in fiscal year 2005-2006 and fiscal year 2006-2007. The Secretary of the Finance and Administration Cabinet shall certify the amount of actual General Fund undesignated fund balance available for expenditure to the Legislative Research Commission.

Subsequent to June 30, 2006, funds that are certified as being available in the actual General Fund undesignated fund balance for the General Fund Surplus Account are appropriated for expenditure in fiscal year 2005-2006 pursuant to the Plan.

Section 14. 2006 Kentucky Acts Chapter 252, Part XXIX, Self-Insured Plan for State Employees, at pages 1479 to 1481, is amended to read as follows:

Notwithstanding KRS 48.310, the following statute is amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 18A.2254 is amended to read as follows:

(1) Based on the recommendation of the secretary of the Personnel Cabinet, the secretary of the Finance and Administration Cabinet, in lieu of contracting with one (1) or more insurers licensed to do business in this state, shall procure, in compliance with KRS 45A.080, 45A.085, and 45A.090, and reviewed by the Government Contract Review Committee pursuant to KRS 45A.705, a contract with one (1) or more third-party administrators licensed to do business in the Commonwealth pursuant to KRS 304.9-052 to administer a self-insured plan offered to the Public Employee Health Insurance Program for public employees. The requirements for the self-insured plan shall be as follows:

(a) The secretary of the Personnel Cabinet shall incorporate by reference in an administrative regulation, pursuant to KRS 13A.2251, the summary plan description for public employees covered under the self-insured plan. Prior to filing an administrative regulation with the Legislative Research Commission, the secretary of the Personnel Cabinet shall submit the administrative regulation to the secretary of the Cabinet for Health and Family Services for review. *The administrative regulation shall be exempt from the review requirements of KRS 18A.110(6);*

(b) The self-insured plan offered by the program shall cover hospice care at least equal to the Medicare benefit;

(c) The Personnel Cabinet shall provide written notice of any formulary change to employees covered under the self-insured plan who are directly impacted by the formulary change and to the Kentucky Group Health Insurance Board fifteen (15) days before implementation of any formulary change. If, after consulting with his or her physician, the employee still disagrees with the formulary change, the employee shall have the right to appeal the change. The employee shall have sixty (60) days from the date of the notice of the formulary change to file an appeal with the Personnel Cabinet. The cabinet shall render a decision within thirty (30) days from the receipt of the request for an appeal. After a final decision is rendered by the Personnel Cabinet, the employee shall have a right to file an appeal pursuant to the utilization review statutes in KRS 304.17A-600 to 304.17A-633. During the appeal process, the employee shall have the right to continue to take any drug prescribed by his or her physician that is the subject of the formulary changes;

(d) The Personnel Cabinet shall develop the necessary capabilities to ensure that an independent review of each formulary change is conducted and includes but is not limited to an evaluation of the fiscal impact and therapeutic benefit of the formulary change. The independent review shall be conducted by knowledgeable medical professionals and the results of the independent review shall be posted on the Web sites of the Personnel Cabinet and the Cabinet for Health and Family Services and made available to the public upon request within thirty (30)

days of the notice from the Personnel Cabinet required in paragraph (c) of this subsection;

- (e) If the self-insured plan restricts pharmacy benefits to a drug formulary, the plan shall comply with and have an exceptions policy in accordance with KRS 304.17A-535;
 - (f) Premiums for all plans offered by the Public Employee Health Insurance Program to employees shall be based on the experience of the entire group;
 - (g) The plan year for the Public Employee Health Insurance Program, whether for fully insured or self-insured benefits, shall be on a calendar year basis.
- (2) In addition to any fully insured health benefit plans or self-insured plans, beginning January 1, 2007, the Personnel Cabinet shall offer a health reimbursement account for public employees insured under the Public Employee Health Insurance Program.
- (a) If a public employee waives coverage provided by his or her employer under the Public Employee Health Insurance Program, the employer shall forward a monthly amount to be determined by the secretary of the Personnel Cabinet, but not less than one hundred seventy-five dollars (\$175), for that employee as an employer contribution to the health reimbursement account.
 - (b) The administrative fees associated with the health reimbursement account shall be an authorized expense to be charged to the public employee health insurance trust fund.
- (3) (a) The public employee health insurance trust fund is established in the Personnel Cabinet. The purpose of the public employee health insurance trust fund is to provide funds to pay medical claims and other costs associated with the administration of the Public Employee Health Insurance Program self-insured plan under a competitively bid contract as provided by KRS Chapter 45A and reviewed by the Government Contract Review Committee pursuant to KRS 45A.705. The trust fund shall not utilize funds for any other purpose, except by approval of the General Assembly. The following moneys shall be directly deposited into the trust fund:
- 1. Employer and employee premiums collected under the self-insured plan;
 - 2. Interest and investment returns earned by the self-insured plan;
 - 3. Rebates and refunds attributed to the self-insured plan; and
 - 4. All other receipts attributed to the self-insured plan.
- (b) Any balance remaining in the public employee health insurance trust fund at the end of a fiscal year shall not lapse. Any balance remaining at the end of a fiscal year shall be carried forward to the next fiscal year and be used solely for the purpose established in paragraph (a) of this subsection. The balance of funds in the public employee health insurance trust fund shall be invested by the Office of Financial Management consistent with the provisions of KRS Chapter 42, and interest income shall be credited to the trust fund.
- (c) The Auditor of Public Accounts shall be responsible for a financial audit of the books and records of the trust fund. The audit shall be conducted in accordance with generally accepted accounting principles and shall be completed within ninety (90) days of the close of the fiscal year. All audit reports shall be filed with the Governor, the President of the Senate, the Speaker of the House of Representatives, and the secretary of the Personnel Cabinet.
- (d) The secretary of the Personnel Cabinet shall file a report on the status of the trust fund with the Governor, the Interim Joint Committee on Appropriations and Revenue, the Kentucky Group Health Insurance Board, and the Advisory Committee of State Health Insurance Subscribers. The first status report shall be submitted no later than July 30, 2006. The report shall include the following:
- 1. The current balance of the trust fund;
 - 2. A detailed description of all income to the trust fund since the last report;
 - 3. A detailed description of any receipts due to the trust fund;
 - 4. A total amount of payments made for medical claims from the trust fund;
 - 5. A detailed description of all payments made to the third-party administrator of the self-insured plan by the trust fund;
 - 6. Current enrollment data, including monthly enrollment since the last report, of the Public Employee Health Insurance Program self-insured plan;
 - 7. Any other information the secretary may include;
 - 8. Any other information requested by the Interim Joint Committee on Appropriations and Revenue concerning the operation of the Public Employee Health Insurance Program self-funded plan or the trust fund; and
 - 9. In addition to the information required under subparagraphs 1. to 8. of this paragraph, the quarterly report filed in July and January shall also include the following:
 - a. A projection of the medical claims incurred but not yet reported that are considered liabilities to the trust fund;

- b. A statement of any other trust fund liabilities;
- c. A detailed calculation outlining proposed premium rates for the next plan year, including base claims, trend assumptions, administrative fees, and any proposed plan or benefit changes; and
- d. A detailed description of the current in-state and out-of-state networks provided under the plan, any changes to the networks since the last report, and any proposed changes to the in-state or out-of-state networks during the next six (6) months.
- e. Specific data regarding the third-party administrator's performance under the contract. The data shall include the following:
 - 1. Any results or outcomes of disease management and wellness programs;
 - 2. Results of case management audits and educational and communication efforts; and
 - 3. Comparison of actual measurable results to contract performance guarantees.

Section 15. 2006 Kentucky Acts Chapter 252, after Part XXXVI, Sales of Motor Vehicles to Nonresidents, at page 1510, is amended to include the following:

Part XXXVII
Judicial Branch
Operating Budget

Additional General Fund moneys in the amount of \$995,556 are hereby appropriated to the Judicial Branch in fiscal year 2007-2008 to implement the employer retirement contribution rates from April 1, 2007, through June 30, 2007, as set forth in 2006 Ky. Acts ch. 252, Part IV, State Salary/Compensation and Employment Policy, as amended by Section 12 of this Act.

Part XXXVIII
Legislative Branch

Additional General Fund moneys in the amount of \$35,300 are hereby appropriated to the Legislative Branch in fiscal year 2007-2008 to implement the employer retirement contribution rates from April 1, 2007, through June 30, 2007, as set forth in 2006 Ky. Acts ch. 252, Part IV, State Salary/Compensation and Employment Policy, as amended by Section 12 of this Act.

Section 16. Whereas it is critical to provide fiscal resources in the current biennium, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law."

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 66, Representative Wilkey

HB 76, Representative Glenn

HB 213, Representatives Horlander and Moore

HB 224, Representative Embry

HB 228, Representative Embry

HB 249, Representative Embry

HB 295, Representative Embry

HB 317, Representative Embry

HB 385, Representative Graham

HB 469, Representatives Firkins, Greer, Adams, and Comer

HB 549, Representatives Simpson, Kerr, and Hoover

HJR 137, Representative Embry

HR 166, Representative Meeks

Announcements

Committee on Health and Welfare, upon adjournment, Room 169

Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs, meet upon recess

Committee on Banking and Insurance, 15 minutes upon adjournment, Room 149

Adjournment

Representative Adkins moved to adjourn until the hour of 9:00 a.m. on Friday, March 2, 2007.

The motion that the House adjourn until 9:00 a.m., Friday, March 2, 2007, was adopted by voice vote.

FRIDAY, MARCH 2, 2007
TWENTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Reverend Larry Bowland, First Presbyterian Church, Cynthiana, Kentucky, guest of Representative McKee.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present except Representatives Bratcher, Edmonds, and Weston.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 1, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills and Resolutions were filed by the following:

Representative Spencer moved that he be recorded as voting "Yea" on **HB 490**. Agreed.

Representative Stacy moved that he be recorded as voting "Yea" on **HB 490**. Agreed.

Representative Combs moved that she be recorded as voting "Yea" on **HB 490**. Agreed.

Representative Thompson moved that he be recorded as voting "Yea" on **HB 462**. Agreed.

Representative Wuchner moved that she be recorded as voting "Yea" on **HB 462**. Agreed.

Representative B. Smith moved that his vote be changed from "Nay" to "Yea" on **HB 467**. Agreed.

Introduction of Bills and Resolutions

HR 184, by Representative Pasley: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Homer Ledford, a Kentucky legend.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SJR 109**

Education: **SB 46, 86**

Health and Welfare: **SB 111, 140**

Judiciary: **SB 42, 67**

Labor and Industry: **SB 103**

Licensing and Occupations: **SB 160, 212**

Local Government: **SB 143**

Transportation: **SB 174**

House Floor: **HR 177, *178, 179, 181, 182, 183**

***HR 178** was adopted by voice vote on February 28, 2007

Report of Committees

The Committee on Banking and Insurance reported **HB 352**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Referred to the Committee on Rules.

The Committee on Health and Welfare reported **SB 69** and **SB 98**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 69, AN ACT relating to Medicaid.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.564 is amended to read as follows:

- (1) The Pharmacy and Therapeutics Advisory Committee is established and attached to the Department for Medicaid Services for administrative purposes.
- (2) The committee shall have fifteen (15)~~fourteen (14)~~ members, as follows:
 - (a) Thirteen (13)~~Twelve (12)~~ voting members who shall be physicians currently participating in the Medicaid program who may legally prescribe a broad range of scheduled and nonscheduled drugs, as categorized by the U.S. Drug Enforcement Administration, or pharmacists who dispense prescriptions to Medicaid recipients, as follows:
 1. Three (3) licensed, practicing family practice physicians;
 2. Two (2) licensed, practicing physicians who are pediatricians;
 3. One (1) licensed, practicing physician who is an obstetrician/gynecologist or gynecologist;
 4. One (1) licensed, practicing internal medicine physician who is a primary care provider;
 5. One (1) licensed, practicing physician from any medical specialty;
 6. Two (2) licensed, practicing physicians who are psychiatrists, one (1) who is a practicing psychiatrist in a community mental health center and one (1) from either the School of Medicine, University of Louisville or the College of Medicine, University of Kentucky~~One (1) licensed, practicing physician who is a psychiatrist~~; and
 7. Three (3) licensed, practicing pharmacists; and
 - (b) Two (2) nonvoting members, as follows:
 1. The medical director of the department; and
 2. A representative of the department's pharmacy program, as designated by the commissioner.
- (3) One (1) voting committee member shall be appointed, and may be reappointed, by the Governor from a list of three (3) nominees received from the President of the Senate, and one (1) voting committee member shall be appointed, and may be reappointed, by the Governor from a list of three (3) nominees received from the Speaker of the House of Representatives. The remaining eleven (11)~~ten (10)~~ voting committee members shall be appointed, and may be reappointed, by the Governor from a list of nominees submitted by the department. Terms of the voting committee members shall be three (3) years with no members serving more than two (2) consecutive terms.
- (4) The Pharmacy and Therapeutics Advisory Committee shall:
 - (a) Act in an advisory capacity to the Governor, the secretary of the Cabinet for Health and Family Services, and the Medicaid commissioner on the development and administration of an outpatient drug formulary;
 - (b) Perform drug reviews and make recommendations to the secretary regarding specific drugs or drug classes to be placed on prior authorization or otherwise restricted, as determined through a process established by the cabinet;
 - (c) Provide for an appeals process to be utilized by a person or entity that disagrees with recommendations of the committee;
 - (d) Establish bylaws or rules for the conduct of committee meetings; and
 - (e) Function in accordance with the Kentucky Open Meetings Law and the Kentucky Open Records Law.
- (5) Voting members of the committee shall elect a chair and vice chair by majority vote. A quorum shall consist of eight (8)~~seven (7)~~ voting members of the committee.
- (6) The committee shall meet every other month for a total of at least six (6) times per year or upon the call of the chair, the secretary of the Cabinet for Health and Family Services, or the Governor. The Department for Medicaid Services shall post the agenda on its Web site no later than fourteen (14) days prior to the date of a regularly scheduled meeting and no later than seventy-two (72) hours prior to the date of a specially called meeting. Options, including any recommendations, by the department for drug review or drug review placement shall be posted on the department's Web site no later than seven (7) days prior to the date of the next regularly scheduled meeting and as soon as practicable prior to the date of the next specially called meeting.
- (7) Members of the committee shall receive no compensation for service, but shall receive necessary and actual travel expenses associated with attending meetings.
- (8) Any recommendation of the committee to the secretary of the Cabinet for Health and Family Services shall be posted to the Web site of the Department for Medicaid Services within seven (7) days of the date of the meeting at which the recommendation was made.
- (9) A recommendation of the committee shall be submitted to the secretary for a final determination. If the secretary does not

accept the recommendation of the committee, the secretary shall present the basis for the final determination at the next scheduled meeting of the committee. The secretary shall act on the committee's recommendation within thirty (30) days of the date that the recommendation was posted on the Web site.

- (10) Any interested party may request and may be permitted to make a presentation to the board on any item under consideration by the board. The Cabinet for Health and Family Services shall, by administrative regulation promulgated under KRS Chapter 13A, establish requirements for any presentation made to the board.
- (11) The secretary's final determination shall be posted on the Web site of the Department for Medicaid Services.
- (12) Any appeal from a decision of the secretary shall be made in accordance with KRS Chapter 13B, except that the time for filing an appeal shall be within thirty (30) days of the date of the posting of the secretary's final determination on the Web site of the Department for Medicaid Services.
- (13) The Cabinet for Health and Family Services shall promulgate an administrative regulation in accordance with KRS Chapter 13A to implement the provisions of this section.

SB 98, AN ACT relating to the Medical Assistance Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.560 is amended to read as follows:

- (1) The scope of medical care for which the Cabinet for Health and Family Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for health and family services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including, but not limited to, the following categories, except where the aid is for the purpose of obtaining an abortion:
 - (a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;
 - (b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;
 - (c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall include those amino acid modified preparations and low-protein modified food products for the treatment of the following inherited metabolic diseases, if the amino acid modified preparations or low-protein modified food products are prescribed for therapeutic treatment and are administered under the direction of a physician, and are limited to the following conditions:
 1. Phenylketonuria;
 2. Hyperphenylalaninemia;
 3. Tyrosinemia (types I, II, and III);
 4. Maple syrup urine disease;
 5. A-ketoacid dehydrogenase deficiency;
 6. Isovaleryl-CoA dehydrogenase deficiency;
 7. 3-methylcrotonyl-CoA carboxylase deficiency;
 8. 3-methylglutaconyl-CoA hydratase deficiency;
 9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase deficiency);
 10. B-ketothiolase deficiency;
 11. Homocystinuria;
 12. Glutaric aciduria (types I and II);
 13. Lysinuric protein intolerance;
 14. Non-ketotic hyperglycinemia;
 15. Propionic acidemia;
 16. Gyrate atrophy;
 17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;

18. Carbamoyl phosphate synthetase deficiency;
 19. Ornithine carbamoyl transferase deficiency;
 20. Citrullinemia;
 21. Arginosuccinic aciduria;
 22. Methylmalonic acidemia; and
 23. Argininemia;
 - (d) Physician, podiatric, and dental services;
 - (e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);
 - (f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;
 - (g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified in this paragraph;
 - (h) Services provided by health-care delivery networks as defined in KRS 216.900; and
 - (i) Services provided by midlevel health-care practitioners as defined in KRS 216.900.
- (2) Payments for hospital care, nursing-home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Health and Family Services with respect to the bases for payment. In determining the rates of reimbursement for long-term-care facilities participating in the Medical Assistance Program, the Cabinet for Health and Family Services shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:
- (a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;
 - (b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars (\$15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the United States Department of Labor. Medically equipped motor vehicles, vans, or trucks shall be exempt from the fifteen thousand dollar (\$15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Health and Family Services if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;
 - (c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;
 - (d) The cost of contracts, loans, or other payments made by the facility to owners, administrators, or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for Health and Family Services. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;
 - (e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services; and
 - (f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.
- (3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first

been designated by regulation.

- (4) The rules and regulations of the Cabinet for Health and Family Services shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.
- (5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.
- (6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.
- (7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advanced registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.
- (8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.
- (9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.
- (10) Family-practice physicians practicing in geographic areas with no more than one (1) primary-care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.
- (11) The Cabinet for Health and Family Services shall make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.
- (12) The Medical Assistance Program shall use the form and guidelines established pursuant to KRS 304.17A-545(5) for assessing the credentials of those applying for participation in the Medical Assistance Program, including those licensed and regulated under KRS Chapters 311, 312~~, 313~~, 314, 315, and 320, any facility required to be licensed pursuant to KRS Chapter 216B, and any other health care practitioner or facility as determined by the Department for Medicaid Services through an administrative regulation promulgated under KRS Chapter 13A.
- (13) *Dentists licensed under KRS Chapter 313 shall be excluded from the requirements of subsection (12) of this section. The Department for Medicaid Services shall develop a specific form and establish guidelines for assessing the credentials of dentists applying for participation in the Medical Assistance Program.***

Calendar

HB 420, 318, 492, 493, 495, 261, SB 74, HB 442, 521, HJR 130, HCR 131, SB 47, HB 181, 227, SB 55, 56, 58, 59, 76, 79, 85, 144, 23, 26, 104, 105, HCR 160, HB 224, and 476 taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Hoover moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Hoover moved the adoption of the following Legislative Citation No. 57.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the Lake Cumberland Community Head Start and Early Head Start Programs which services ten counties; has an annual budget of six million dollars; employs one hundred and seventy-five workers; operates twenty-two Head Start Centers encompassing forty-five classrooms and five home

based units; and whose contributions to the Lake Cumberland area of this Commonwealth are of the greatest value to all those children and families whose lives are certainly enhanced by participation in this vital educational endeavor. Among those contributing to the success of the Lake Cumberland Head Start and Early Head Start Programs are Portia Phelps, who has served as its Director for twenty-three years and been with the Agency for thirty-five years; Tony Kerr, who serves as the Chairman of the Policy Council which oversees the programs; and Bruce Brown, the Executive Director of the Lake Cumberland Community Action Agency which administers the Head Start Programs. Inasmuch as the many interested and concerned individuals, as well as the students, teachers and staff of the Lake Cumberland Head Start Programs have put forth great effort to level the educational playing field for all the children of the community, the members of this august body are delighted to join with Representative Jeffrey Hoover in praising their successful implementation of this program and extending a warm welcome to those who have joined us as welcome guests in the House Chamber during the 2007 Regular Session of the Kentucky General Assembly. Done in Frankfort, Kentucky, this second day of March, in the year two thousand and seven.

Legislative Citation No. 57 was adopted without objection.

Representative Adams moved that the rules be suspended to act on a Resolution. Agreed.

Representative Adams moved the adoption of the following **HR 57**:

HR 57, A RESOLUTION adjourning the House of Representatives in honor of Glenna Cox Schrader, upon the occasion of the 80th anniversary of her birth.

WHEREAS, Glenna Cox Schrader was born March 2, 1927, the second of three children, and the only daughter, born to the late Elmer and Lydia Giles Holbert of Owen County, Kentucky. Having been raised on a farm, she graduated high school and married Kenneth Beckham Cox in 1945, and the couple made their home in Owen County. Eventually, their family welcomed four children, including Garry Gene, Glenn David, Janice Maxine, and Karen Jane, for whom she became a loving, caring mother and instilled within her children a strong work ethic and respect for Christian values; and

WHEREAS, upon her husband's untimely death in 1979, she remained a widow until 1991, when she married widower Rupert Frank Schrader of Peaks Mill, and assumed the role of mother to Ruby, Ben, Paul, and Leon Schrader. Mrs. Schrader was an immaculate housekeeper, a hardworking farmer, and at times, taught in a one-room school in the Kinney community of Owen County. She also served as a census taker, worked as a clerk and seamstress at Owen Dry Cleaners, was a factory worker and self-employed seamstress, and was an employee of the Kentucky Revenue Cabinet. She finally retired to care for her parents, husband, and brothers before their deaths, and also suffered the loss of two of her children, Karen, the youngest, who passed in 2001, and Garry, the oldest, who died in 2006; and

WHEREAS, Mrs. Schrader's abiding faith has sustained her throughout her life, and she continues as a devoted member of El Bethel Christian Church, where her family has served in many capacities, and where she taught Sunday School and sang in the choir, and where she is still active in home visitation and serving those in need; and

WHEREAS, Glenna Cox Schrader has led an exemplary life as a daughter, wife, mother, person of faith, and friend, and is loved and respected by all whose lives she has touched throughout her eight decades upon this Earth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its sincere appreciation for the ongoing contributions of Glenna Cox Schrader and joins in celebration of 80 years of a life well-lived.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Glenna Cox Schrader, and wishes her many more years of blessings to share with others.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Glenna Cox Schrader, 5145 U.S. Highway 127 South, Owenton, Kentucky 40359.

There being no objection, **HR 57** was adopted.

Orders of the Day

HB 156, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the Committee Substitute to **HB 156**. Agreed.

Representative Wayne moved that **HB 156**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 88, Nays 4.** (See March 2, 2007, roll call on **HB 156** - Appendix.)

HB 156, by way of Committee Substitute, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 156**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 439, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved the adoption of Floor Amendment No. 2 to **HB 439**. Agreed.

Representative Vincent moved the adoption of Floor Amendment No. 1 to **HB 439**. Agreed.

Representative Vincent moved that **HB 439**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0.** (See March 2, 2007, roll call on **HB 439** - Appendix.)

HB 439, as amended, was passed and the title agreed to.

Representative Vincent moved that the vote by which **HB 439**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 540 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved that **HB 540** be passed.

On the roll call the vote was: **Yeas 92, Nays 0.** (See March 2, 2007, roll call on **HB 540** - Appendix.)

HB 540 was passed and the title agreed to.

Representative McKee moved that the vote by which **HB 540** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 296, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved that **HB 296**, be passed.

Representative Jenkins withdrew the motion for passage of **HB 296**.

Representative Jenkins moved the adoption of Floor Amendment No. 1 to **HB 296**. Agreed.

Representative Jenkins moved that **HB 296**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 0.** (See March 2, 2007, roll call on **HB 296** - Appendix.)

HB 296, as amended, was passed.

Representative Jenkins moved the adoption of Floor Amendment No. 2 Title to **HB 296**. Agreed.

Representative Jenkins moved that the vote by which **HB 296**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 246 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved that **HB 246** be passed.

On the roll call the vote was: **Yeas 91, Nays 0.** (See March 2, 2007, roll call on **HB 246** - Appendix.)

HB 246 was passed and the title agreed to.

Representative Ford moved that the vote by which **HB 246** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 355, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved the adoption of Floor Amendment No. 1 to **HB 355**. Agreed.

Representative Simpson moved that **HB 355**, as amended, be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See March 2, 2007, roll call on **HB 355** - Appendix.)

HB 355, as amended, was passed and the title agreed to.

Representative Simpson moved that the vote by which **HB 355**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 287, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved the adoption of the Committee Substitute to **HB 287**. Agreed.

Representative Riner moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 287**. Agreed.

Representative Riner moved that **HB 287**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 2, 2007, roll call on **HB 287** - Appendix.)

HB 287, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Riner moved that the vote by which **HB 287**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 358, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Combs moved the adoption of the Committee Substitute to **HB 358**. Agreed.

Representative Webb moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 358**. Agreed.

Representative Combs moved that **HB 358**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 2, 2007, roll call on **HB 358** - Appendix.)

HB 358, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Combs moved that the vote by which **HB 358**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 506 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeWeese moved that **HB 506** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 2, 2007, roll call on **HB 506** - Appendix.)

HB 506 was passed and the title agreed to.

Representative DeWeese moved that the vote by which **HB 506** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 64, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved the adoption of Floor Amendment No. 3 to **HB 64**. Agreed.

Representative Cherry moved that **HB 64**, as amended, be passed.

Representative Floyd moved the adoption of Floor Amendment No. 4 to **HB 64**.

Floor Amendment No. 4 to **HB 64** was rejected by voice vote.

On the roll call that **HB 64**, as amended, be passed the vote was: **Yeas 91, Nays 4**. (See March 2, 2007, roll call on **HB 64** - Appendix.)

HB 64, as amended, was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 64**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 235 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Draud moved that **HB 235** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 2, 2007, roll call on **HB 235** - Appendix.)

HB 235 was passed and the title agreed to.

Representative Draud moved that the vote by which **HB 235** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 208 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rollins moved that **HB 208** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 2, 2007, roll call on **HB 208** - Appendix.)

HB 208 was passed and the title agreed to.

Representative Rollins moved that the vote by which **HB 208** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 469 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 469** be passed.

On the roll call the vote was: **Yeas 93, Nays 3**. (See March 2, 2007, roll call on **HB 469** - Appendix.)

HB 469 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 469** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 216 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HB 216** be passed.

On the roll call the vote was: **Yeas 88, Nays 1**. (See March 2, 2007, roll call on **HB 216** - Appendix.)

HB 216 was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 216** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 281, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 281**. Agreed.

Representative Damron moved that **HB 281**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See March 2, 2007, roll call on **HB 281** - Appendix.)

HB 281, by way of Committee Substitute, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 281**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 131 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved that **HB 131** be passed.

On the roll call the vote was: **Yeas 83, Nays 13.** (See March 2, 2007, roll call on **HB 131** - Appendix.)

HB 131 was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 131** was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing passage of **SB 153.** (10:25 a.m.)

Orders of the Day (Continued)

HB 526 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved that **HB 526** be passed.

On the roll call the vote was: **Yeas 89, Nays 6.** (See March 2, 2007, roll call on **HB 526** - Appendix.)

HB 526 was passed and the title agreed to.

Representative Crenshaw moved that the vote by which **HB 526** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 334, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brinkman moved that **HB 334** be passed.

On the roll call the vote was: **Yeas 95, Nays 0.** (See March 2, 2007, roll call on **HB 334** - Appendix.)

HB 334 was passed and the title agreed to.

Representative Brinkman moved that the vote by which **HB 334** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 83, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved the adoption of the House Committee Substitute to **SB 83.** Agreed.

Representative Collins moved that **SB 83**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 69, Nays 27.** (See March 2, 2007, roll call on **SB 83** - Appendix.)

SB 83, by way of House Committee Substitute, was passed and the title agreed to.

Representative Collins moved that the vote by which **SB 83**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 32 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Montell moved that **HB 32** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See March 2, 2007, roll call on **HB 32** - Appendix.)

HB 32 was passed and the title agreed to.

Representative Montell moved that the vote by which **HB 32** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that **HB 198** be recommitted to the Committee on Health and Welfare. Agreed.

Representative Adkins moved that **HB 443** be removed from the Committee on Appropriations and Revenue and be placed in the Committee on Rules. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 185, by Representative Arnold: A RESOLUTION honoring the Union County High School Braves Wrestling Team, 2007 KHSAA Champions.

HR 186, by Representative Adkins: A RESOLUTION adjourning the House of Representatives in loving memory and honor of James Ivo Osborne.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Education: **HB 562**

Labor and Industry: **HB 491**

Local Government: **SB 96**

The Clerk announced that the posting for Committee Consideration has been withdrawn from the following Bill:

Local Government: **HB 435**

Representative DeCesare moved that the rules be suspended to act on a Resolution. Agreed.

Representative DeCesare moved the adoption of the following **HR 63**:

HR 63, A RESOLUTION honoring Lisa Hussung, Kentucky Elementary School Music Teacher of the Year.

WHEREAS, Lisa Hussung been teaching music to the students of Rich Pond Elementary School in Warren County for the past ten years; and

WHEREAS, Lisa Hussung is creative in her approach to teaching music and uses a variety of methods to actively engage her students; and

WHEREAS, Lisa Hussung works cooperatively with other teachers and with community members to provide students an opportunity to participate in a variety of musical performances throughout the year; and

WHEREAS, Lisa Hussung has been identified by district administrators as a true leader among teachers, both at the school and at the district level; and

WHEREAS, Lisa Hussung has been named the Kentucky Elementary School Music Teacher of the Year by the Kentucky Music Educators' Association; and

WHEREAS, this great body recognizes the benefit of such excellence in teaching for the future of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body expresses its gratitude on behalf of the citizens of the Commonwealth to Lisa Hussung for her contributions to education, and hereby congratulates her on the honor of being named Kentucky Elementary School Music Teacher of the Year.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Lisa Hussung, Rich Pond Elementary School, 530 Rich Pond Road, Bowling Green, Kentucky 42104, to Superintendent Dale Brown, Warren County Schools, 303 Lover's Lane, Post Office Box 51810, Bowling Green, Kentucky 42102, and to Principal D. Shawn Holland, Rich Pond Elementary School, 530 Rich Pond Road, Bowling Green, Kentucky 42104.

There being no objection, **HR 63** was adopted.

Floor Amendments

Floor Amendment No. 1 to **HB 318**, by Representative Farmer:

HB 318, On page 5, line 4, after the period ";", by deleting "With respect to"; and

On page 5, by deleting lines 5 through 8 in their entirety; and

On page 5, line 9, by deleting "institution policy"; and

On page 6, line 19, by deleting "institution that is"; and

On page 6, line 20, by deleting "part of Kentucky's postsecondary education system as defined in KRS 164.001"; and

On page 7, line 15, by deleting "following designations:" and by inserting "fact that" in lieu thereof; and

On page 7, line 16, by deleting "(a)"; and

On page 7, line 20, by deleting "or"; and

On page 7, by deleting lines 21 through 23 in their entirety; and

On page 17, line 8, after "Kentucky", by deleting "and the Commonwealth's postsecondary education system as defined in"; and

On page 17, line 9, by deleting "KRS 164.001"; and

On page 17, line 21, after "Commonwealth", by deleting ", excluding employees of"; and

On page 17, line 22, by deleting "Kentucky's postsecondary education system as defined in KRS 164.001"; and

On page 18, by deleting lines 9 through 26, in their entirety.

Floor Amendment No. 1 to **SB 59**, by Representative Stewart:

SB 59, On page 14, line 22, after "322", by inserting, ". The executive director of each highway district shall serve as the cabinet's railroad engineer for that district"; and

On page 16, line 5, after the word "Development", by inserting, "and the railroad engineers in each highway district".

Floor Amendment No. 1 to the Committee Substitute to **HCR 160**, by Representative Meeks:

HCR 160, On page 2, line 12, by deleting "Kentucky Farm Bureau" and by inserting in lieu thereof "Kentuckians for the Commonwealth, Kentucky Waterways Alliance".

Floor Amendment No. 15 to the Committee Substitute to **HB 327**, by Representative Simpson:

HB 327, On page 2, after line 22, insert the following:

"Section 2. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 9. Commission on Human Rights, at page 1147, is amended to read as follows:

9. COMMISSION ON HUMAN RIGHTS

	2005-06	2006-07	2007-08
<u>General Fund</u>	<u>-0-</u>	<u>2,060,900</u>	<u>2,082,100</u>
[General Fund	0	1,840,900	1,859,100]
Restricted Funds	-0-	1,700	1,600
Federal Funds	126,100	293,400	305,700

2007 Regular Session

<u>TOTAL</u>	<u>126,100</u>	<u>2,356,000</u>	<u>2,389,400</u>
[<u>TOTAL</u>	<u>126,100</u>	<u>2,136,000</u>	<u>2,166,400</u>]

(1) Operating Expenses: Included in the above General Fund appropriation is \$220,000 in fiscal year 2006-2007 and \$223,000 in fiscal year 2007-2008 to cover necessary operating expenses during the biennium to avoid the agency from ending the year with a negative balance.;

Renumber subsequent sections accordingly;

On page 43, line 8, delete "12" and insert "13" in lieu thereof; and

On page 43, line 15, delete "12" and insert "13" in lieu thereof.

Floor Amendment No. 16 to the Committee Substitute to **HB 327**, by Representative Simpson:

HB 327, On page 2, after line 22, insert the following:

"Section 2. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 9. Commission on Human Rights, at page 1147, is amended to read as follows:

9. COMMISSION ON HUMAN RIGHTS

	2005-06	2006-07	2007-08
General Fund	-0-	1,840,900	1,859,100
Restricted Funds	-0-	1,700	1,600
Federal Funds	126,100	293,400	305,700
TOTAL	126,100	2,136,000	2,166,400

(1) Personnel and Operating Expenditures: To adequately fund the Commission on Human Rights to ensure that all personnel and operating expenditures are paid during fiscal year 2006-2007 to avoid personnel layoffs, up to \$220,000 in fiscal year 2006-2007 shall be deemed a necessary government expense and transferred from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705). These funds shall be transferred only upon certification of need by the Executive Director of the Commission on Human Rights to the Secretary of the Finance and Administration Cabinet.;

Renumber subsequent sections accordingly;

On page 43, line 8, delete "12" and insert "13" in lieu thereof; and

On page 43, line 15, delete "12" and insert "13" in lieu thereof.

Floor Amendment No. 2 to the Committee Substitute to **HB 207**, by Representative Yonts:

HB 207, Beginning on page 1, line 1 and ending on page 21, line 21, by striking sections 1 through 23 in their entirety and inserting in lieu thereof:

"Section 1. KRS 351.025 is amended to read as follows:

The department shall:

- (1) Promulgate administrative regulations that establish comprehensive criteria for the imposition and enforcement of sanctions against certified and noncertified personnel and owners and part-owners of licensed premises whose intentional violation of, or order to violate, mine safety laws places miners in imminent danger of serious injury or death. These criteria shall include but not be limited to the following:
 - (a) In the case of individuals that are certified miners, the Mine Safety Review Commission may revoke or suspend an individual's certification, or probate an individual's certification~~[for up to ten (10) working days]~~ for first offenses, and the Mine Safety Review Commission shall establish a maximum penalty for subsequent offenses;
 - (b) In the case of individuals that are owners or part-owners of licensed premises, the Mine Safety Review Commission may impose civil monetary penalties against individuals not to exceed ten thousand dollars (\$10,000); and
 - (c) In the case of noncertified personnel, the Mine Safety Review Commission may impose civil monetary fines equivalent to the value of the wages they receive for up to ten (10) working days for first offenses and the commission shall establish maximum penalties for subsequent offenses;
- (2) Notwithstanding KRS 351.070(15), promulgate administrative regulations that establish comprehensive criteria for the Mine Safety Review Commission's imposition of penalties against licensed premises for violations of mine safety laws that place miners in imminent danger of serious injury or death. These penalties shall include but not be limited to the revocation or suspension of the mine's license, the probation of a mine's license~~[for a first offense]~~, or the imposition of a penalty against the licensee not to exceed the gross value of the production of the licensed premise for up to ten (10) working days;

- (3) Direct that an employer shall not directly or indirectly reimburse a sanctioned miner or mine supervisor for days of work lost as a result of sanctions imposed by the Mine Safety Review Commission;
- (4) Establish procedures by which the department shall communicate with the Federal Mine Safety and Health Administration (MSHA) concerning allegations of mine safety violations against Kentucky coal operators and miners and for reports made to the Office of Mine Safety and Licensing under KRS 351.193;
- (5) Jointly with the Mine Safety Review Commission establish a process for referring allegations of mine safety violations to the Mine Safety Review Commission for adjudication and for the hearing of appeals from penalties imposed by the Office of Mine Safety and Licensing, and the underlying violation, authorized under KRS 351.070(15); and
- (6) Establish procedures to distribute quarterly reports to every licensed entity describing mine fatalities, serious mine accidents, and penalties imposed on certified and noncertified personnel and licensed premises and to require the report to be distributed to every certified working miner employed by the licensed entity, posted at work sites, and reviewed at regular mine safety meetings.

Section 2. KRS 351.030 is amended to read as follows:

- (1) All administrative hearings conducted by the department shall be conducted in accordance with KRS Chapter 13B and this section. Following the hearing, the department shall decide each matter in controversy. No person shall be discharged or otherwise discriminated against by his or her employer for testifying, or for his failure to testify, at these hearings.
- (2) The executor or administrator of a deceased miner's estate, or his or her designee, in the case of a fatality, miners that are injured as a result of an accident, and miners that are significantly affected by the conduct that gave rise to a disciplinary proceeding shall be granted the right of intervention in the penalty phase of that proceeding. The petition for intervention shall be made in accordance with KRS 13B.060(3). All hearings before the Mine Safety Review Commission shall be open proceedings. Any party with pertinent information regarding a mine accident may submit that information directly to the Office of Mine Safety and Licensing's chief accident investigator.

Section 3. KRS 351.070 is amended to read as follows:

- (1) The commissioner shall have full authority over the department and shall superintend and direct the activities of the mine inspectors and other personnel of the department. There is created within the Department for Natural Resources an Office of Mine Safety and Licensing.
- (2) The secretary shall appoint an executive director to the Office of Mine Safety and Licensing in accordance with KRS 224.10-020(2) and prescribe his powers and duties.
- (3) The commissioner may, whenever necessary, divide the coal fields of the state into as many inspection districts as necessary, so as to equalize as nearly as practicable the work of each inspector, and may assign to the inspectors their respective districts.
- (4) The commissioner may, whenever he or she deems it necessary in the interest of efficient supervision of the mines, temporarily employ the services of additional mine inspectors or change inspectors from one (1) district to another.
- (5) The commissioner shall superintend and direct the inspection of mines and cause to be investigated the character and quality of air in mines whenever conditions indicate the necessity of doing so.
- (6) The commissioner shall collect statistics relating to coal mining in the state and make an annual report of the statistics.
- (7) The commissioner shall see that maps, plans, projections, and proposed developments of all underground coal mines are made and filed in his office.
- (8) The commissioner shall keep a properly indexed, permanent record of all inspections made by himself and the personnel of the department.
- (9) The commissioner shall exercise general supervision over the training of officials and workmen in safety and first aid and mine rescue methods, and may conduct demonstrations in safety whenever he deems it advisable.
- (10) The commissioner shall exercise general supervision over the dissemination of information among officials and employees concerning mine ventilation, mining methods, and mine accidents and their prevention, and shall assume full charge in the event of mine fire or explosion or other serious accident at any mine in the state.
- (11) The commissioner may assist in the resumption of operations of any mine or gather data for the development of any coal seams that would be of any benefit to the state or create new employment.
- (12) The commissioner may prescribe reasonable safety standards governing the use of explosives, and electrical and mechanical equipment in the operation of open-pit or surface mines.
- (13) The secretary of the Environmental and Public Protection Cabinet shall have the power and authority to promulgate, amend, or rescind any administrative regulations he or she deems necessary and suitable for the proper administration of this chapter. Administrative regulations may be promulgated, amended, or rescinded by the secretary only after public hearing or an opportunity to be heard thereon of which proper notice by publication pursuant to KRS Chapter 424, has been given. Administrative regulations so promulgated shall carry the full force and effect of law.
- (14) The commissioner shall ascertain the cause or causes of any coal mining fatality and any accidents involving serious physical injury and, within sixty (60) days of completion of the investigation, shall report his or her findings and

recommendations to the Governor, the Mine Safety Review Commission, the Mining Board, and the Legislative Research Commission. ***Accident interviews conducted by the Office of Mine Safety and Licensing shall be closed proceedings.*** The recommendations may include without being limited to the need to promulgate or amend administrative regulations to prevent the recurrence of the conditions causing the fatality. ***Effective January 1, 2009, the Office of Mine Safety and Licensing shall appoint an existing full-time employee to act as a family liaison. The family liaison shall have the responsibility during an accident investigation to keep the families of miners informed of the progress and findings of the accident investigation. The family liaison shall be trained in mining and in grief counseling.***

- (15) The commissioner shall assess civil monetary penalties against licensed facilities for violations of laws in this chapter and KRS Chapter 352 pertaining to roof control plans, ***mine seal construction plans, unsafe working conditions,*** and mine ventilation plans that could lead to imminent danger or serious physical injury. The Environmental and Public Protection Cabinet shall promulgate administrative regulations within ninety (90) days of July 12, 2006, providing for the manner and method of the assessment of the penalties and appeals therefrom. In no event shall the civil penalty assessed pursuant to this subsection for the violation exceed five thousand dollars (\$5,000). Nothing contained in this subsection shall be construed to impair or contravene the authority granted under KRS 351.025(2) for imposing penalties against licensed facilities.

Section 4. KRS 351.090 is amended to read as follows:

- (1) The Governor shall appoint an adequate number of mine inspectors to ensure at least two (2) inspections annually ***at all surface mines,*** provided the mine is in operation the entire year or the proportionate thereof, of all mines in the Commonwealth and sufficient additional inspectors to enable the commissioner to provide adequate surveillance of coal mines where conditions or management policy dictate that more inspections are needed to ensure the safety of miners; except the commissioner shall inspect all underground coal mines not less than ***six (6)***~~three (3)~~ times annually. ***Two (2) of the six (6) general inspections of underground mines shall additionally include a full electrical inspection.*** One (1) or more of the appointees ~~shall~~~~may~~ be designated as electrical mine inspectors. The Governor shall also appoint an adequate number of mine safety analysts and mine safety instructors. The term of office of each mine inspector, each mine safety analyst, each electrical inspector, and each mine safety instructor shall be during the period of capable, efficient service and good behavior.
- (2) All mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, and shall possess thoroughly the knowledge required of the commissioner by KRS 351.060, and shall have a thorough and practical knowledge of mining gained by at least five (5) years' experience in coal mines in the Commonwealth. All surface mine safety analysts shall have at least five (5) years' experience in surface mines in the Commonwealth. For the purposes of this subsection, a degree in mining engineering from a recognized institution shall be deemed equivalent to two (2) years of practical experience in coal mines or an associate degree in mining technology from a recognized institution shall be deemed equivalent to one (1) year practical experience in coal mines. A person desiring to use a mining engineering or technology degree for practical experience credit shall file proof of having received a degree prior to examination.
- (3) No person shall be appointed to the office of mine inspector, underground mine safety analyst, electrical inspector, or mine safety instructor unless he holds a current mine foreman's certificate. No person shall be appointed to the office of surface mine safety analyst unless he holds a current surface mine foreman's certificate. A person appointed as mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall pass an examination administered by the board. The commissioner may recommend to the Governor applicants for the positions of mine inspector, mine safety analyst, electrical inspector, or mine safety instructor who have successfully passed the examination and are proved by worth, training, and experience to be the most competent of the applicants.
- (4) Mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.
- (5) No reimbursement for traveling expenses shall be made except on an itemized accounting for the expenses submitted by inspectors, analysts, and safety instructors who shall verify upon oath that the expenses were incurred in the discharge of their official duties.
- (6) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary of State.
- (7) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall give bond with surety approved by the Governor.
- (8) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall provide authorization to the Office of Mine Safety and Licensing to perform a criminal background check by means of a fingerprint check by the State Police. The results of the state criminal background check shall be sent to the executive director of the Office of Mine Safety and Licensing. Any fee charged by the Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.***

Section 5. KRS 351.1041 is amended to read as follows:

- (1) The Mine Safety Review Commission is created as an independent governmental entity attached to the Environmental and

Public Protection Cabinet, Office of the Secretary, for administrative purposes. The commission shall:

- (a) Conduct hearings and issue orders regarding a licensee, coal operation, or other person involved in the mining of coal in accordance with KRS 351.194;
- (b) Jointly with the department establish a process for the department's referral of allegations of mine safety violations, allegations of unsafe working conditions, violation of a miner's drug- and alcohol-free condition of certification, or supervisory personnel's failure to immediately report a fatal accident or an accident involving serious physical injury to the commission for adjudication;
- (c) Make any recommendations to the department that it believes appropriate upon its review, consideration, and analysis of:
 1. All reports of coal mining fatalities and serious physical injuries provided by the commissioner under KRS 351.070(14);
 2. Any case in which a miner or a mine owner or operator, in the professional opinion of the department has a history of significant and substantial safety violations even though there has been no serious physical injury or death resulting from the violations;
 3. Any case in which a miner or a mine owner or operator has been convicted of a criminal charge for a violation of a federal mine safety standard or standards; and
 4. Any case in which the Federal Mine Safety and Health Administration has made a recommendation relating to certification of an individual certified under this chapter.
- (2) The Mine Safety Review Commission shall consist of three (3) members appointed by the Governor subject to the consent of the Senate and the House of Representatives in accordance with KRS 11.160. Of the members of the Mine Safety Review Commission first appointed under this section, one (1) shall be appointed for a term of one (1) year; one (1) shall be appointed for a term of two (2) years; and one (1) shall be appointed for a term of three (3) years. After the initial appointments, members of the board shall be appointed for terms of four (4) years. A member may be reappointed at the expiration of his or her previous term. Members shall continue to serve until a successor is appointed and qualified.
- (3) The members of the Mine Safety Review Commission shall have the qualifications required of Judges of the Court of Appeals, except for residence in a district, and shall be subject to the same standards of conduct made applicable to a part-time judge by the Rules of the Kentucky Supreme Court. The members shall receive the per diem equivalent of the salary of a Judge of the Court of Appeals for each day spent in conducting the business of the commission.
- (4) The Governor shall designate a member of the Mine Safety Review Commission to serve as chair and shall fill any vacancy in the office of chair.
- (5) The Governor may remove any member for good cause, including violation of the Code of Judicial Conduct and repeated failure to perform satisfactorily the specific duties assigned in this chapter or KRS Chapter 352. The Governor may remove the member only after furnishing him or her with a written copy of the charges against that member and holding a public hearing if requested by the member.
- (6) The commission shall meet on the call of the chair or a majority of the members of the commission.
- (7) The Environmental and Public Protection Cabinet shall provide administrative services to the Mine Safety Review Commission. If the commission deems it necessary to employ hearing officers to assist it, the Environmental and Public Protection Cabinet shall employ hearing officers to assist the commission in accordance with KRS Chapter 13B and this chapter, notwithstanding the provisions of KRS 13B.030(2)(b).
- (8) The commission may conduct hearings, compel the attendance of witnesses, administer oaths, and conduct oversight activities as may be required to ensure the full implementation of its duties.
- (9) The department shall provide the Mine Safety Review Commission with all information requested by the commission for the fulfillment of its responsibilities under this chapter and KRS Chapter 352.
- (10) The secretary of the Environmental and Public Protection Cabinet shall effectuate the hiring of any staff deemed necessary and affordable for the efficient operations of the Mine Safety Review Commission. This may include an executive director, general counsel, or other administrative support positions, to be appointed in accordance with KRS 12.010 and 12.050.

Section 6. KRS 351.1055 is amended to read as follows:

- (1) There is hereby established a Mine Equipment Review Panel attached to the Department for Natural Resources in the Environmental and Public Protection Cabinet.
- (2) The Mine Equipment Review Panel shall be a permanent panel of recognized experts who shall review and make recommendations annually to the executive director of the Office of Mine Safety and Licensing and the Interim Joint Committee on Agriculture and Natural Resources regarding best available mine safety technologies, including but not limited to wireless tracking and communications devices for use by miners in underground mines. Subject to budgetary constraints and approval by the United States Mine Safety and Health Administration (MSHA), if there is no existing law to the contrary, the commissioner may implement the recommendations of the panel. Based on the recommendations provided by the panel, the executive director shall comprise a list of commercially available mine safety

equipment, including wireless tracking and communications devices that may be approved for use by coal miners.

- (3) The panel shall meet at the call of the chair. The chair of the panel shall be the executive director of mine safety and licensing. Members of the panel shall serve without pay, but shall be entitled to reimbursement of travel-related expenses.
- (4) The Mine Equipment Review Panel shall be composed of the following members, who shall be appointed by the commissioner not less than thirty (30) days after July 12, 2006:
 - (a) One (1) member shall represent the National Institute of Occupational Safety and Health;
 - (b) One (1) member shall represent the federal Mine Safety and Health Administration;
 - (c) One (1) member shall represent the coal industry;
 - (d) One (1) member shall be appointed from the membership of the United Mine Workers of America and shall represent mine labor, preferably a member of a Kentucky mine rescue team;
 - (e) One (1) member shall represent the Department of Mining Engineering at the University of Kentucky; and
 - (f) One (1) member shall be the executive director of the Office of Mine Safety and Licensing.
- (5) The Mine Equipment Review Panel shall provide initial recommendations to the executive director of the Office of Mine Safety and Licensing not more than one hundred twenty (120) days after the panel members have been appointed and the panel is duly constituted to conduct business. Periodically, the panel shall review and make recommendations to the executive director on changes to or innovations in mine safety equipment that could be deployed in coal mines.

Section 7. KRS 351.106 is amended to read as follows:

- (1) The Mining Board shall establish criteria and standards for a program of education and training to be required of prospective miners, miners, and all certified persons. This education and training shall be provided in a manner determined by the commissioner to be adequate to meet the standards established by the board, which shall include as a minimum the requirements of KRS 351.102 and the requirements of the federal government for the training of miners for new work assignments, and at least sixteen (16) hours of annual retraining and reeducation for all certified persons, of which thirty (30) minutes annually shall be dedicated to alcohol and substance abuse education. Effective January 1, 2009, in addition, six (6) hours of annual training on changes in mine safety laws, safe retreat mining practices, disciplinary cases litigated before the Mine Safety Review Commission, changes in mine safety technology, and ways to improve safe working procedures shall be required for all mine foremen. This annual training for mine foremen shall be provided exclusively by the Office of Mine Safety and Licensing.
- (2) One (1) hour of initial substance abuse training and education shall be required as part of the certified miner's first annual retraining conducted in a classroom that occurs after August 1, 2006. This requirement shall not apply to certified persons who received the one (1) hour initial substance abuse training and education as part of their forty (40) hour or twenty-four (24) hour new miner training.
- (3) In addition to the thirty (30) minutes of annual alcohol and substance abuse education required for certified miners, supervisory personnel shall be required to receive an additional thirty (30) minutes of alcohol and substance abuse awareness training annually.
- (4) Beginning with the first full calendar year after the effective date established by the board and during each calendar year thereafter, each certified miner shall receive at least sixteen (16) hours of retraining and reeducation.
- (5) Newly hired experienced miner training shall satisfy the miner's annual retraining requirement if a time lapse occurs between the miner's last training anniversary date and the next scheduled training anniversary date for the mine where he is newly employed, if the miner has complied with the annual retraining requirements within the last twelve (12) months from the date of his newly hired experienced miner training.
- (6) Retraining and reeducation sessions shall be conducted at times and in numbers to reasonably assure each certified miner an opportunity to attend.
- (7) The licensee shall pay all certified miners their regular wages and benefits while they receive training required by the department.
- (8) Willful failure of a working miner to complete annual retraining and reeducation requirements shall constitute grounds for revocation, suspension, or probation of his certificate.
- (9) If the department discovers a miner working without proper training or the licensee cannot provide proof of training, the miner shall be withdrawn immediately from the mine and the licensee shall pay the miner his regular wages until the training is administered and properly documented.
- (10) When employment is terminated, the licensee shall provide the employee a copy of his training records, upon request. If the employee does not request his training records immediately, the licensee shall, within fifteen (15) days, provide the employee with those training records.
- (11) The board may, upon its own motion or whenever requested to do so by the commissioner, deem applicable certificates issued by other states to be proof of training and education equal to the requirements of KRS 351.102 or deem training provided by appropriate federal agencies to be adequate to meet training and education requirements established by the board, if the training and education meet the minimum requirements of this chapter.

- (12) The secretary may promulgate administrative regulations necessary to establish a program to implement the provisions of this chapter according to the criteria and standards established by the board. This program shall include but not be limited to implementation of a program of instruction and the conduct of examinations to test each applicant's knowledge and understanding of the training and instruction.
- (13) The commissioner shall keep and maintain current records on all certified miners, all of which shall be maintained by computer for ready access. The commissioner shall not grant certification to any person that, at the time of application, had his or her miner certification, foreman certification, electrician certification, or any other mining specialty certification suspended or revoked by another state. If a person has his or her miner certification, foreman certification, electrician certification, or other mining specialty certification probated in another state, the commissioner or the Mining Board may, at his or its discretion, grant the equivalent certification. However, that certification shall be placed on probation in Kentucky until the probationary period in the other state has expired.
- (14) The commissioner is authorized and directed to utilize state mine inspectors, mine safety instructors, the state mine foreman examiner, private and public institutions of education, and other qualified persons available to him in implementing the program of instruction and examination.
- (15) The commissioner may make recommendations to the board as he may deem appropriate. The commissioner shall provide information to the board at the board's request. The commissioner is authorized and directed to utilize state and federal moneys and personnel that may be available to the department for educational and training purposes in the implementation of the provisions of this chapter.
- (16) All training and education required by this section may be conducted in classrooms, on the job, or in simulated mines.

Section 8. KRS 351.127 is amended to read as follows:

- (1) ~~{A-}~~Certified emergency medical ~~technicians~~~~{technician}~~ or mine emergency ~~technicians~~~~{technician}~~ shall be employed at every licensed coal mine whose employees are actively engaged in the extraction, production, or preparation of coal. Persons employed as mine emergency technicians shall be trained in a manner established in an administrative regulation promulgated by the department. Persons seeking certification as a mine emergency medical technician or mine emergency technician shall be subject to the following additional requirements:
 - (a) All persons seeking certification as a mine emergency technician shall demonstrate drug- and alcohol-free status in accordance with KRS 351.182 and 351.183;
 - (b) The drug and alcohol testing for those seeking certification as mine emergency technicians shall be administered prior to the examination for the certification, in accordance with KRS 351.182 and 351.183; and
 - (c) Certification as a mine emergency technician shall not be issued until the results of the drug and alcohol testing have been obtained. Notification shall be given to the person in accordance with KRS 351.184.
- (2) These emergency medical technicians or mine emergency technicians shall be employed in the following manner:
 - (a) At least two (2)~~{One (1)}~~ emergency medical~~{technician}~~ or mine emergency ~~technicians~~~~{technician}~~ shall be employed on every shift engaged in the production of coal, and at least one (1) emergency medical or mine emergency technician shall be employed on every nonproduction shift~~{with a workforce of up to fifty (50) employees}~~;
 - (b) For underground mines, at least one (1) of the two (2) emergency or mine emergency technicians shall be underground at all times while miners are working in the mines. An additional emergency medical technician or mine emergency technician shall be employed for every additional fifty (50), or any portion thereof, employees per shift who are actively engaged in the extraction, production, or preparation of coal.
- (3) If these emergency medical technicians or mine emergency technicians are also employed in other capacities at the coal mine, they shall be available for quick response to emergencies and shall have available to them at all times the equipment necessary to respond to emergencies, as prescribed by the commissioner.
- (4) If the licensee selects existing employees to be trained as emergency medical technicians or mine emergency technicians, the employees selected shall be paid their regular wages during training.
- (5) Certified emergency medical technicians and mine emergency technicians shall receive annual retraining in the manner established in an administrative regulation promulgated by the department, during which they shall receive their regular wages.

Section 9. KRS 351.140 is amended to read as follows:

Each mine inspector shall give his entire time and attention to the duties of his office, which shall consist of the following:

- (1) Inspecting mines and aiding, under the direction of the commissioner, in carrying out and enforcing the provisions of the law relating to the inspection of mines;
- (2) Training officials and workmen in and about the mines in first aid and mine rescue methods;
- (3) Advising officials and workmen in methods pertaining to safety in all its phases and in methods pertaining to the prevention of mine fires and explosions;
- (4) Taking charge of mine rescue and recovery work whenever a mine fire, mine explosion or other serious accident occurs

within his district, and the commissioner is not present, and assisting in such work in other districts when so directed by the commissioner;

- (5) Reopening mines or portions of mines that have been sealed on account of fire or any other cause, when directed by the commissioner to do so;
- (6) Inspecting each underground coal mine in his district at least six (6)~~three (3)~~ times a year and all other mines once every six (6) months. For underground coal mines, two (2) of the six (6) general inspections conducted annually shall additionally include a full electrical inspection. The commissioner may cause inspections more often if practicable and if funds permit, and whenever any danger to the workmen may exist; making a personal examination of the interior of each mine with respect to ventilation, drainage, roof control, blasting, electricity, escapeways, and general security, and also a personal examination of the outside facilities of the mine; and in gassy mines below the water table, inspections shall be more frequent, and as often as practical whenever any danger to workmen is indicated by a previous inspection. Such inspections shall involve at least two (2) inspectors. The inspectors shall locate themselves in different sections of the mine in order to determine the effectiveness and reliability of the ventilation system. Each section of the mine shall be so inspected;
- (7) It shall be permissible for a mine inspector to inspect any coal preparation plant or surface facility of any mining operation of coal including any overland coal belts; and
- (8) A mine inspector shall have the express authority to enter upon the premises of and inspect any coal mine, including any overland coal belts, at any reasonable time.

Section 10. KRS 351.175 is amended to read as follows:

- (1) The operation of a coal mine in Kentucky is a privilege granted by the Commonwealth of Kentucky to a licensee who satisfies the requirements of this section and demonstrates that the mine is or will be operated in a safe manner and in accordance with the laws of this Commonwealth.
- (2) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the owner, operator, lessee, or licensee of each mine shall procure from the department a license to operate the mine, and the license shall not be transferable. Any owner, operator, lessee, or licensee who assumes control of a mine, opens a new mine, or reopens an abandoned mine during any calendar year shall procure a license before mining operations are begun.
- (3) The license shall be in printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.
- (4) Requests for a license shall be made to the department and shall be accompanied by a United States postal money order or cashier's check drawn in favor of the State Treasurer in an amount established by administrative regulations of a minimum of one hundred dollars (\$100) and a maximum of fifteen hundred dollars (\$1,500). The license shall be issued when the following are properly submitted to the commissioner:
 - (a) The annual report of the licensee and the annual mine map required in KRS 351.170 and 352.450;
 - (b) A certification from the executive director of the Office of Workers' Claims that the licensee has provided positive proof of compliance with the provisions of KRS Chapter 342;
 - (c) A certification from the commissioner of the Department of Revenue that the licensee is not a "delinquent taxpayer" as defined in KRS Chapter 131;
 - (d) Mine seal construction plan;
 - (e) Roof control plan;
 - (f) The ventilation plan required in KRS 352.020; and
 - (g)~~(e)~~ An approved emergency action plan required by KRS 352.640.
- (5) The department shall immediately revoke any license if the department receives:
 - (a) Withdrawal of the certification of compliance with KRS Chapter 342 issued by the executive director of the Office of Workers' Claims; or
 - (b) Notice from the commissioner of the Department of Revenue that the licensee is a "delinquent taxpayer" as defined in KRS Chapter 131.
- (6) The commissioner, the executive director of the Office of Mine Safety and Licensing, or the mine inspector shall have the authority to stop production or close any mine whose operator fails to procure a license or fails to furnish a certification of workers' compensation coverage as required under this section.
- (7) The department shall be authorized to seek injunctive relief for any violation of this section. Revocation of a license by the department shall be an administrative function of the department. Appeals from revocation by the department shall be brought in Franklin Circuit Court.
- (8) A license which has been revoked under the "delinquent taxpayer" provision shall not be reissued until a written tax clearance has been received from the commissioner of revenue.
- (9) No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval

of the cemetery's governing body. This subsection applies only to those cemeteries with governing bodies.

Section 11. KRS 351.194 is amended to read as follows:

- (1) The Mine Safety Review Commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish administrative hearings procedures to be followed in determining if violations of mine safety laws, including, but not limited to, violations that meet the criteria established in KRS 351.025(1) or (2), have occurred and to establish a process to review recommended orders from any hearing officers acting on behalf of the commission. The procedures shall follow the requirements of KRS Chapter 13B and this chapter.
- (2) The chair or a majority of the Mine Safety Review Commission may convene a meeting of the commission at which it shall consider whether to schedule a hearing regarding any licensee, coal operation, or other person involved in the mining of coal.
- (3) If the commission determines that there is probable cause to believe that the licensee, coal operation, or other person against whom the department has made allegations of unsafe work practices or other violation of applicable law is guilty of an alleged violation, the commission shall schedule a hearing at which the department shall offer evidence in support of the allegations made by it. The licensee, coal operation, or other person against whom the allegations are made shall be given not less than twenty (20) days' written notice of the charges against him, together with the date, time, and place at which the charges shall be heard, and of his opportunity to be represented by counsel, produce evidence and witnesses on his behalf, and examine the evidence and documents that may be produced against him. The commission may also be represented by counsel and shall not be bound by the technical rules of evidence, but its order shall be based upon competent evidence. Any licensee or other person summoned to appear at a hearing in the manner established in this subsection may, in writing, waive the notice required to be given to him.
- (4) The commission may proceed with its hearing of charges made by the department against any licensee, coal operation, or other person who, after being duly notified in accordance with the requirements of this section, fails to appear at or participate in the hearing and who fails to assert any legitimate basis for the failure.
- (5) Within ninety (90) days after hearing, the commission shall issue an order in which it sets out its determinations concerning each matter coming before it. Copies of the order shall be provided to all parties to the hearing. The department shall carry out or enforce, as appropriate, the order of the commission, which may include, though not be limited to, the imposition of civil penalties, revocation, suspension, or probation of the mine license or the miner's certification.
- (6) The commission may modify a civil penalty or fine established under this chapter, under criteria established by the commission by administrative regulations.
- (7) In assessing monetary penalties within the limits provided in KRS 351.025, the commission shall consider the operator's history of previous violations, the appropriateness of the penalty to the size of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation, the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation, and whether a penalty has been imposed by the Federal Mine Safety and Health Act for a violation that arose out of the same set of facts or circumstances.
- (8) An appeal of an order of the commission shall be filed in the Franklin Circuit Court within thirty (30) days of entry of the order.

Section 12. KRS 352.020 is amended to read as follows:

- (1) A mine ventilation plan and any revision of an existing mine ventilation plan shall be suitable to the ventilation conditions and mining system of each mine. The mine ventilation plan and any revisions to the mine ventilation plan approved by the United States Mine Safety and Health Administration shall be submitted to the executive director or his or her authorized representative and incorporated into the license. All mine ventilation plans shall be set forth in printed form. The mine ventilation plan shall require the air quality throughout the mine to contain at least nineteen and one-half percent (19.5%) oxygen and not more than one-half of one percent (0.5%) of carbon dioxide, and the volume and velocity of the air current shall be sufficient to dilute, render harmless, and carry away flammable, explosive, noxious, and harmful gases and dust, smoke, and fumes. A copy of the mine ventilation plan and any revisions to that plan shall be available to the miners and their representatives.
- (2) The ventilation of all underground coal mines shall be produced by means of mechanically operated fans located outside the mine in fireproof housing and offset at least fifteen (15) feet to one (1) side or above the opening, protected by explosion doors or weak walls and arranged so that ventilating current may be reversed if necessary. The fan shall be installed so as to prevent recirculation of mine air. The main fan shall be operated from a power circuit independent from the mine circuit. If inside auxiliary fans are required to ventilate working places the commissioner must first approve the installation.
- (3) The licensee, superintendent, or foreman of every coal mine worked by shaft, slope, or drift shall provide and maintain for every mine two (2) separate and distinct escapeways, one (1) of which is vented by the intake air. However, if a mine was originally licensed prior to January 1, 1990, the commissioner may approve an alternate ventilation plan. Each active working section shall be ventilated by a separate split of intake air. In all mines the quantity of air passing through the last open crosscut between the intake and return in any pair or sets of entries shall be not less than nine thousand (9,000) cubic

feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. All working faces from which coal is being cut, mined, or loaded in a working section between the intake and return airway entries shall be ventilated with a minimum quantity of three thousand (3,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. The quantity of air reaching the last crosscut in pillar sections may be less than nine thousand (9,000) cubic feet of air per minute if at least nine thousand (9,000) cubic feet of air per minute is being delivered to the intake of the pillar line. The air current shall under any conditions have a sufficient volume and velocity to reduce and carry away smoke from blasting and any flammable or harmful gases.

- (4) All mines shall maintain at least nine thousand (9,000) cubic feet of air per minute at the points mentioned in subsection (3) of this section. The commissioner shall have the authority to require additional air in any mine when he deems it necessary for the safety of the employees.
- (5) When the air from a split has passed through and has ventilated all the working places in an air split of a mine it shall then be designated as return air. Return-air courses shall not be designated as primary escapeways.
- (6) As working places advance, breakthroughs for air shall be made not more than ninety (90) feet apart, except that where longwall or modern systems of mining are used the commissioner or his authorized representative may approve a greater distance between breakthroughs or the method of ventilating such longwall or modern systems of mining. If any breakthroughs between intake and return airways are not required for the passage of air or the travel of equipment, they shall be closed with stoppings. All permanent stoppings shall be substantially built with suitable incombustible or fire resistant material subject to the approval of the mine inspector so as to keep the working places well ventilated. All brattice cloth and ventilation tubing shall be flame resistant. Doors on the main haulways shall be avoided where practicable, and overcasts, built of concrete or other suitable material and of ample strength, shall be adopted. Where doors are used they shall be built in a substantial manner, and shall be hung so as to close automatically when unobstructed.
- (7) In a mine where methane can be found to an extent of one percent (1%) or more on the return of any one (1) split, the inspector, with the approval of the commissioner may require the mine to be ventilated by the exhaust system, requiring the haulage roads and all feed wires to be located on the intake air and the electrical system to be so arranged that no wires carrying electrical current shall be on return air. A period of not more than ninety (90) days from date of notification shall be allowed to make the changes required.
- (8) The ventilation plan shall require all fans utilized in the ventilation plan to be in continuous operation unless the fan must be turned off for repairs or maintenance, during which time all persons must be withdrawn from the mine. After the mine fan is restarted following the completion of repairs or maintenance, it must be in operation for a sufficient period to ensure air quality and the equalization of the mine atmosphere~~[for a sufficient period to ensure air quality and equalization of the mine atmosphere prior to the entry of workers into underground areas]~~.

Section 13. KRS 352.030 is amended to read as follows:

- (1) As many as sixty (60) persons may work in the same air current or split, and with the approval of the mine inspector and the commissioner, as many as eighty (80) persons may work in the same air current. Each active section in a mine shall be ventilated by a separate split of intake air and shall not come from the beltline entry. Any underground coal mine that is using the beltline entry to ventilate the mine as of the effective date of this Act shall have one hundred eighty (180) days to provide ventilation for the mine through an entry other than the beltline entry. Every mine, and all portions thereof, shall be ventilated by one (1) or more currents of air, which shall contain not less than nineteen and one-half percent (19.5%) of oxygen, nor any dangerous quantities of flammable gas, nor any harmful amount of poisonous gases or dust, when the current of air enters into each split. The ventilation shall be sufficient to prevent methane accumulations, so far as practicable, and to keep the methane percentage in the return of any split to not more than two percent (2%).
- (2) The ventilating current shall be circulated through the haulageways, travelways, and airways to reach all portions of the mine, except sealed sections; and it shall be circulated through the entries and rooms around the ends of line brattice and along pillar lines. It shall be conducted to the last breakthrough, or to the working faces if required, by means of stoppings, check doors, curtains, and brattice that may be necessary or required, in order to dilute, render harmless, and carry away the noxious and dangerous gases, smoke, and dust liberated therein, and to supply a sufficient quantity of ventilation for all emergencies. The ventilating current in the area of a mine's belt entries shall be directed to an air return before the ventilating current reaches the face area~~[, unless the department, under certain conditions issues a permit for belt air to be used at the coal face. The department shall render a final written decision within sixty (60) calendar days of receipt of the permit application]~~.
- (3) When mine ventilation, formerly satisfactory and adequate, becomes deficient in quality or quantity, the department shall have authority to order improvement of the ventilation.
- (4) No licensee, superintendent, or mine foreman shall permit any person to work at a place where sufficient ventilation cannot be maintained, except persons employed to make the places of employment safe in compliance with the requirements of this chapter, and while repair work necessary to comply with the requirements is in progress no person shall be permitted to enter that part of the mine affected except those actually employed in doing the repair work. The repair work shall be done under the constant supervision of a certified official designated by the mine foreman.
- (5) Each licensee shall adopt a plan which shall provide that when any mine fan stops, immediate action shall be taken by the

licensee or his agent:

- (a) To withdraw all persons from the working sections;
- (b) To cut off the power in the mine in a timely manner;
- (c) To provide for restoration of power and resumption of work if ventilation is restored within a reasonable period, of not more than fifteen (15) minutes, as set forth in the plan after the working places and other active workings where methane is likely to accumulate are reexamined by a certified person to determine if methane in amounts of one percent (1%) or more exists therein; and
- (d) To provide for withdrawal of all persons from the mine if ventilation cannot be restored within a reasonable time, of not more than fifteen (15) minutes.

The plan and revisions thereof approved by the commissioner or his authorized representative shall be set out in printed form and a copy shall be furnished to the commissioner or his authorized representative.

Section 14. KRS 352.090 is amended to read as follows:

- (1) All unused workings and abandoned parts of mines shall be protected by safeguards that will prevent the accumulation or overflow of gas, and all avenues leading thereto shall be so arranged and conducted as to give warning to all persons of the danger of entering, and notice shall be posted warning all unauthorized persons not to enter these parts of the mine. If the area cannot be adequately ventilated, and examined, or evaluated it shall be sealed in a timely manner.
- (2) No person, except persons authorized to make examination thereof, shall enter any unused or abandoned part of a mine after the warning has been posted.
- (3) Where the practice is to seal abandoned workings, the sealing shall be done in accordance with a mine seal construction plan submitted to the Office of Mine Safety and Licensing. The construction of mine seals according to the mine seal construction plan shall be certified by the mine superintendent after inspection and certification by a licensed engineer. Seal construction shall be done immediately in an effective manner with noncombustible material. In every sealed area, one (1) or more of the seals shall be fitted with a pipe and cap or valve to permit the gases behind the seals to be sampled and also to provide a means of determining any existing hydrostatic pressure. When required by the mine inspector and commissioner, drill holes shall be extended from the surface to the sealed area, or vent pipes shall be extended from the sealed area to a return air course. Sufficient ventilation shall be provided at each seal to prevent dangerous gases from accumulating.

Section 15. KRS 352.133 is amended to read as follows:

- (1) All underground miners shall be provided with an approved self-contained self-rescuer device and shall have that device within twenty-five (25) feet of them at all times. The self-contained self-rescuer shall be provided to the miners by the licensee at no cost to the miners.
- (2) In addition to the requirements for self-contained self-rescuers set forth in this section, all licensed premises shall maintain caches of self-contained self-rescuer devices which shall be stored in locations readily accessible to the primary and secondary escapeways or provide proof of an order for self-contained self-rescuers through the submission of a valid purchase order that clearly names the vendor, contact information for the vendor, the number of devices purchased, and the date of the order, which shall not be later than thirty (30) days after July 12, 2006. In all cases, the self-contained self-rescuers shall be in place by July 1, 2007, or shall be extended by the commissioner upon substantiated proof of unavailability.
 - (a) The caches shall be maintained in sufficient numbers and locations determined in accordance with the most recent rules, standards, and regulations issued by the United States Mine Safety and Health Administration and this section.
 - (b) The caches shall be maintained in storage units capable of protecting the self-contained self-rescuers from water, dust, and any other condition which will cause deterioration of the self-contained self-rescuers.
 - (c) The storage unit locations shall have reflective signs that read "SELF-RESCUERS" conspicuously posted as to be visible from the primary and secondary escapeways. ~~Intrinsically safe strobe light devices also shall be attached to the storage unit. The strobe light devices may operate continuously or shall be capable of activation in the event of a mine emergency.~~
 - (d) In addition to the requirements set forth in this section for self-contained self-rescuers, the mine operator shall provide for each person who is underground at least one (1) additional self-contained self-rescuer device which provides protection for a period of one (1) hour or longer, to cover all persons in the mine.
 - (e) If a mantrip or mobile equipment is used to enter or exit the mine, additional self-contained self-rescuer devices, each of which provides protection for a period of one (1) hour or longer, shall be available for all persons who use the transportation from portal to portal.
- (3) It shall be a Class D felony for any person to remove a self-rescuer from the cache for purposes other than use during an emergency, or for repair, maintenance, or replacement or as authorized by the licensee.

Section 16. KRS 352.135 is amended to read as follows:

In all designated escapeways, each operator shall provide lifeline cords, with attached reflective material at not to exceed twenty-five (25) foot intervals and devices indicating the direction to the surface at not to exceed one hundred (100) foot intervals, from outby the loading point; provided, that in case of a shaft mine, such lifeline cords shall extend from outby to the loading point to the bottom of the designated escape shaft. Such lifeline cord shall be of flame resistant material~~[durable construction]~~ sufficient to allow miners to see and to use effectively to guide themselves out of the mine in the event of an emergency. All lifeline cords shall be made of flame resistant material within one hundred eighty (180) days of the effective date of this section.

Section 17. KRS 352.145 is amended to read as follows:

- (1) No employee of a surface coal mining operation shall be assigned, allowed, or required to perform work alone in any area where hazardous conditions exist that would endanger his safety unless he can communicate with others, can be heard, or can be seen.
- (2) At stockpiles with underground feeders or draw-off tunnels, the licensee shall install and maintain a visible warning device that shall be activated when the feeders are in operation.
- (3) The operator's cab of all equipment being operated on or in the immediate area of a stockpile with underground feeders or draw-off tunnels shall be enclosed by a compartment and shall be furnished with a self-contained self-rescuer that is capable of providing oxygen for a period of not less than one (1) hour.
- (4) On all haulage roadways, berms, guardrails, concrete barriers, or other suitable devices shall be installed in such a manner that they extend to at least the mid-wheel height of the highest vehicle or equipment that regularly travels that type of roadway.
- (5) A surface preshift examination shall be conducted within three (3) hours prior to men working. A certified foreman shall check the areas where men are required to work or travel during the shift. Roadways, pit areas, highwalls, and dumping points shall be checked. If any hazardous conditions are found, they shall be corrected prior to men working in the area. A suitable record book shall be kept in the control of the mine foreman. Immediately after the examination of the mine or portion thereof, the mine foreman shall enter and sign a record of the examination in the book with ink. The record shall clearly show any danger discovered at the mine, and the action taken to correct the dangerous conditions. The record book shall, at all times during the working hours, be accessible to the mine inspector or analyst and the miner or his representative.
- (6) All equipment operators shall conduct a preoperational check of their equipment. All preoperational checks shall be recorded by the equipment operator and kept with the equipment and, if a hazard is found to exist on any piece of equipment that would render it unsafe to operate, the hazardous condition shall be reported to the mine foreman or mine superintendent. All appropriate repairs shall be made before the equipment is put back into operation, except for moving the equipment to a safe place for repairs. The record book of all hazardous conditions and repairs made shall be kept in the control of the mine foreman or mine superintendent at all times.

Section 18. KRS 352.150 is amended to read as follows:

- (1) After June 16, 1972, on single-track haulage roads in mines, which the persons employed in the mine must use while performing their work or while traveling on foot to and from their work, there shall be places of refuge on one (1) side not less than five (5) feet in depth from the side of the mine car, and five (5) feet wide, and not more than ninety (90) feet apart. Refuge holes of the same dimensions shall also be provided at switch throws.
- (2) Special places of refuge are not required on haulage roads on which room necks or breakthroughs occur at regular intervals not exceeding ninety (90) feet, and thus furnish places of refuge, or on haulage roads in which the track is so laid as to give a minimum clearance on one (1) side of not less than thirty (30) inches from the side of any haulage engine or any mine car, the clearance to be on the side of the road opposite that upon which electric wires are strung, if electric wires are strung in the road.
- (3) No unauthorized person shall travel on foot to or from work upon any haulage road or slope where transportation is by track, when other roads in proper condition for travel are available.
- (4) On all main haulage roads where hauling is done by machinery the mine foreman shall provide a proper system of signals, and a conspicuous light or marker approved by the commissioner on the front and rear of every trip or train of cars when in motion in the mine.
- (5) Mantrips shall be operated at safe speeds consistent with the condition of roads and type of equipment used and shall be so controlled that they can be stopped within the limits of visibility, in no event at a speed in excess of twelve (12) miles per hour.
- (6) Each mantrip consisting of more than one (1) mine car of men shall be under the charge of a certified official, and it shall be operated independently of any loaded trip of coal or other material.
- (7) Cars on the mantrip shall not be overloaded, and sufficient cars in good mechanical condition shall be provided.
- (8) No material or tools except small hand tools shall be transported in the same car with men on any mantrip unless in a separate, enclosed compartment of the car, and all persons shall ride inside of mantrip cars, except the motorman and brakeman or trip rider.
- (9) Men shall not load or unload before the cars in which they are to ride or are riding come to a full stop, and men shall

proceed in an orderly manner to and from mantrips.

- (10) A waiting station shall be provided where men are required to wait for mantrips or man-cages. It shall have sufficient room, ample clearance from moving equipment, and adequate seating facilities.
- (11) Power wires shall be guarded effectively at mantrip stations where there is a possibility of any person coming in contact with energized electric wiring while loading or unloading from the mantrip.
- (12) Cars used for transporting men on slopes shall be equipped with a safety device capable of stopping the trip in event of failure of the rope or couplings. The device shall be approved by the commissioner.
- (13) Where belts are used for transporting men, unless the commissioner finds that a safety hazard exists which cannot be corrected, the belt transport will be allowed, and a minimum clearance of eighteen (18) inches shall be maintained between the belt and the roof or cross bars, projecting equipment, cap pieces, overhead cables, wiring, and other objects; but where the height of the coal bed permits, the clearance shall not be less than twenty-four (24) inches.
- (14) Unless a greater speed is allowed by special permission from the commissioner, in which event the conditions, limitations, and rules imposed in connection with the grant of permission shall be observed, the belt speed shall not exceed two hundred fifty (250) feet per minute where the minimum overhead clearance is eighteen (18) inches, or three hundred (300) feet per minute when the minimum overhead clearance is twenty-four (24) inches, while men are loading, unloading, or being transported.
- (15) The space between men riding on a belt line shall not be less than six (6) feet.
- (16) Loading and unloading stations shall be illuminated properly.
- (17) A certified official or some other supervisory personnel appointed by the mine foreman shall supervise all mantrips.
- (18) At all mines utilizing track haulage or transportation, there shall be developed a safe and uniform system of traveling through all switch points to prevent collisions. This system shall be designed in a manner which ensures that all persons can determine who has the right of way in all circumstances. Information concerning this system shall be included in annual retraining.
- (19) Efficient equipment, either mobile or self-propelled, equipped with sufficient first-aid equipment and supplies, shall be available on all underground sections where men are present to transport injured workers to the surface.
- (20) At those mines that do not have a contract or other arrangement for providing ambulance service, a 4-wheel-drive vehicle or other vehicle suitable to the terrain equipped with sufficient first-aid equipment and supplies shall be available to the mines or preparation facilities for the transportation of injured workers. At those mines that have a contract or other arrangement for providing ambulance service, the access road to the mine or preparation facility shall be kept in a condition which is passable by the ambulance vehicle or other emergency rescue equipment.
- (21) The commissioner shall be empowered to draft additional administrative regulations providing for transportation of men when necessary.
- (22) *An efficient means of transportation shall be available at all times on the working section while miners are working which can be used to transport all miners to the surface in the event of an accident or other emergency.*

Section 19. KRS 352.170 is amended to read as follows:

- (1) All underground mines shall be worked exclusively by the use of approved electric lamps for personal lighting.
- (2) *A mine operator shall provide an MSHA-approved, handheld, multi-gas detector that can measure methane, oxygen, and carbon monoxide to each miner in a group of underground miners during a shift, and to each person who works alone, such as pumpers, examiners, and outby miners. Miners shall be trained in the proper use and calibration of the multi-gas detectors and shall document that the training has been provided. Signs shall be prominently posted at places miners gather with instructions on the proper use of multi-gas detectors.* ~~All mine foremen and fire bosses employed in mines shall carry approved gas detection devices for the purpose of detecting the presence of explosive and dangerous gases and deficiencies of oxygen.~~
- (3) No person shall at any time carry into any mine any intoxicants. No person shall at any time enter any underground mine with matches, pipes, cigars, cigarettes, or any device for making lights or fire not authorized or approved, and the licensee shall at frequent intervals search, or cause to be searched, any person entering or about to enter the mine or inside the mine, to prevent the person from taking, carrying, or using the articles therein.

Section 20. KRS 352.180 is amended to read as follows:

- (1) Whenever a serious physical injury or loss of life occurs in a mine or in the machinery connected therewith or whenever a fire, explosion, entrapment of an individual for more than thirty (30) minutes, inundation of a mine by water or gases, ~~or other serious accident~~ occurs, the superintendent of the mine, or, if he is absent, the mine manager, or if he is absent, the mine foreman in charge of the mine or his designee, shall within fifteen (15) minutes of having actual knowledge of the occurrence and access to the communication system as required under KRS 352.630(3) give notice to the department and to the representative of the miner, stating the particulars of the accident. No person shall alter the scene of a mining accident in a manner that will interfere with the department's investigation of the accident, except to the extent necessary to rescue an individual or to eliminate an imminent danger.

- (2) Upon receipt of notification of an occurrence set forth in subsection (1) of this section, the mine inspector shall immediately go to the scene of the accident and make an investigation and suggestions and render the assistance as he deems necessary for the future safety of the employees, investigate the cause of the fire, explosion, or accident, make a record thereof, and forward it to the commissioner.
- (3) The record of the investigations shall be preserved with the other records of the commissioner's office. To aid in making the investigations, the commissioner or the mine inspector may compel the attendance of witnesses and administer oaths.
- (4) Failure to comply with the reporting requirements set forth in this section shall create a rebuttable presumption of an intentional order to violate mine safety laws that places miners in imminent danger of serious physical injury or death and shall be subject to revocation, suspension, or probation of the mine license and a civil monetary penalty of not less than ten thousand dollars (\$10,000) nor more than one hundred thousand dollars (\$100,000).
- (5) The Office of Mine Safety and Licensing may require testing of certified persons to determine whether the presence of intoxicants or controlled or illicit substances are a contributing factor in any mine accident in which serious physical injury or loss of life occurs or which was reported under this section. The executive director or his designee may order the testing of certified persons who:
 - (a) Were working in the immediate area of the accident; or
 - (b) In the judgment of the executive director or his designee, may reasonably have contributed to or witnessed the accident or fatality.
- (6) The post-accident testing permitted by subsection (5) of this section shall:
 - (a) Meet all guidelines set forth in KRS 351.182, 351.183, 351.184, and 351.185;
 - (b) Be paid for by the Office of Mine Safety and Licensing; and
 - (c) Be performed on samples obtained within eight (8) hours of the accident.
- (7) Toxicology screens and eleven-panel drug testing shall be performed on victims when death occurs on mine property. The testing pursuant to this subsection may be performed on specimens of either blood, saliva, or other appropriate bodily fluids.

Section 21. KRS 352.180 is amended to read as follows:

- (1) Whenever a serious physical injury or loss of life occurs in a mine or in the machinery connected therewith or whenever a fire, explosion, entrapment of an individual for more than thirty (30) minutes, inundation of a mine by water or gases, or other serious accident occurs, the superintendent of the mine, or, if he is absent, the mine manager, or if he is absent, the mine foreman in charge of the mine or his designee, shall within fifteen (15) minutes of having actual knowledge of the occurrence and access to the communication system as required under KRS 352.630(3) give notice to the department and to the representative of the miner, stating the particulars of the accident. No person shall alter the scene of a mining accident in a manner that will interfere with the department's investigation of the accident, except to the extent necessary to rescue an individual or to eliminate an imminent danger.
- (2) Upon receipt of notification of an occurrence set forth in subsection (1) of this section, the mine inspector shall immediately go to the scene of the accident and make an investigation and suggestions and render the assistance as he deems necessary for the future safety of the employees, investigate the cause of the fire, explosion, or accident, make a record thereof, and forward it to the commissioner.
- (3) The record of the investigations shall be preserved with the other records of the commissioner's office. To aid in making the investigations, the commissioner or the mine inspector may compel the attendance of witnesses and administer oaths.
- (4) Failure to comply with the reporting requirements set forth in this section shall create a rebuttable presumption of an intentional order to violate mine safety laws that places miners in imminent danger of serious physical injury or death and shall be subject to revocation, suspension, or probation of the mine license and a civil monetary penalty of not less than ten thousand dollars (\$10,000) nor more than one hundred thousand dollars (\$100,000).
- (5) The Office of Mine Safety and Licensing may require testing of certified persons to determine whether the presence of intoxicants or controlled or illicit substances are a contributing factor in any mine accident in which serious physical injury or loss of life occurs or which was reported under this section. The executive director or his designee may order the testing of certified persons who:
 - (a) Were working in the immediate area of the accident; or
 - (b) In the judgment of the executive director or his designee, may reasonably have contributed to or witnessed the accident or fatality.
- (6) The post-accident testing permitted by subsection (5) of this section shall:
 - (a) Meet all guidelines set forth in KRS 351.182, 351.183, 351.184, and 351.185;
 - (b) Be paid for by the Office of Mine Safety and Licensing; and
 - (c) Be performed on samples obtained within eight (8) hours of the accident.
- (7) Toxicology screens and eleven-panel drug testing shall be performed on victims when death occurs on mine property. The testing pursuant to this subsection may be performed on specimens of either blood, saliva, or other appropriate bodily

fluids.

- (8) The commissioner or his or her authorized representative may compel the attendance of witnesses and administer oaths to investigate allegations of unsafe mining conditions or violations of mining laws even if no accident or injury has occurred.**

Section 22. KRS 352.201 is amended to read as follows:

- (1) The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof control plan and revision thereof suitable to the roof conditions and mining system of each mine and approved by the commissioner or his authorized representative shall be adopted and set out in printed form within six (6) months after June 16, 1972, and shall be kept on file in the district office of the district where the mine is located. The plan shall show the type of support and spacing approved by the commissioner. No person shall proceed beyond the last permanent support unless adequate temporary support is provided. A copy of the plan shall be furnished the commissioner or his authorized representative and shall be available to the miners and their representatives.
- (2) The method of mining followed in any mine shall not expose the miner to unusual dangers from roof falls caused by excessive widths of rooms and entries or faulty pillar recovery methods.
- (3) The licensee, in accordance with the approved plan, shall provide at or near each working face and at other locations in the mine as the commissioner or his authorized representative may prescribe an ample supply of suitable materials of proper size with which to secure the roof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof bolt holes are being drilled, roof bolts are being installed, and in other circumstances that may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. Except in the case of recovery work, supports knocked out shall be replaced promptly.
- (4) Roof bolt recovery for reuse shall not be permitted.
- (5) Where workmen are exposed to danger from falls of roof, face, and ribs they shall examine and test the roof, face, and ribs before any other work is performed or machinery is started, and as frequently thereafter as may be necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately.
- (6) Within forty-eight (48) hours before the commencement of any retreat mining or pillaring operations, the mine operator shall notify the Office of Mine Safety and Licensing of its intention of beginning or resuming retreat mining or pillaring. The Office of Mine Safety and Licensing shall document such notification in writing. Upon such notification from a mine operator, and before retreat mining or pillaring operations can begin, the office shall ensure that every person who will be participating in the retreat mining operations is trained in the operator's pillar removal plan.**

Section 23. KRS 352.220 is amended to read as follows:

For purposes of this section, "approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department of Mines and Minerals or accepted by a nationally or federally recognized testing laboratory or the Department of Labor Mine Safety and Health Administration; "suitable" means a design, material, or installation that meets the requirements of its intended use or that is accepted by a nationally or federally recognized testing laboratory or the Department of Labor Mine Safety and Health Administration.

- (1) The following shall apply to underground installations:
 - (a) Nonconductive or insulated materials shall be used when trailing cables or high voltage feeder cables are suspended;
 - (b) Suitable circuit-interrupting devices shall be provided for all power circuits and equipment at the mine;
 - (c) All power wires and cables shall be properly insulated and protected by proper installation or guarding;
 - (d) Ground wires for circuits shall have a total cross-sectional area of not less than one-half (1/2) the power conductor;
 - (e) Extra length or long trailing cables shall be spread out in long open loops or in a figure-eight configuration on a clean, well rock-dusted floor where the cable can be protected against mechanical injury, but cables suspended in long open loops shall be acceptable;
 - (f) One (1) temporary splice may be made in any trailing cable. No temporary splice shall be made in a trailing cable within twenty-five (25) feet of the machine except cable reel equipment. Splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Splices made in cables shall provide continuity of all components;
 - (g) Three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit;
 - (h) The frames of hand-held electrically driven tools shall be properly grounded or double-insulated by design. The frames of all pumps shall be properly grounded. Hand-held tools and all pumps shall be properly protected by

suitable fuses, circuit breakers, or other no less effective devices to provide the minimum overload and shortcircuit protection required by the department;

- (i) All underground high-voltage transmission cables shall be installed only in regularly inspected air courses and haulageways, and shall be covered, buried, or placed so as to afford protection against damage, guarded where men regularly work under or pass under them unless they are six and one-half (6-1/2) feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with other circuits. Underground high-voltage cables used in resistance grounded systems shall be equipped with metallic shields around each power conductor, with one (1) or more ground conductors having a total cross-sectional area of not less than one-half (1/2) the power conductor, and with an insulated internal conductor not smaller than No. 10 (AWG) or an insulated external conductor not smaller than No. 8 (AWG) for the ground continuity check circuit. All cables shall be suitable for the current and voltage and shall be properly maintained;
- (j) Power circuits shall have suitable disconnecting devices and short-circuit protective devices at or near the supply end of the circuit. Suitable disconnecting devices shall be provided at the beginning of all branch circuits;
- (k) Underground transformer stations, battery charging stations, substations, rectifiers, and water pumps shall be housed in noncombustible structures or areas or be equipped with a suitable fire suppression system.
 - 1. When a noncombustible structure or area is used, these installations shall be:
 - a. Ventilated with intake air that is coursed into a return air course or to the surface and that is not used to ventilate working places; or
 - b. Ventilated with intake air that is monitored for carbon monoxide or smoke by an atmospheric monitoring system (AMS) installed and operated in a suitable manner. Monitoring of intake air ventilating battery charging stations shall be done with sensors not affected by hydrogen; or
 - c. Ventilated with intake air and equipped with sensors to monitor for heat, carbon monoxide, or smoke.
 - 2. The sensors used for monitoring shall de-energize power to the installation, activate a visual and audible alarm located outside of and on the intake side of the enclosure, and activate doors that will automatically close when any of the following occurs:
 - a. The temperature in noncombustible structure reaches one hundred sixty-five (165) degrees Fahrenheit;
 - b. The carbon monoxide concentration reaches ten (10) parts per million above the ambient level for the area; or
 - c. The optical density of smoke reaches 0.022 per meter.
 - 3. At least every thirty (30) days, sensors installed to monitor for carbon monoxide shall be calibrated with a known concentration of carbon monoxide and air sufficient to activate the closing door, or each smoke sensor shall be tested to determine that it functions correctly.
 - 4. When a fire suppression system is used, the installation shall be:
 - a. Ventilated with intake air that is coursed into a return air course or to the surface and that is not used to ventilate working places; or
 - b. Ventilated with intake air that is monitored for carbon monoxide or smoke by an atmospheric monitoring system installed and operated in a suitable manner.
 - 5. All monitoring systems used to monitor intake air ventilating battery charging stations under subparagraphs 1. and 4. of this paragraph shall be done with sensors not affected by hydrogen.
 - 6. This paragraph shall not apply to:
 - a. Rectifiers and power centers with transformers that either are dry-type or contain nonflammable liquid, if they are located at or near the section and are moved as the working section advances or retreats;
 - b. Submersible pumps;
 - c. Permissible pumps, and associated permissible switchgear;
 - d. Pumps located on or near the section that are moved as the working section advances or retreats; or
 - e. Small portable pumps. Underground stations containing transformers or circuit breakers filled with flammable oil shall be provided with door sills or their equivalent, which will confine the oil if leakage or rupture occurs, and shall be of fireproof construction. Underground transformers purchased after June 16, 1972, shall be air cooled or cooled with nonflammable liquid or inert gas. Portable power centers, portable transformers, and distribution centers which are essentially fireproof are not required to be placed on separate splits of air but shall be stationed in well ventilated places outby the last open crosscuts;
- (l) Electrically powered locomotives shall be provided with suitable electrical protective devices;

- (m) Suitable firefighting equipment shall be located at strategic points along the belt conveyor, and proper fire extinguishers shall be provided at the transfer points. The commissioner may prescribe any other safety measures for the prevention and combating of mine fires as they pertain to conveyor belts. Only approved flame resistant belting shall be taken into and used inside any mine, and all underground belt conveyors shall be provided with slippage and sequence switches and with start and stop controls at intervals not to exceed one thousand (1000) feet. The controls shall be properly installed and positioned so as to be readily accessible;
 - (n) Communication wires and cables shall be adequately insulated and protected by proper installation or guarding;
 - (o) Telephone wires shall be provided with lightening arresters where the wires enter the mine and at the buildings on the surface;
 - (p) Insulating mats shall be placed in front of disconnecting devices and all electrical installations where required;
 - (q) Ground wires in trailing cables shall be tested weekly for open circuit and high resistance;
 - (r) Power circuits in tipples, buildings, cleaning plants, etc., and all underground electrical circuits shall be deenergized when not in use over a long period;
 - (s) All underground power circuits and electrical equipment shall be de-energized before work is done on the circuits and equipment except when necessary for troubleshooting or testing. When electrical work or major mechanical work is performed, a suitable disconnect providing visible evidence that the power is disconnected shall be locked open and a tag shall be posted by the individuals performing the work. Locks and tags shall be removed only by the persons who installed them, or if those persons are unavailable, by a person authorized by the operator. Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except where machinery motion is necessary to make adjustment;
 - (t) Where electric circuits cross over or pass under belt conveyors the wiring shall be suitably protected; and
 - (u) Switch boxes, contactors, controllers, and all other similar devices shall be kept free of significant accumulations of combustible dust.
- (2) The following shall apply to trolley wires and trolley feeder wires:
- (a) On all haulage roads, landings, and partings where persons are required to regularly work or pass under bare power wires placed less than six and one-half (6-1/2) feet above the top of the rail, suitable protection shall be provided. This protection shall consist of channeling the roof, placing boards along the wires and extending below them, or the use of some other approved device that affords protection;
 - (b) All machine feed conductors shall be placed on suitable insulators which shall be so placed as to prevent the conductors coming in contact with combustible or conductive materials;
 - (c) When the machine or feed wires are carried in the same entry as the trolley wire, they shall be placed on the same side as the trolley wire, between the trolley wire and rib, and shall be protected from contact therewith. Positive feed wires crossing places where persons are required to travel shall be safely guarded or protected against persons coming in contact therewith, as required by paragraph (a) of this subsection;
 - (d) All trolley and positive feed wires shall be placed on opposite sides of track from refuge holes or necks of rooms when so ordered by the department, but wires, when protected as required by paragraph (a) of this subsection, may be placed across the necks of rooms. Switches or circuit breakers shall be provided to control the current at the mine and all important sections in the mine;
 - (e) Where track is used for the return circuit, at least one (1) side shall be bonded to the full length of the trolley wire installation. Cross-bonds shall be installed not to exceed two hundred (200) foot intervals along the track; and
 - (f) All mine locomotives shall be fused or otherwise protected at the switch or at the nip.
- (3) The following shall apply to surface installations:
- (a) High-voltage lines shall be at least twenty (20) feet above the ground where there is a possibility of contact by traffic passing underneath;
 - (b) Electrical circuits, wires, and cables shall be supported on insulators except when cables, which are of a design that can be safely used without insulators, are used;
 - (c) Lightning arresters shall be installed on all ungrounded, exposed power conductors and telephone wires entering a mine, regardless of voltage. Overload protection and disconnect switches of suitable sizes and ratings approved by the department shall also be provided, except that they shall not be required of telephone wires;
 - (d) Every metallic building in which electricity is used or connected with any circuit shall be effectively grounded;
 - (e) All transformer tanks shall be effectively grounded;
 - (f) Switch boxes, contactors, controllers, and all other similar devices shall be kept free of significant accumulations of combustible dust that create a fire hazard;
 - (g) Surface transformer stations shall be housed or fenced in when lower than fifteen (15) feet above the earth, and the fences shall be a minimum of six (6) feet in height; and

- (h) All surface power circuits and electrical equipment shall be de-energized before work is done on the circuits and equipment except when necessary for troubleshooting or testing. When electrical work or major mechanical work is performed, a suitable disconnect providing visible evidence that the power is disconnected shall be locked open and a tag shall be posted by the individuals performing the work. Locks and tags shall be removed only by persons who installed them or, if those persons are unavailable, by a person authorized by the operator. Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except where machinery motion is necessary to make adjustments. When disconnects for stationary low and medium voltage equipment that do not provide visual evidence that the power is disconnected are used, an adequately rated voltage detector shall be used to test each phase conductor or circuit part to verify they are de-energized before any work is performed. When practical, confirmation that the voltage detector is operating satisfactorily shall be made before each test.
 - (4) (a) Notwithstanding any provisions of subsections (1), (2), or (3) of this section, the department may authorize the construction, maintenance, operation, or conducting of any activity regulated by this section, to be constructed, maintained, operated, or conducted in a different manner than specified in any provision of subsections (1), (2), or (3) of this section, when scientific or engineering information is made available to the department substantially indicating that the different manner would afford equal or greater protection and safety than the manner required in subsections (1), (2), or (3) of this section; and
 - (b) The department may prescribe administrative regulations with respect to the aboveground or underground installations in connection with any mine operation when information is made available indicating that regulation is reasonably necessary to prevent injury to, or loss of, life and property.
 - (5) At least one (1) certified electrician shall be employed on every working shift at all underground mines and surface mines operating draglines or highwall miners.
- Section 24. Sections 4 and 9 of this Act take effect January 1, 2009.
- Section 25. Section 19 of this Act takes effect January 1, 2008."

Floor Amendment No. 2 Title to **HB 443**, by Representative Thompson:

HB 443, Amend the title to read as follows: "AN ACT relating to electronic data matches and levies."

Floor Amendment No. 2 to **HB 318**, by Representative Farmer:

HB 318, On page 1, between the title and the enacting clause, insert the following:

"WHEREAS, Kentucky does not currently have a comprehensive law for collective bargaining by public employees, and there presently exists interest in extending collective bargaining rights for public employees; and

WHEREAS, there presently exists collective bargaining rights in the private sector; and

WHEREAS, extending these same rights to public employees could have an extensive impact on existing state and local government revenue and resources;

NOW THEREFORE,"; and

Beginning on page 1, line 1 through page 51, line 4, by deleting all language in its entirety and by inserting the following in lieu thereof:

"Section 1. The Legislative Research Commission is requested to direct the Interim Joint Committee on Labor and Industry to study whether collective bargaining rights would be beneficial to public employees and the impact of those rights on the state and local government revenue and resources.

Section 2. The study shall be completed by November 15, 2007, with a written report, including findings and policy options, presented to the Legislative Research Commission by December 1, 2007.

Section 3. Provisions of the Resolution to the contrary notwithstanding, the Commission shall have the authority to alternatively assign the issues herein to an interim joint committee or subcommittee thereof, and to designate a study completion date."

House Floor Amendment No. 1 to **HB 476**, by Representative Owens:

HB 476, On page 1, line 6, delete "\$5,412.499" and insert in lieu thereof "\$5,412,499".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 32, Representative Nelson

HB 64, Representative Wayne

HB 156, Representatives Wuchner and Horlander

HB 288, Representative Miller

HB 459, Representative Ford

HB 462, Representative Vincent

HB 469, Representatives L. Belcher, Tilley, Wuchner, Hall, Nelson, Upchurch, Moore, Ballard, A. Smith, C. Belcher, Montell, and Vincent

HB 506, Representative Meeks

HR 157, Representative Meeks

The following member filed a request to have his name withdrawn as co-sponsor of a Resolution:

HCR 160, Representative Richards

Adjournment

Representative Adkins moved to adjourn until the hour of 4:00 p.m. on Monday, March 5, 2007.

The motion that the House adjourn until 4:00 p.m., Monday, March 5, 2007, was adopted by voice vote.

MONDAY, MARCH 5, 2007
TWENTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Angela Pellenbeck, Church of God Chapel, Junction City, Kentucky, guest of Representative Harmon.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Karen Sigler a special guest of Representative Graham sang the National Anthem.

Violinists Sadie Meyer, Joe Meyer, and Samantha Cunningham, accompanied by guitarists Mark Cunningham and Joseph Meyer, rendered a musical selection. The musicians were the special guests of Representative Rollins.

The roll was called. All members were present.

Representative Ballard moved that the reading of the Journal of March 2, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills and Resolutions were filed by the following:

Representative Spencer moved that his vote be changed from "Yea" to "Nay" on **HB 156**. Agreed.

Representative Webb moved that she be recorded as voting "Yea" on **HB 156, 235, and 208**. Agreed.

Representative Stacy moved that he be recorded as voting "Yea" on **HB 526**. Agreed.

Representative Owens moved that he be recorded as voting "Yea" on **HB 216**. Agreed.

Representative Wuchner moved that she be recorded as voting "Yea" on **HB 216**. Agreed.

Representative Moore moved that he be recorded as voting "Yea" on **HB 216**. Agreed.

Representative S. Lee moved that he be recorded as voting "Yea" on **HB 66, 76, 114, 190, 213, 284, 289, 306, 347, 362, 380, 410, 426, 437, 490, 449, 462, 467, HCR 141, 154, and HJR 137**. Agreed.

Representative Moberly moved that he be recorded as voting "Yea" on **HB 156, 246, 287, 296, 358, 355, 439, 540, and 506**. Agreed.

Representative B. Smith moved that he be recorded as voting "Yea" on **HB 439, 540, 296, 246, 355, and 156**. Agreed.

Representative Moore moved that he be recorded as voting "Yea" on **HB 296**. Agreed.

Representative Ford moved that he be recorded as voting "Yea" on **HB 284, 467, 289, 449, 362, 380, 114, 306, 213, 426, 410, 462, 76, 490, 66, 347, 465, 437, 190, HCR 154, 141, and HJR 137**. Agreed.

Representative Ford moved that his vote be changed from "Nay" to "Yea" on **HB 345**. Agreed.

Representative Hall moved that he be recorded as voting "Yea" on **HB 66, 76, 410, 426, 462, 490, and HCR 141**. Agreed.

Representative Farmer moved that he be recorded as voting "Yea" on **HB 549 and HCR 141**. Agreed.

Representative Henderson moved that he be recorded as voting "Yea" on **HB 246**. Agreed.

Representative Henley moved that he be recorded as voting "Yea" on **HB 246**. Agreed.

Representative Ford moved that he be recorded as voting "Nay" on **HB 549**. Agreed.

Representative Crimm moved that he be recorded as voting "Yea" on **HB 306, 465, 347, 213, 549, 66, 426, 410, 490, 462, 329, 76, and HCR 141**. Agreed.

Representative Napier moved that he be recorded as voting "Yea" on **HB 66, 76, HB 410, 426, 462, 490, and HCR 141**. Agreed.

Introduction of Bills and Resolutions

HR 187, by Representative Meeks: A RESOLUTION honoring Azia Iman Meeks upon receiving the first annual Ann Braden Humanitarian Award.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 91**

Education: **SB 57, 62, 110, 130**

Judiciary: **SB 150**

Labor and Industry: **SB 171**

Local Government: **SB 153**

Seniors, Military Affairs and Public Safety: **SB 185, 186**

House Floor: **HR 184, 185, 186**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Education: **SB 57, 46, 86, 130**

Judiciary: **SB 67**

Report of Committees

The Committee on Licensing and Occupations reported **HB 567, SB 29, SB 30**, with Committee Substitute attached thereto, **SB 156**, and **SB 134** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 567, AN ACT relating to tobacco products.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 438.313 is amended to read as follows:

- (1) ~~A~~[No] wholesaler, retailer, or manufacturer of cigarettes or tobacco products ~~shall not~~~~may~~ distribute cigarettes or tobacco products, including samples thereof, free of charge or otherwise, to any person under the age of eighteen (18).
- (2) Any person who distributes cigarettes or tobacco products, including samples thereof, free of charge or otherwise shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of eighteen (18).
- (3) *A person shall not purchase on behalf of or give cigarettes or tobacco products, including samples thereof, to any person under the age of eighteen (18) years. It shall not be a violation of this subsection to allow a person under the age of eighteen (18) years to handle or transport cigarettes or tobacco products under the terms of the person's employment.*
- (4) Any person who violates the provisions of *subsection (1) or (2) of this section shall be fined not less than one thousand dollars (\$1,000) nor more than two thousand five hundred dollars (\$2,500) for each offense. Any person who violates the provisions of subsection (3) of this section shall be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) for each offense.* The ~~finer~~~~fine~~ shall be administered by the Office of Alcoholic Beverage Control using a civil enforcement procedure for persons eighteen (18) years of age or older. For persons under the age of eighteen (18) years, the offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.
- ~~(5)~~~~(4)~~ All peace officers with general law enforcement authority and employees of the Office of Alcoholic Beverage Control may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

Section 2. KRS 438.315 is amended to read as follows:

- (1) The sale of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.
- (2) The purchase of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.
- (3) *The sale of tobacco products dispensed through a vending machine shall be prohibited if the tobacco products are placed in the vending machine with any non-tobacco product, other than matches.*

- (4) Except for vending machines located in factories or vending machines located in bars or taverns to which minors are not permitted access, beginning one (1) year after July 15, 1994, any vending machine from which tobacco products are dispensed shall be located in the line of sight of the cashier for the retail establishment.
- ~~(5)~~(4) Any owner of a retail establishment violating this section shall be subject to a fine of not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500) for each violation. The fine shall be administered by the Office of Alcoholic Beverage Control using a civil enforcement procedure for persons eighteen (18) years of age or older. For persons under the age of eighteen (18) years, the offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.
- ~~(6)~~(5) All peace officers with general law enforcement authority and employees of the Office of Alcoholic Beverage Control may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

SB 29, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 244.130 is amended to read as follows:

- (1) Except in conformity with regulations of the board, no licensee under KRS 243.020 to 243.670 shall advertise or cause or permit to be advertised in any manner any product which he or she is licensed to manufacture or sell.
- (2) Subsection (1) of this section shall not prohibit:
- (a) Advertising in newspapers, magazines, or periodicals having a general circulation;
 - (b) Promotional advertising on radio or television limited to no more than the name of the licensee and the products the licensee is permitted to manufacture or sell;
 - (c) Promotional advertising containing the names of establishments or products displayed on uniforms or equipment of sporting teams; or
 - (d) Promotional advertising mailed or delivered to a consumer's residence.

SECTION 2. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

In order to promote economic development and tourism, other provisions of the Kentucky Revised Statutes notwithstanding, the Alcoholic Beverage Control Board may issue a horse race track license under KRS 243.030 and a retail malt beverage license under KRS 243.040 to a horse track that is licensed under KRS 230.300 and is located in a city that has, in whole or in part, voted to discontinue prohibition. The license issued under this section shall be in effect only for race track premises where live racing meets were held in 2006. Nothing in this section shall be construed as authorizing the issuance of any alcoholic beverage license on any part of the track's premises that is located outside the city's limits.

SB 30, AN ACT relating to prosthetics, orthotics, and pedorthics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 319B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

- (1) "Board" means the Kentucky Board of Prosthetics, Orthotics, and Pedorthics;
- (2) "Certified orthotic fitter" means a person who is certified under this chapter to fit the following non-custom orthotic devices:
- (a) Cervical orthoses not requiring more than minor modification;
 - (b) Pressure gradient hose;
 - (c) Trusses;
 - (d) Prefabricated spinal orthoses, except those used in the treatment of scoliosis, rigid body jackets made of thermoformable materials, and "halo" devices; and
 - (e) Prefabricated orthoses of upper and lower extremities, except those used in the treatment of bone fractures;
- (3) "Custom fabricated and fitted device" means an orthosis, prosthesis, or pedorthic device that is fabricated to original measurements, or to a mold for use by a patient in accordance with a prescription from a health care practitioner or provider authorized by law to write such prescriptions, and that requires substantial clinical and technical judgment in its design and fitting;
- (4) "Custom fitted device" means a prefabricated orthosis, prosthesis, or pedorthic device sized or modified for use by the patient in accordance with a prescription from a health care practitioner or provider authorized by law to write such

prescriptions that requires substantial clinical judgment and substantive alteration for appropriate use;

- (5) "Facility" means the business location where orthotic, prosthetic, or pedorthic care is provided. In the case of an orthotic/prosthetic facility, the orthotic/prosthetic facility has the appropriate clinical and laboratory space and equipment to provide comprehensive orthotic or prosthetic care; and, in the case of a pedorthic facility, the pedorthic facility has the appropriate clinical space and equipment to provide pedorthic care. Licensed orthotists, prosthetists, and pedorthists must be available to either provide care or to supervise the provision of care by nonlicensed staff;
- (6) "Licensed orthotist" means a person who is licensed under this chapter to practice orthotics and who represents the person to the public by title or description of services that includes the term "orthotic," "orthotist," "brace," or a similar title or description of services;
- (7) "Licensed pedorthist" means a person who is licensed under this chapter to practice pedorthics and who represents the person to the public by the title or description of services that includes the term "pedorthic," "pedorthist," or a similar title or description of services;
- (8) "Licensed prosthetist" means a person who is licensed under this chapter to practice prosthetics and who represents the person to the public by title or description of services that includes the term "prosthetic," "prosthetist," "artificial limb," or a similar title or description of services;
- (9) "Orthosis" means a custom-designed, fabricated, fitted, or modified device to correct, support, or compensate for a neuro-musculoskeletal disorder or acquired condition. "Orthosis" does not include fabric or elastic supports, corsets, arch supports, low-temperature plastic splints, trusses, elastic hoses, canes, crutches, soft cervical collars, dental appliances, or other similar devices that are carried in stock and sold without modification as "over-the-counter" items by a drug store, department store, corset shop, or surgical supply facility;
- (10) "Orthotic and prosthetic education program" means a course of instruction accredited by the Commission on Accreditation of Allied Health Education Programs, consisting of:
 - (a) An adequate curriculum of college level training and instruction in math, physics, biology, chemistry, and psychology; and
 - (b) A specific curriculum in orthotic or prosthetic courses, including:
 1. Lectures covering pertinent anatomy, biomechanics, pathomechanics, prosthetic-orthotic components and materials, training and functional capabilities, prosthetic or orthotic performance evaluation, prescription considerations, etiology of amputations and disease processes necessitating prosthetic or orthotic use, and medical management;
 2. Subject matter related to pediatric and geriatric problems;
 3. Instruction in acute care techniques, such as immediate and early postsurgical prosthetics and fracture bracing techniques; and
 4. Lectures, demonstrations, and laboratory experiences related to the entire process of measuring, casting, fitting, fabricating, aligning, and completing prostheses or orthoses;
- (11) "Orthotics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing an orthosis, under an order from a licensed health care practitioner or provider authorized by law to issue such an order, for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity;
- (12) "Orthotist" means a person who is specifically trained and educated to provide or manage the provision of a custom-designed, fabricated, modified and fitted external orthosis to an orthotic patient, based on a clinical assessment and a prescription from a health care practitioner or provider authorized by law to write such prescriptions, to restore physiological function or cosmesis;
- (13) "Over-the-counter device" means a prefabricated, mass-produced device that is prepackaged and requires no professional advice or judgment in either size selection or use, including fabric or elastic supports, corsets, generic arch supports, and elastic hoses;
- (14) "Pedorthic device" means therapeutic footwear, foot orthoses for use at the ankle or below, and modified footwear made for therapeutic purposes, as prescribed by a licensed health care practitioner or provider authorized by law to issue such prescription. "Pedorthic device" does not include nontherapeutic accommodative inlays or nontherapeutic accommodative footwear, regardless of method of manufacture, shoe modifications made for nontherapeutic purposes, unmodified, over-the-counter shoes, or prefabricated foot care products;
- (15) "Pedorthic education program" means a course of instruction accredited by the Board for Certification in Pedorthics, consisting of:
 - (a) A basic curriculum of instruction in foot-related pathology of diseases, anatomy, and biomechanics;
 - (b) A specific curriculum in pedorthic courses, including lectures covering shoes, foot orthoses, and shoe modifications, pedorthic components and materials, training and functional capabilities, pedorthic performance evaluation, prescription considerations, etiology of disease processes necessitating use of pedorthic devices, medical management, and subject matter related to pediatric and geriatric problems; and

(c) Lectures, demonstrations, and laboratory experiences related to the entire process of measuring and casting, fitting, fabricating, aligning, and completing pedorthic devices;

- (16) "Pedorthics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a pedorthic device, under an order from a licensed health care practitioner or provider authorized by law to issue such order for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity;
- (17) "Pedorthist" means a person who measures, designs, fabricates, fits, or services pedorthic devices and assists in the formulation of the order of pedorthic devices, as ordered by a licensed health care practitioner or provider authorized by law to issue such order for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities;
- (18) "Person" means a natural person;
- (19) "Prosthesis" means a custom designed, fabricated, fitted, or modified device to replace an absent external limb, for the purpose of restoring physiological function or cosmesis. "Prosthesis" does not include artificial eyes, ears, or dental appliances, cosmetic devices such as artificial breasts, eyelashes, or wigs, or other devices that do not have a significant impact on the musculoskeletal functions of the body;
- (20) "Prosthetics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a prosthesis, under an order from a licensed health care practitioner or provider authorized by law to issue such order;
- (21) "Prosthetist" means a person who is specifically trained and educated to provide or manage the provision of a custom designed, fabricated, modified, and fitted external limb prosthesis to a prosthetic patient, based on a clinical assessment and a prescription from a health care practitioner or provider authorized to write such prescriptions, to restore physiological function or cosmesis;
- (22) "Prosthetist/Orthotist" means a person who practices both disciplines of prosthetics and orthotics and who represents the person to the public by title or by description of services; and
- (23) "Resident" means a person who has completed an education program in either orthotics or prosthetics and is continuing such person's clinical education in a residency program approved by the board.

SECTION 2. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

There is hereby established the Kentucky Board of Prosthetics, Orthotics, and Pedorthics, which shall consist of five (5) members who shall be appointed by the Governor.

- (1) One (1) member shall be a citizen at large who is not affiliated with and does not have more than five percent (5%) financial interest in any one (1) health care profession or business.
- (2) Four (4) members shall be appointed and vacancies shall be filled from four (4) separate lists of three (3) names each submitted by the Kentucky Orthotics and Prosthetics Association. Each person on this list shall be a licensed orthotist, prosthetist, or pedorthist licensed under this chapter. All shall be residents of Kentucky and shall have engaged in the unrestricted practice of orthotics, prosthetics, or pedorthics within this state for at least two (2) years without disciplinary action.
- (3) All appointments to the board after the effective date of this Act shall be for a term of four (4) years and until their successors are appointed and qualify. No member shall serve for more than two (2) successive terms, or for more than ten (10) consecutive years. The Governor may remove any member of the board for misconduct, incompetence, or neglect of duty.
- (4) The board shall meet at least annually and may meet at such other times as necessary to complete the business required. A majority of the members of the board shall constitute a quorum for the transaction of business. Annually the board shall elect from its membership a chair, a secretary, and a chair-elect.
- (5) There shall be no liability on the part of, and no action for damages against, any current or former board member, representative, agent, or employee of the board, when the person is functioning within the scope of board duties, acting without malice, and with the reasonable belief that the actions taken by him or her are warranted by law.
- (6) Each board member shall receive, in addition to travel, lodging, and other actual and necessary expenses, a per diem not to exceed one hundred twenty dollars (\$120) for each day the member is actually engaged in the discharge of official duties approved by the board. The board shall, by promulgation of administrative regulations, set the amount of the per diem.

SECTION 3. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

The board shall:

- (1) Promulgate administrative regulations to:
- (a) Establish licensure and certification categories and issue licenses for orthotists, prosthetists, and pedorthists, and certificates for certified orthotic fitters;
- (b) Establish the qualifications, educational courses, curriculum, hours, and standards that are prerequisite to issuance of all levels and types of licensure or certification established pursuant to paragraph (a) of this

subsection. Any qualifications established by the board shall include the following:

1. To qualify for a license to practice orthotics or prosthetics, a person shall:
 - a. Possess a baccalaureate degree or semester hours equivalent to four (4) years of study at a four-year college or university;
 - b. Complete the amount of formal training including but not limited to any necessary hours of classroom education and clinical practice required by the board;
 - c. Complete a clinical residency in the professional area for which a license is sought, in accordance with standards, guidelines, or procedures for residencies inside or outside this state established and approved by the board. The majority of training shall be devoted to services performed under the supervision of a licensed practitioner or provider of orthotics or prosthetics or a person who has obtained certification from the American Board for Certification in Orthotics and Prosthetics, Inc. or the Board for Orthotist/Prosthetist Certification;
 - d. Pass all written, practical, and oral examinations that are required and approved by the board; and
 - e. Be qualified to practice in accordance with commonly accepted standards of orthotic and prosthetic care acceptable to the board;
 2. To qualify for a license to practice pedorthics, a person shall:
 - a. Possess a high school diploma or comparable credential approved by the board;
 - b. Complete the amount of formal training including but not limited to any necessary hours of classroom education and clinical practice required by the board;
 - c. Pass all examinations that are required and approved by the board;
 - d. Complete a qualified work experience program or internship in pedorthics, in accordance with standards and procedures established by the board; and
 - e. Be qualified to practice in accordance with commonly accepted standards of pedorthic care acceptable to the board;
 3. To qualify for a license to practice as a certified orthotic fitter, a person shall:
 - a. Possess a high school diploma or comparable credential approved by the board;
 - b. Complete the amount of formal training including but not limited to any necessary hours of classroom education and clinical practice required by the board;
 - c. Pass all examinations that are required and approved by the board;
 - d. Complete a qualified work experience program or internship, in accordance with standards and procedures established by the board; and
 - e. Be qualified to practice in accordance with commonly accepted standards of care acceptable to the board; and
 4. A person may be licensed or certified in more than one discipline;
- (c) Establish the circumstances or conditions, if any, under which persons shall be entitled to exemption from licensure or certification after completion of training, while waiting to take or receive the results of any required examination, or upon meeting specified minimum educational and clinical qualifications;
- (d) Select the examination or examinations to be utilized as the board's licensure or certification examination or examinations and the prerequisites for admission to the examination or examinations. The board is authorized to enter into a contract or agreement with the chosen examination service or services, or select an intermediary between the board and the examination service or services, to process applicants for the examination or examinations;
- (e) Establish any other criteria for issuance of licensure or certification that are reasonably related to the safe and competent performance of prosthetics, orthotics, and pedorthics;
- (f) Accredit continuing education courses;
- (g) 1. Establish the fees to be paid for each of the following:
 - a. Application for licensure or certification;
 - b. Renewal or reinstatement of licensure or certification;
 - c. Late renewal of licensure or certification;
 - d. Application for continuing education course accreditation; and
 - e. Duplicate or replacement license or certificate;
2. The fees shall be set at a level that is adequate to pay all of the expenses of implementing and administering licensure or certification under this chapter;

- (h) Establish the continuing education requirements for license or certificate holders, which shall include the frequency of reporting, number of hours, types of courses, approval of courses, methods of proving compliance, penalties for violation, and all fees necessary for implementation of the continuing education process; and
 - (i) Delineate the standards of practice for persons licensed or certified under this chapter relative to therapeutic footwear and medical devices for the foot and ankle; and
 - (2) Administer and enforce the provisions of this chapter and evaluate the qualifications of license and certificate applicants.

SECTION 4. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

The board may:

- (1) Employ needed personnel and contract with the Division of Occupations and Professions within the Finance and Administration Cabinet for the provision of administrative services;
- (2) Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of this chapter;
- (3) Seek injunctive relief in the Circuit Court of the county where the violation occurred to stop the unlawful practice of prosthetics, orthotics, and pedorthics by unlicensed persons;
- (4) Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the functions of this chapter;
- (5) Suspend or revoke licenses or certificates or impose supervisory or probationary conditions upon licensees or certificate holders, or impose administrative disciplinary fines, issue written reprimands or admonishments, or any combination thereof;
- (6) Grant retired or inactive licensure or certification status under conditions set forth by the board by the promulgation of administrative regulations; and
- (7) Issue advisory private letter rulings to any affected licensee or certificate holder who makes such a request regarding any matters within the board's primary jurisdiction. Any private letter ruling shall affect only the person making the inquiry and shall have no precedential value for any other inquiry or future contested case that might come before the board. Any dispute regarding a private letter ruling may, if the board chooses to do so, be resolved pursuant to KRS Chapter 13B.

SECTION 5. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) Any license or certificate issued by the board shall contain the name of the person to whom it is issued, the address of the person, the date and number of the license or certificate, and other information the board deems necessary. The address contained on the license or certificate shall be the address where all correspondence and renewal forms from the board shall be sent. Any person whose address changes shall, within thirty (30) days after the address change, notify the board of the address change. The most recent address contained in the board's records for each license or certificate holder shall be the address deemed sufficient for purposes of service of process.
- (2) Every licensee or certificate holder shall either keep his or her license or certificate prominently displayed in the office or place in which the licensee or certificate holder practices or have it stored in a place from which it can be immediately produced upon request of a patient or a representative of the board.
- (3) Any person whose license or certificate has been lost or destroyed may make application to the board for a replacement. This application shall be accompanied by an affidavit setting out the facts concerning the loss or destruction of the original license or certificate and the payment of a reasonable replacement fee as established by the board in subsection (1)(g) of Section 3 of this Act.
- (4) Any person whose name is changed by marriage or court order may surrender the person's license or certificate and apply to the board for a replacement license or certificate.

SECTION 6. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) On and after July 1, 2009, no person shall practice any profession governed by this chapter, or hold out as being able to practice any such profession, or dispense an orthosis, prosthesis, or pedorthic device, unless such person is licensed or certified by the board.
- (2) Until July 1, 2009, a person certified by the American Board for Certification in Orthotics and Prosthetics, Inc., with the title of Certified Orthotist (CO), Certified Prosthetist (CP), or Certified Orthotist-Prosthetist (CPO), or by the Board for Orthotist/Prosthetist Certification with the title of Board of Orthotic Certification -- Orthotist (BOCO) or Board of Certification -- Prosthetist (BOCP), or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards, may apply for and may be granted orthotic or prosthetic licensure by the board, upon payment of the required fee. After July 1, 2009, any applicant for initial licensure as an orthotist or a prosthetist shall meet the requirements of this chapter regarding the applicable license.
- (3) Until July 1, 2009, a person certified as a Certified Pedorthist (CPED) by the Board of Certification in Pedorthics, Inc., or a person certified as a CO, CP or CPO by the American Board for Certification in Orthotics and Prosthetics, Inc., or certified as a BOCO or BOCP by the Board for Orthotist/Prosthetist Certification, or holding similar certifications

from other accrediting bodies with equivalent educational requirements and examination standards, may apply for and may be granted pedorthic licensure under this chapter, upon payment of the required fee. After that date, any applicant for initial licensure as a pedorthist shall meet the requirements of the board regarding licensure.

- (4) Notwithstanding any other provision of this chapter to the contrary, a person who has practiced full time for a minimum of the past five (5) years in a prosthetic/orthotic facility as an orthotist or prosthetist, or in a pedorthic facility as a pedorthist, may file an application with the board before July 1, 2008, in order to continue to practice orthotics, prosthetics, or pedorthics, and may be issued a license to practice orthotics, prosthetics, or pedorthics by the board without examination, upon the board's receipt of payment of the required licensing fee and after the board has completed an investigation of the applicant's work history. The investigation may include but is not limited to completion by the applicant of a questionnaire regarding the applicant's work history and scope of practice.

SECTION 7. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

A licensee or certificate holder may provide care or services only if the care or services are provided pursuant to an order from:

- (1) A licensed health care practitioner authorized to issue such an order; or
(2) A licensed physician, if the care or services are eligible for reimbursement from Medicare, Medicaid, or health insurance.

SECTION 8. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) The scope of practice of a licensee or certificate holder shall not include the right to diagnose a medical problem or condition, or the right to give medical advice as to the nature, cause, or treatment for the problem or condition for which the orthotic, prosthetic, or pedorthic device is being dispensed. However, the scope of practice of a licensee or certificate holder does include the right to provide information or demonstration regarding the proper use and care of the device and to make adjustments to the device as needed.
(2) No person shall dispense or sell an over-the-counter device, based upon an image of the customer's limb captured by the person through a mold, cast, scanning device, digital appliance, or pressure sensitive device, unless the customer has first presented to that person a written prescription for that device from a health care practitioner or provider authorized by law to write such a prescription.

SECTION 9. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

Nothing in this chapter or in the administrative regulations promulgated by the board pursuant to this chapter shall be interpreted to limit or restrict:

- (1) A licensed health care practitioner or provider from engaging in the full scope of practice authorized by the license for that person's profession, training, or services;
(2) A person licensed as a physical therapist under KRS Chapter 327 or as an occupational therapist under KRS Chapter 319A from engaging in that person's profession pursuant to his or her education and training;
(3) A person certified as an athletic trainer under KRS Chapter 311 from engaging in that person's profession pursuant to his or her education and training;
(4) A person licensed as a physician under KRS Chapter 311 from engaging in that person's profession pursuant to his or her education and training;
(5) A person licensed as a chiropractor under KRS Chapter 312 from engaging in that person's profession pursuant to his or her education and training;
(6) A person licensed as a pharmacist under KRS Chapter 315 from engaging in that person's profession pursuant to his or her education and training;
(7) Individuals acting under the supervision and control of a licensed pharmacist or pharmacy from measuring, fitting or adjusting any non-custom fabricated and fitted device including but not limited to over-the-counter devices, so long as such individual does not create a cast, mold, or scan of a part of the human body for the purpose of constructing a medical device to treat a patient's medical condition, and so long as such individual meets one (1) of the following criteria for the device:
(a) Documented training from a manufacturer or training from a licensed or certified orthotist, prosthetist, or pedorthist;
(b) Certification or registration as a fitter of orthotic, prosthetic, or pedorthic devices from a nationally recognized board or association such as the Board for Orthotist/Prosthetist Certification (BOC), the Board of Certification for Pedorthists, the National Community Pharmacists Association (NCPA), or the American Board for Certification in Orthotics and Prosthetics (ABC); or
(c) Direct supervision by a trained and experienced, or certified, or registered, fitter of orthotic, prosthetic, or pedorthic devices; or
(8) Individuals acting under the supervision and control of a licensed pharmacist or pharmacy from measuring, fitting or adjusting any non-custom fabricated and fitted pedorthic devices including but not limited to diabetic shoes, so long as such individual meets the criteria of either subsection (7)(a) or (7)(b) of this section, and so long as the individual does

not create a cast, mold, or scan of a part of the human body for the purpose of constructing a medical device to treat a patient's medical problem.

SECTION 10. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

This chapter shall not apply to:

- (1) The practice of orthotics, prosthetics, or pedorthics by a person who is employed by the federal government or any bureau, division, or agency of the federal government while in the discharge of the employee's official duties;
- (2) The practice of orthotics, prosthetics, or pedorthics by:
 - (a) A student enrolled in a school of orthotics, prosthetics, or pedorthics;
 - (b) A resident continuing his or her clinical education in a residency accredited by the National Commission on Orthotic and Prosthetic Education;
 - (c) A student in a qualified work experience program or internship in pedorthics; or
 - (d) A physician licensed under KRS Chapter 311; or
- (3) The measuring, fitting, or adjusting of an orthotic device by an employee or authorized representative of an orthosis manufacturer registered with the federal food and drug administration, when the employee or representative is supervised by a licensed health care professional authorized by law to prescribe, measure, or fit the device, and the measuring, fitting, or adjusting of the device occurs in the office of the licensed health care professional or in a health care facility.

SECTION 11. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

No person shall profess to be a licensee or certificate holder, or practice or assume the duties incident to a license issued under this chapter, or use the title "orthotist," "prosthetist," "pedorthist," "certified orthotic fitter," or any words or letters which designate or tend to designate to the public that the person is an orthotist, prosthetist, pedorthist, or certified orthotic fitter, unless he or she holds a valid, current license or certificate from the board.

SECTION 12. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) Every license or certificate issued under this chapter shall expire on June 30 following the date of issuance unless sooner revoked and canceled.
- (2) On or before June 1 of each year, the board shall send notices to all licensee or certificate holders, at their last known addresses, advising them that the annual renewal fee is due on July 1 of each year. Every licensee or certificate holder shall renew his or her license or certificate on or before July 1 of each year by the payment to the board of an annual renewal fee which shall be a reasonable fee set by regulation of the board and upon submission of a statement of compliance with the continuing education regulations of the board. If this renewal fee is not paid or such statement of compliance is not submitted on or before July 1, the board shall notify the delinquent licensee or certificate holder by mail at his or her last known address that the fee and statement are past due and that a delinquent penalty fee is assessed, in addition to the renewal fee, and that the renewal fee and penalty must be paid and the statement of compliance submitted on or before January 1. If such fees, penalties, and statement are not submitted by January 1, it shall be the duty of the board to suspend or revoke the license or certificate for nonpayment of the annual renewal and delinquent fees or for failure to submit the statement of compliance for the current year.
- (3) All fees collected under the provisions of this chapter, or the rules and regulations adopted pursuant thereto, shall be paid into the State Treasury, and credited to a trust and agency fund to be used in defraying the costs and expenses in the administration of this chapter, including but not limited to salaries and necessary travel expenses. No part of this fund shall revert to the general funds of this Commonwealth.

SECTION 13. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

The board is authorized in its sound discretion to:

- (1) Enter into reciprocal agreements with corresponding boards of other states having qualifications and standards at least as high as those of this state, providing for reciprocal licensure or certification without further examination of persons who have been duly licensed or certified upon written examination. Approval of such agreements by the Governor, or any other officer or agency of this state, shall not be required; and
- (2) Issue licenses or certificates by reciprocity or endorsement, and without further examination, to persons who have been duly licensed or certified upon written examination in another state having qualifications and standards at least as high as those of this state, or who have successfully passed the appropriate national examination.

SECTION 14. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) The board may deny or refuse to renew a license or certificate, may suspend or revoke a license or certificate, or may impose probationary conditions where the licensee, certificate holder, or applicant for licensure or certification has engaged in unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include:
 - (a) Obtaining a license or certificate by means of fraud, misrepresentation, or concealment of material facts;
 - (b) Unprofessional conduct as defined by administrative regulations promulgated by the board or violating the code

of ethics promulgated by the board;

- (c) Being convicted of a felony in any court if the act or acts for which the applicant, licensee, or certificate holder was convicted are found by the board to have a direct bearing on whether he or she should be entrusted to serve the public in the capacity of the licensed or certified profession;
- (d) Violating any lawful order or administrative regulation rendered or promulgated by the board; or
- (e) Violating any provision of this chapter.
- (2) A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license or certificate may be ordered by the board in a decision made after an administrative hearing conducted in accordance with KRS Chapter 13B and administrative regulations promulgated by the board. The board shall have discretion to accept or reject an application for reinstatement following an administrative hearing conducted in accordance with KRS Chapter 13B.
- (3) The surrender of a license or certificate shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions under this chapter.

SECTION 15. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

Fees shall be collected and determined by the board for the following:

- (1) Licensed orthotist, prosthetist, or pedorthist:
 - (a) Initial license fee, not to exceed three hundred dollars (\$300);
 - (b) License renewal fee, not to exceed three hundred dollars (\$300);
 - (c) Late renewal fees, not to exceed one hundred dollars (\$100);
 - (d) Reinstatement fee, not to exceed three hundred dollars (\$300);
 - (e) Duplicate license fee, not to exceed twenty-five dollars (\$25); and
 - (f) Continuing education course accreditation fee, not to exceed fifty dollars (\$50); and
- (2) Certified orthotic fitter:
 - (a) Initial certificate fee, not to exceed one hundred fifty dollars (\$150);
 - (b) Certificate renewal fee, not to exceed one hundred fifty dollars (\$150);
 - (c) Late renewal fees, not to exceed fifty dollars (\$50);
 - (d) Reinstatement fee, not to exceed one hundred fifty dollars (\$150);
 - (e) Duplicate certificate fee, not to exceed ten dollars (\$10); and
 - (f) Continuing education course accreditation fee, not to exceed twenty-five dollars (\$25).

SECTION 16. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) Until July 1, 2009, any person who practices as a certified orthotic fitter, orthotist, prosthetist, or pedorthist in violation of this chapter shall be subject to only a warning for the first offense. The person shall be granted thirty (30) days to comply with the provisions of this chapter. Any subsequent offenses committed at any time shall be subject to the relevant penalties in subsection (2) of this section.
- (2) Except as otherwise indicated in subsection (1) of this section, any person violating any provision of this chapter shall be fined not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or imprisoned for not more than six (6) months, or both.

The House Committee Substitute to SB 30 is as follows:

SB 30, AN ACT relating to prosthetics, orthotics, and pedorthics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 319B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

- (1) "Board" means the Kentucky Board of Prosthetics, Orthotics, and Pedorthics;
- (2) "Certified orthotic fitter" means a person who is certified under this chapter to fit the following non-custom orthotic devices:
 - (a) Cervical orthoses not requiring more than minor modification;
 - (b) Pressure gradient hose;
 - (c) Trusses;
 - (d) Prefabricated spinal orthoses, except those used in the treatment of scoliosis, rigid body jackets made of thermoformable materials, and "halo" devices; and

- (e) Prefabricated orthoses of upper and lower extremities, except those used in the treatment of bone fractures;
- (3) "Custom fabricated and fitted device" means an orthosis, prosthesis, or pedorthic device that is fabricated to original measurements, or to a mold for use by a patient in accordance with a prescription from a health care practitioner or provider authorized by law to write such prescriptions, and that requires substantial clinical and technical judgment in its design and fitting;
- (4) "Custom fitted device" means a prefabricated orthosis, prosthesis, or pedorthic device sized or modified for use by the patient in accordance with a prescription from a health care practitioner or provider authorized by law to write such prescriptions that requires substantial clinical judgment and substantive alteration for appropriate use;
- (5) "Facility" means the business location where orthotic, prosthetic, or pedorthic care is provided. In the case of an orthotic/prosthetic facility, the orthotic/prosthetic facility has the appropriate clinical and laboratory space and equipment to provide comprehensive orthotic or prosthetic care; and, in the case of a pedorthic facility, the pedorthic facility has the appropriate clinical space and equipment to provide pedorthic care. Licensed orthotists, prosthetists, and pedorthists must be available to either provide care or to supervise the provision of care by nonlicensed staff;
- (6) "Licensed orthotist" means a person who is licensed under this chapter to practice orthotics and who represents the person to the public by title or description of services that includes the term "orthotic," "orthotist," "brace," or a similar title or description of services;
- (7) "Licensed pedorthist" means a person who is licensed under this chapter to practice pedorthics and who represents the person to the public by the title or description of services that includes the term "pedorthic," "pedorthist," or a similar title or description of services;
- (8) "Licensed prosthetist" means a person who is licensed under this chapter to practice prosthetics and who represents the person to the public by title or description of services that includes the term "prosthetic," "prosthetist," "artificial limb," or a similar title or description of services;
- (9) "Orthosis" means a custom-designed, fabricated, fitted, or modified device to correct, support, or compensate for a neuro-musculoskeletal disorder or acquired condition. "Orthosis" does not include fabric or elastic supports, corsets, arch supports, low-temperature plastic splints, trusses, elastic hoses, canes, crutches, soft cervical collars, dental appliances, or other similar devices that are carried in stock and sold without modification as "over-the-counter" items by a drug store, department store, corset shop, or surgical supply facility;
- (10) "Orthotic and prosthetic education program" means a course of instruction accredited by the Commission on Accreditation of Allied Health Education Programs, consisting of:
- (a) An adequate curriculum of college level training and instruction in math, physics, biology, chemistry, and psychology; and
- (b) A specific curriculum in orthotic or prosthetic courses, including:
1. Lectures covering pertinent anatomy, biomechanics, pathomechanics, prosthetic-orthotic components and materials, training and functional capabilities, prosthetic or orthotic performance evaluation, prescription considerations, etiology of amputations and disease processes necessitating prosthetic or orthotic use, and medical management;
 2. Subject matter related to pediatric and geriatric problems;
 3. Instruction in acute care techniques, such as immediate and early postsurgical prosthetics and fracture bracing techniques; and
 4. Lectures, demonstrations, and laboratory experiences related to the entire process of measuring, casting, fitting, fabricating, aligning, and completing prostheses or orthoses;
- (11) "Orthotics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing an orthosis, under an order from a licensed health care practitioner or provider authorized by law to issue such an order, for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity;
- (12) "Orthotist" means a person who is specifically trained and educated to provide or manage the provision of a custom-designed, fabricated, modified and fitted external orthosis to an orthotic patient, based on a clinical assessment and a prescription from a health care practitioner or provider authorized by law to write such prescriptions, to restore physiological function or cosmesis;
- (13) "Over-the-counter device" means a prefabricated, mass-produced device that is prepackaged and requires no professional advice or judgment in either size selection or use, including fabric or elastic supports, corsets, generic arch supports, and elastic hoses;
- (14) "Pedorthic device" means therapeutic footwear, foot orthoses for use at the ankle or below, and modified footwear made for therapeutic purposes, as prescribed by a licensed health care practitioner or provider authorized by law to issue such prescription. "Pedorthic device" does not include nontherapeutic accommodative inlays or nontherapeutic accommodative footwear, regardless of method of manufacture, shoe modifications made for nontherapeutic purposes, unmodified, over-the-counter shoes, or prefabricated foot care products;

- (15) "Pedorthic education program" means a course of instruction accredited by the Board for Certification in Pedorthics, consisting of:
- (a) A basic curriculum of instruction in foot-related pathology of diseases, anatomy, and biomechanics;
 - (b) A specific curriculum in pedorthic courses, including lectures covering shoes, foot orthoses, and shoe modifications, pedorthic components and materials, training and functional capabilities, pedorthic performance evaluation, prescription considerations, etiology of disease processes necessitating use of pedorthic devices, medical management, and subject matter related to pediatric and geriatric problems; and
 - (c) Lectures, demonstrations, and laboratory experiences related to the entire process of measuring and casting, fitting, fabricating, aligning, and completing pedorthic devices;
- (16) "Pedorthics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a pedorthic device, under an order from a licensed health care practitioner or provider authorized by law to issue such order for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity;
- (17) "Pedorthist" means a person who measures, designs, fabricates, fits, or services pedorthic devices and assists in the formulation of the order of pedorthic devices, as ordered by a licensed health care practitioner or provider authorized by law to issue such order for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities;
- (18) "Person" means a natural person;
- (19) "Prosthesis" means a custom designed, fabricated, fitted, or modified device to replace an absent external limb, for the purpose of restoring physiological function or cosmesis. "Prosthesis" does not include artificial eyes, ears, or dental appliances, cosmetic devices such as artificial breasts, eyelashes, or wigs, or other devices that do not have a significant impact on the musculoskeletal functions of the body;
- (20) "Prosthetics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a prosthesis, under an order from a licensed health care practitioner or provider authorized by law to issue such order;
- (21) "Prosthetist" means a person who is specifically trained and educated to provide or manage the provision of a custom designed, fabricated, modified, and fitted external limb prosthesis to a prosthetic patient, based on a clinical assessment and a prescription from a health care practitioner or provider authorized to write such prescriptions, to restore physiological function or cosmesis;
- (22) "Prosthetist/Orthotist" means a person who practices both disciplines of prosthetics and orthotics and who represents the person to the public by title or by description of services; and
- (23) "Resident" means a person who has completed an education program in either orthotics or prosthetics and is continuing such person's clinical education in a residency program approved by the board.

SECTION 2. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

There is hereby established the Kentucky Board of Prosthetics, Orthotics, and Pedorthics, which shall consist of five (5) members who shall be appointed by the Governor.

- (1) One (1) member shall be a citizen at large who is not affiliated with and does not have more than five percent (5%) financial interest in any one (1) health care profession or business.
- (2) Four (4) members shall be appointed and vacancies shall be filled from four (4) separate lists of three (3) names each submitted by the Kentucky Orthotics and Prosthetics Association. Each person on this list shall be a licensed orthotist, prosthetist, or pedorthist licensed under this chapter. All shall be residents of Kentucky and shall have engaged in the unrestricted practice of orthotics, prosthetics, or pedorthics within this state for at least two (2) years without disciplinary action. At least one (1) board member appointed under this subsection shall be a licensed pedorthist.
- (3) All appointments to the board after the effective date of this Act shall be for a term of four (4) years and until their successors are appointed and qualify. No member shall serve for more than two (2) successive terms, or for more than ten (10) consecutive years. The Governor may remove any member of the board for misconduct, incompetence, or neglect of duty.
- (4) The board shall meet at least annually and may meet at such other times as necessary to complete the business required. A majority of the members of the board shall constitute a quorum for the transaction of business. Annually the board shall elect from its membership a chair, a secretary, and a chair-elect.
- (5) There shall be no liability on the part of, and no action for damages against, any current or former board member, representative, agent, or employee of the board, when the person is functioning within the scope of board duties, acting without malice, and with the reasonable belief that the actions taken by him or her are warranted by law.
- (6) Each board member shall receive, in addition to travel, lodging, and other actual and necessary expenses, a per diem not to exceed one hundred twenty dollars (\$120) for each day the member is actually engaged in the discharge of official duties approved by the board. The board shall, by promulgation of administrative regulations, set the amount of the per diem.

SECTION 3. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

The board shall:

(1) Promulgate administrative regulations to:

- (a) Establish licensure and certification categories and issue licenses for orthotists, prosthetists, and pedorthists, and certificates for certified orthotic fitters;
- (b) Establish the qualifications, educational courses, curriculum, hours, and standards that are prerequisite to issuance of all levels and types of licensure or certification established pursuant to paragraph (a) of this subsection. Any qualifications established by the board shall include the following:
 - 1. To qualify for a license to practice orthotics or prosthetics, a person shall:
 - a. Possess a baccalaureate degree or semester hours equivalent to four (4) years of study at a four-year college or university;
 - b. Complete the amount of formal training including but not limited to any necessary hours of classroom education and clinical practice required by the board;
 - c. Complete a clinical residency in the professional area for which a license is sought, in accordance with standards, guidelines, or procedures for residencies inside or outside this state established and approved by the board. The majority of training shall be devoted to services performed under the supervision of a licensed practitioner or provider of orthotics or prosthetics or a person who has obtained certification from the American Board for Certification in Orthotics and Prosthetics, Inc. or the Board for Orthotist/Prosthetist Certification;
 - d. Pass all written, practical, and oral examinations that are required and approved by the board; and
 - e. Be qualified to practice in accordance with commonly accepted standards of orthotic and prosthetic care acceptable to the board;
 - 2. To qualify for a license to practice pedorthics, a person shall:
 - a. Possess a high school diploma or comparable credential approved by the board;
 - b. Complete the amount of formal training including but not limited to any necessary hours of classroom education and clinical practice required by the board;
 - c. Pass all examinations that are required and approved by the board;
 - d. Complete a qualified work experience program or internship in pedorthics, in accordance with standards and procedures established by the board; and
 - e. Be qualified to practice in accordance with commonly accepted standards of pedorthic care acceptable to the board;
 - 3. To qualify for a license to practice as a certified orthotic fitter, a person shall:
 - a. Possess a high school diploma or comparable credential approved by the board;
 - b. Complete the amount of formal training including but not limited to any necessary hours of classroom education and clinical practice required by the board;
 - c. Pass all examinations that are required and approved by the board;
 - d. Complete a qualified work experience program or internship, in accordance with standards and procedures established by the board; and
 - e. Be qualified to practice in accordance with commonly accepted standards of care acceptable to the board; and
 - 4. A person may be licensed or certified in more than one discipline;
- (c) Establish the circumstances or conditions, if any, under which persons shall be entitled to exemption from licensure or certification after completion of training, while waiting to take or receive the results of any required examination, or upon meeting specified minimum educational and clinical qualifications;
- (d) Select the examination or examinations to be utilized as the board's licensure or certification examination or examinations and the prerequisites for admission to the examination or examinations. The board is authorized to enter into a contract or agreement with the chosen examination service or services, or select an intermediary between the board and the examination service or services, to process applicants for the examination or examinations;
- (e) Establish any other criteria for issuance of licensure or certification that are reasonably related to the safe and competent performance of prosthetics, orthotics, and pedorthics;
- (f) Accredit continuing education courses;
- (g) 1. Establish the fees to be paid for each of the following:
 - a. Application for licensure or certification;

- b. Renewal or reinstatement of licensure or certification;
- c. Late renewal of licensure or certification;
- d. Application for continuing education course accreditation; and
- e. Duplicate or replacement license or certificate;
- 2. The fees shall be set at a level that is adequate to pay all of the expenses of implementing and administering licensure or certification under this chapter;
- (h) Establish the continuing education requirements for license or certificate holders, which shall include the frequency of reporting, number of hours, types of courses, approval of courses, methods of proving compliance, penalties for violation, and all fees necessary for implementation of the continuing education process; and
- (i) Delineate the standards of practice for persons licensed or certified under this chapter relative to therapeutic footwear and medical devices for the foot and ankle; and
- (2) Administer and enforce the provisions of this chapter and evaluate the qualifications of license and certificate applicants.

SECTION 4. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

The board may:

- (1) Employ needed personnel and contract with the Division of Occupations and Professions within the Finance and Administration Cabinet for the provision of administrative services;
- (2) Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of this chapter;
- (3) Seek injunctive relief in the Circuit Court of the county where the violation occurred to stop the unlawful practice of prosthetics, orthotics, and pedorthics by unlicensed persons;
- (4) Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the functions of this chapter;
- (5) Suspend or revoke licenses or certificates or impose supervisory or probationary conditions upon licensees or certificate holders, or impose administrative disciplinary fines, issue written reprimands or admonishments, or any combination thereof;
- (6) Grant retired or inactive licensure or certification status under conditions set forth by the board by the promulgation of administrative regulations; and
- (7) Issue advisory private letter rulings to any affected licensee or certificate holder who makes such a request regarding any matters within the board's primary jurisdiction. Any private letter ruling shall affect only the person making the inquiry and shall have no precedential value for any other inquiry or future contested case that might come before the board. Any dispute regarding a private letter ruling may, if the board chooses to do so, be resolved pursuant to KRS Chapter 13B.

SECTION 5. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) Any license or certificate issued by the board shall contain the name of the person to whom it is issued, the address of the person, the date and number of the license or certificate, and other information the board deems necessary. The address contained on the license or certificate shall be the address where all correspondence and renewal forms from the board shall be sent. Any person whose address changes shall, within thirty (30) days after the address change, notify the board of the address change. The most recent address contained in the board's records for each license or certificate holder shall be the address deemed sufficient for purposes of service of process.
- (2) Every licensee or certificate holder shall either keep his or her license or certificate prominently displayed in the office or place in which the licensee or certificate holder practices or have it stored in a place from which it can be immediately produced upon request of a patient or a representative of the board.
- (3) Any person whose license or certificate has been lost or destroyed may make application to the board for a replacement. This application shall be accompanied by an affidavit setting out the facts concerning the loss or destruction of the original license or certificate and the payment of a reasonable replacement fee as established by the board in subsection (1)(g) of Section 3 of this Act.
- (4) Any person whose name is changed by marriage or court order may surrender the person's license or certificate and apply to the board for a replacement license or certificate.

SECTION 6. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) On and after July 1, 2009, no person shall practice any profession governed by this chapter, or hold out as being able to practice any such profession, or dispense an orthosis, prosthesis, or pedorthic device, unless such person is licensed or certified by the board.
- (2) Until July 1, 2009, a person certified by the American Board for Certification in Orthotics and Prosthetics, Inc., with the title of Certified Orthotist (CO), Certified Prosthetist (CP), or Certified Orthotist-Prosthetist (CPO), or by the Board for Orthotist/Prosthetist Certification with the title of Board of Orthotic Certification – Orthotist (BOCO) or Board of

Certification -- Prosthetist (BOCP), or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards, may apply for and may be granted orthotic or prosthetic licensure by the board, upon payment of the required fee. After July 1, 2009, any applicant for initial licensure as an orthotist or a prosthetist shall meet the requirements of this chapter regarding the applicable license.

- (3) Until July 1, 2009, a person certified as a Certified Pedorthist (CPED) by the Board of Certification in Pedorthics, Inc., or a person certified as a CO, CP or CPO by the American Board for Certification in Orthotics and Prosthetics, Inc., or certified as a BOCO or BOCP by the Board for Orthotist/Prosthetist Certification, or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards, may apply for and may be granted pedorthic licensure under this chapter, upon payment of the required fee. After that date, any applicant for initial licensure as a pedorthist shall meet the requirements of the board regarding licensure.
- (4) Notwithstanding any other provision of this chapter to the contrary, a person who has practiced full time for a minimum of the past five (5) years in a prosthetic/orthotic facility as an orthotist or prosthetist, or in a pedorthic facility as a pedorthist, may file an application with the board before July 1, 2008, in order to continue to practice orthotics, prosthetics, or pedorthics, and may be issued a license to practice orthotics, prosthetics, or pedorthics by the board without examination, upon the board's receipt of payment of the required licensing fee and after the board has completed an investigation of the applicant's work history. The investigation may include but is not limited to completion by the applicant of a questionnaire regarding the applicant's work history and scope of practice.

SECTION 7. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

A licensee or certificate holder may provide care or services only if the care or services are provided pursuant to an order from:

- (1) A licensed health care practitioner authorized to issue such an order; or
- (2) A licensed physician, if the care or services are eligible for reimbursement from Medicare, Medicaid, or health insurance.

SECTION 8. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) The scope of practice of a licensee or certificate holder shall not include the right to diagnose a medical problem or condition, or the right to give medical advice as to the nature, cause, or treatment for the problem or condition for which the orthotic, prosthetic, or pedorthic device is being dispensed. However, the scope of practice of a licensee or certificate holder does include the right to provide information or demonstration regarding the proper use and care of the device and to make adjustments to the device as needed.
- (2) No person shall dispense or sell an over-the-counter device, based upon an image of the customer's limb captured by the person through a mold, cast, scanning device, digital appliance, or pressure sensitive device, unless the customer has first presented to that person a written prescription for that device from a health care practitioner or provider authorized by law to write such a prescription.

SECTION 9. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

Nothing in this chapter or in the administrative regulations promulgated by the board pursuant to this chapter shall be interpreted to limit or restrict:

- (1) A licensed health care practitioner or provider from engaging in the full scope of practice authorized by the license for that person's profession, training, or services;
- (2) A person licensed as a physical therapist under KRS Chapter 327 or as an occupational therapist under KRS Chapter 319A from engaging in that person's profession pursuant to his or her education and training;
- (3) A person certified as an athletic trainer under KRS Chapter 311 from engaging in that person's profession pursuant to his or her education and training;
- (4) A person licensed as a physician under KRS Chapter 311 from engaging in that person's profession pursuant to his or her education and training;
- (5) A person licensed as a chiropractor under KRS Chapter 312 from engaging in that person's profession pursuant to his or her education and training;
- (6) A person licensed as a pharmacist under KRS Chapter 315 from engaging in that person's profession pursuant to his or her education and training;
- (7) Individuals acting under the supervision and control of a licensed pharmacist or pharmacy from measuring, fitting or adjusting any non-custom fabricated and fitted device including but not limited to over-the-counter devices, so long as such individual does not create a cast, mold, or scan of a part of the human body for the purpose of constructing a medical device to treat a patient's medical condition, and so long as such individual meets one (1) of the following criteria for the device:
 - (a) Documented training from a manufacturer or training from a licensed or certified orthotist, prosthetist, or pedorthist;
 - (b) Certification or registration as a fitter of orthotic, prosthetic, or pedorthic devices from a nationally recognized board or association such as the Board for Orthotist/Prosthetist Certification (BOC), the Board of Certification

for Pedorthists, the National Community Pharmacists Association (NCPA), or the American Board for Certification in Orthotics and Prosthetics (ABC); or

(c) Direct supervision by a trained and experienced, or certified, or registered, fitter of orthotic, prosthetic, or pedorthic devices; or

(8) Individuals acting under the supervision and control of a licensed pharmacist or pharmacy from measuring, fitting or adjusting any non-custom fabricated and fitted pedorthic devices including but not limited to diabetic shoes, so long as such individual meets the criteria of either subsection (7)(a) or (7)(b) of this section, and so long as the individual does not create a cast, mold, or scan of a part of the human body for the purpose of constructing a medical device to treat a patient's medical problem.

SECTION 10. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

This chapter shall not apply to:

(1) The practice of orthotics, prosthetics, or pedorthics by a person who is employed by the federal government or any bureau, division, or agency of the federal government while in the discharge of the employee's official duties;

(2) The practice of orthotics, prosthetics, or pedorthics by:

(a) A student enrolled in a school of orthotics, prosthetics, or pedorthics;

(b) A resident continuing his or her clinical education in a residency accredited by the National Commission on Orthotic and Prosthetic Education;

(c) A student in a qualified work experience program or internship in pedorthics; or

(d) A physician licensed under KRS Chapter 311; or

(3) The measuring, fitting, or adjusting of an orthotic device by an employee or authorized representative of an orthosis manufacturer registered with the federal food and drug administration, when the employee or representative is supervised by a licensed health care professional authorized by law to prescribe, measure, or fit the device, and the measuring, fitting, or adjusting of the device occurs in the office of the licensed health care professional or in a health care facility.

SECTION 11. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

No person shall profess to be a licensee or certificate holder, or practice or assume the duties incident to a license issued under this chapter, or use the title "orthotist," "prosthetist," "pedorthist," "certified orthotic fitter," or any words or letters which designate or tend to designate to the public that the person is an orthotist, prosthetist, pedorthist, or certified orthotic fitter, unless he or she holds a valid, current license or certificate from the board.

SECTION 12. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

(1) Every license or certificate issued under this chapter shall expire on June 30 following the date of issuance unless sooner revoked and canceled.

(2) On or before June 1 of each year, the board shall send notices to all licensee or certificate holders, at their last known addresses, advising them that the annual renewal fee is due on July 1 of each year. Every licensee or certificate holder shall renew his or her license or certificate on or before July 1 of each year by the payment to the board of an annual renewal fee which shall be a reasonable fee set by regulation of the board and upon submission of a statement of compliance with the continuing education regulations of the board. If this renewal fee is not paid or such statement of compliance is not submitted on or before July 1, the board shall notify the delinquent licensee or certificate holder by mail at his or her last known address that the fee and statement are past due and that a delinquent penalty fee is assessed, in addition to the renewal fee, and that the renewal fee and penalty must be paid and the statement of compliance submitted on or before January 1. If such fees, penalties, and statement are not submitted by January 1, it shall be the duty of the board to suspend or revoke the license or certificate for nonpayment of the annual renewal and delinquent fees or for failure to submit the statement of compliance for the current year.

(3) All fees collected under the provisions of this chapter, or the rules and regulations adopted pursuant thereto, shall be paid into the State Treasury, and credited to a trust and agency fund to be used in defraying the costs and expenses in the administration of this chapter, including but not limited to salaries and necessary travel expenses. No part of this fund shall revert to the general funds of this Commonwealth.

SECTION 13. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

The board is authorized in its sound discretion to:

(1) Enter into reciprocal agreements with corresponding boards of other states having qualifications and standards at least as high as those of this state, providing for reciprocal licensure or certification without further examination of persons who have been duly licensed or certified upon written examination. Approval of such agreements by the Governor, or any other officer or agency of this state, shall not be required; and

(2) Issue licenses or certificates by reciprocity or endorsement, and without further examination, to persons who have been duly licensed or certified upon written examination in another state having qualifications and standards at least as high as those of this state, or who have successfully passed the appropriate national examination.

SECTION 14. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) The board may deny or refuse to renew a license or certificate, may suspend or revoke a license or certificate, or may impose probationary conditions where the licensee, certificate holder, or applicant for licensure or certification has engaged in unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include:
 - (a) Obtaining a license or certificate by means of fraud, misrepresentation, or concealment of material facts;
 - (b) Unprofessional conduct as defined by administrative regulations promulgated by the board or violating the code of ethics promulgated by the board;
 - (c) Being convicted of a felony in any court if the act or acts for which the applicant, licensee, or certificate holder was convicted are found by the board to have a direct bearing on whether he or she should be entrusted to serve the public in the capacity of the licensed or certified profession;
 - (d) Violating any lawful order or administrative regulation rendered or promulgated by the board; or
 - (e) Violating any provision of this chapter.
- (2) A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license or certificate may be ordered by the board in a decision made after an administrative hearing conducted in accordance with KRS Chapter 13B and administrative regulations promulgated by the board. The board shall have discretion to accept or reject an application for reinstatement following an administrative hearing conducted in accordance with KRS Chapter 13B.
- (3) The surrender of a license or certificate shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions under this chapter.

SECTION 15. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

Fees shall be collected and determined by the board for the following:

- (1) Licensed orthotist, prosthetist, or pedorthist:
 - (a) Initial license fee, not to exceed three hundred dollars (\$300);
 - (b) License renewal fee, not to exceed three hundred dollars (\$300);
 - (c) Late renewal fees, not to exceed one hundred dollars (\$100);
 - (d) Reinstatement fee, not to exceed three hundred dollars (\$300);
 - (e) Duplicate license fee, not to exceed twenty-five dollars (\$25); and
 - (f) Continuing education course accreditation fee, not to exceed fifty dollars (\$50); and
- (2) Certified orthotic fitter:
 - (a) Initial certificate fee, not to exceed one hundred fifty dollars (\$150);
 - (b) Certificate renewal fee, not to exceed one hundred fifty dollars (\$150);
 - (c) Late renewal fees, not to exceed fifty dollars (\$50);
 - (d) Reinstatement fee, not to exceed one hundred fifty dollars (\$150);
 - (e) Duplicate certificate fee, not to exceed ten dollars (\$10); and
 - (f) Continuing education course accreditation fee, not to exceed twenty-five dollars (\$25).

SECTION 16. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) Until July 1, 2009, any person who practices as a certified orthotic fitter, orthotist, prosthetist, or pedorthist in violation of this chapter shall be subject to only a warning for the first offense. The person shall be granted thirty (30) days to comply with the provisions of this chapter. Any subsequent offenses committed at any time shall be subject to the relevant penalties in subsection (2) of this section.
- (2) Except as otherwise indicated in subsection (1) of this section, any person violating any provision of this chapter shall be fined not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or imprisoned for not more than six (6) months, or both.

SB 156, AN ACT relating to the Kentucky Board of Licensure and Certification for Dietitians and Nutritionists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 310.041 is amended to read as follows:

The board shall:

- (1) Promulgate administrative regulations in accordance with KRS Chapter 13A implementing the provisions of KRS 310.005, 310.021, 310.031, 310.040, 310.041, 310.042, 310.050, 310.070, and 310.990;
- (2) Issue initial licenses and certificates and license and certificate renewals;

- (3) Notify in writing any person determined by the board to be in violation of this chapter or the administrative regulations promulgated thereunder. The notification shall state that the person may request a hearing by the board within an amount of time specified by the board. If a hearing is requested, the hearing shall be conducted in accordance with KRS Chapter 13B. If the person fails to request the hearing, or if the board determines from the hearing that the person is in violation of this chapter or the administrative regulations promulgated thereunder, the board may apply to the Circuit Court of the county in which the violation occurred for an injunction or other appropriate restraining order to prohibit the continued violation;
- (4) Publish and make available to the public, upon request and for a fee not to exceed the actual cost of printing and mailing, the administrative regulations of the board and the requirements for licensure and certification;
- (5) Establish fees, subject to maximum limitations prescribed in this chapter, in amounts sufficient to pay the expenses of the board directly attributable to the performance of its duties pursuant to the provisions of this chapter;
- (6) Review and approve or reject the qualifications of all applicants for licensure and certification and issue all approved licenses and certificates;
- (7) Collect or receive all fees, fines, and moneys owed pursuant to the provisions of this chapter and to deposit all fees, fines, and moneys into the State Treasury to the credit of a revolving fund for the use of the board. No part of this revolving fund shall revert to the general funds of this Commonwealth;
- (8) Deny, suspend, or revoke the license or certification of or to otherwise discipline or fine, by administrative penalty not to exceed five hundred dollars (\$500), or reprimand a license or certificate holder found guilty of violating any provisions of this chapter or the administrative regulations promulgated thereunder;
- (9) Grant retired or inactive licensure or certification status under conditions set forth in administrative regulations promulgated by the board; and
- (10) Promulgate administrative regulations to establish procedures under which a license or certificate holder may voluntarily relinquish his or her license or certificate and establish conditions for the reinstatement of the license or certificate.

Section 2. KRS 310.050 is amended to read as follows:

- (1) The board, by duly-promulgated administrative regulation, shall establish fees for the application, reinstatement, and renewal of a license or certificate and fees for reciprocal and duplicate licensure or certification.
- (2) No fee shall exceed fifty (\$50).
- (3) A license or certificate shall be renewed annually and only upon timely payment of the renewal fee and documented successful completion of continuing education consistent with the requirements of the Commission on Dietetic Registration.
- (4) A licensee or certificate holder who fails to renew his or her license or certificate within sixty (60) days after renewal becomes due shall have ~~the~~^{his} license or certificate automatically revoked without further notice or hearing. Any person whose license or certificate is automatically revoked as provided in this subsection may have ~~the~~^{his} license or certificate reinstated by the board in its discretion upon payment of all past-due renewal fees and a reinstatement fee.
- (5) Subsections (3) and (4) of this section shall not apply if the board has granted the license or certificate holder a special license or certificate status under subsection (9) or (10) of Section 1 of this Act.

SB 134, AN ACT relating to cigarettes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 8 of this Act:

- (1) "Cigarette" means any roll for smoking, whether made wholly or in part of tobacco or any other substance, irrespective of size or shape, and whether or not the tobacco or substance is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material except tobacco;
- (2) "Manufacturer" means:
 - (a) Any entity which manufactures or otherwise produces cigarettes or causes cigarettes to be manufactured or produced anywhere that the manufacturer intends to be sold in this state, including cigarettes intended to be sold in the United States through an importer;
 - (b) The first purchaser anywhere that intends to resell in the United States cigarettes manufactured anywhere that the original manufacturer or maker does not intend to be sold in the United States; or
 - (c) Any entity that becomes a successor of an entity described in paragraphs (a) and (b) of this subsection;
- (3) "Quality control and quality assurance program" means the laboratory procedures implemented to ensure that operator bias, systematic and nonsystematic methodological errors, and equipment-related problems do not affect the results of the testing. The program shall ensure that the testing repeatability remains within the required repeatability

values stated in paragraph (f) of subsection (1) of Section 2 of this Act for all test trials used to certify cigarettes in accordance with Sections 1 to 8 of this Act;

- (4) "Repeatability" means the range of values within which the repeat results of cigarette test trials from a single laboratory will fall ninety-five percent (95%) of the time;
- (5) "Retailer" means any person who sells to a consumer or to any person for any purpose other than resale;
- (6) "Sale" means:
 - (a) Any transfer of title or possession or both, exchange or barter, conditional or otherwise, in any manner or by any means whatever or any agreement therefor; and
 - (b) The giving of cigarettes as samples, prizes, or gifts, and the exchanging of cigarettes for any consideration other than money;
- (7) "Sell" means an act of selling, or an offer or agreement to sell; and
- (8) "Wholesale dealer" means:
 - (a) Any person who sells cigarettes or tobacco products to retailers or other persons for purposes of resale; and
 - (b) Any person who acts as a "nonresident wholesale," "resident wholesaler," or "unclassified acquirer" as defined in KRS 138.130, and who is authorized by the Department of Revenue to purchase and affix tax stamps on packages of cigarettes.

SECTION 2. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

- (1) Except as provided in subsection (7) of this section, no cigarettes shall be sold or offered for sale in this state or offered for sale or sold to persons located in this state unless the cigarettes have been tested in accordance with the test method and meet the performance standards specified in this section, and a written certification has been filed by the manufacturer with the state fire marshal in accordance with Section 3 of this Act, and the cigarettes have been marked in accordance with Section 4 of this Act.
 - (a) Testing of cigarettes shall be conducted in accordance with the American Society of Testing and Materials (ASTM) standard E2187-04, "Standard Test Method for Measuring the Ignition Strength of Cigarettes."
 - (b) Testing shall be conducted on ten (10) layers of filter paper.
 - (c) No more than twenty-five percent (25%) of the cigarettes tested in a test trial in accordance with this section shall exhibit full-length burns. Forty (40) replicate tests shall comprise a complete test trial for each cigarette tested.
 - (d) The performance standard required by this section shall only be applied to a complete test trial.
 - (e) Written certifications shall be based upon testing conducted by a laboratory that has been accredited pursuant to standard ISO/IEC 17025 of the International Organization for Standardization (ISO), or other comparable accreditation standard required by the state fire marshal.
 - (f) Laboratories conducting testing in accordance with this section shall implement a quality control and quality assurance program that includes a procedure to determine the repeatability of the testing results. The repeatability value shall be no greater than nineteen one-hundredths (0.19).
 - (g) This section does not require additional testing if cigarettes are tested consistent with Sections 1 to 8 of this Act for any other purpose.
 - (h) Testing performed or sponsored by the state fire marshal to determine a cigarette's compliance with the performance standard required shall be conducted in accordance with this section.
- (2) (a) Each cigarette listed in a certification submitted pursuant to Section 3 of this Act that uses lowered permeability bands in the cigarette paper to achieve compliance with the performance standard set forth in this section shall have at least two (2) nominally identical bands on the paper surrounding the tobacco column. At least one complete band shall be located at least fifteen (15) millimeters from the lighting end of the cigarette.
 - (b) For cigarettes on which the bands are positioned by design, there shall be at least two bands fully located at least fifteen (15) millimeters from the lighting end and ten (10) millimeters from the filter end of the tobacco column, or ten (10) millimeters from the labeled end of the tobacco column for nonfiltered cigarettes.
- (3) (a) A manufacturer of a cigarette that the state fire marshal determines cannot be tested in accordance with the test method prescribed in paragraph (a) of subsection (1) of this section shall propose a test method and performance standard for the cigarette to the state fire marshal. Upon approval of the proposed test method and a determination by the state fire marshal that the performance standard proposed by the manufacturer is equivalent to the performance standard prescribed in paragraph (c) of subsection (1) of this section, the manufacturer may employ a test method and performance standard to certify the cigarette pursuant to Section 3 of this Act.
 - (b) If the state fire marshal determines the existence of other cigarette ignition propensity standards that include a test method and performance standard that are the same as those contained in Sections 1 to 8 of this Act, then the state fire marshal may authorize the manufacturer to employ the alternative test method and performance

standard to certify that cigarette for sale in this state, unless the state fire marshal demonstrates a reasonable basis why the alternative test should not be accepted under Sections 1 to 8 of this Act. All other applicable requirements of this section shall apply to the manufacturer.

- (4) (a) Each manufacturer shall maintain copies of the reports of all tests conducted on all cigarettes offered for sale for a period of three (3) years, and shall make copies of the reports available to the state fire marshal and the Attorney General upon written request.
- (b) Any manufacturer who fails to make copies of the reports available within sixty (60) days of receiving a written request shall be subject to a civil penalty not to exceed ten thousand dollars (\$10,000) for each day after the sixtieth day that the manufacturer does not make these copies available.
- (5) The state fire marshal may adopt a subsequent ASTM Standard Test Method for Measuring the Ignition Strength of Cigarettes upon a finding that the subsequent method does not result in a change in the percentage of full-length burns exhibited by any tested cigarette when compared to the percentage of full-length burns the same cigarette would exhibit when tested in accordance with ASTM Standard E2187-04 and the performance standard in paragraph (c) of subsection (1) of this section.
- (6) The state fire marshal shall review the effectiveness of this section and shall report every three (3) years to the General Assembly the fire marshal's findings and, if appropriate, recommendations for legislation to improve the effectiveness of this section. The report and legislative recommendations shall be submitted no later than October 1 of each three (3) year period.
- (7) The requirements of this section shall not prohibit a wholesale dealer or retailer from selling its existing inventory of cigarettes on or after the effective date of this Act if the wholesale dealer or retailer can establish that state tax stamps were affixed to the cigarettes prior to the effective date of this Act, and if the wholesale dealer or retailer can establish that the inventory was purchased prior to the effective date of this Act in comparable quantity to the inventory purchased during the same period of the prior year.
- (8) The implementation and substance of the New York Fire Safety Standards for Cigarettes shall be the persuasive authority in the implementation of Sections 1 to 8 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

- (1) Each manufacturer shall submit to the state fire marshal a written certification attesting that:
 - (a) Each cigarette listed in the certification has been tested in accordance with Section 2 of this Act; and
 - (b) Each cigarette listed in the certification meets the performance standard set forth under paragraph (c) of subsection (1) of Section 2 of this Act.
- (2) Each cigarette listed in the certification shall be described with the following information:
 - (a) Brand or trade name on the package;
 - (b) Style, such as light or ultra light;
 - (c) Length in millimeters;
 - (d) Circumference in millimeters;
 - (e) Flavor, such as menthol or chocolate, if applicable;
 - (f) Filter or nonfilter;
 - (g) Package description, such as soft pack or box;
 - (h) Marking approved in accordance with Section 4 of this Act;
 - (i) The name, address, and telephone number of the laboratory, if different than the manufacturer that conducted the test; and
 - (j) The date that the testing occurred.
- (3) The certifications shall be made available to the Attorney General for purposes consistent with Sections 1 to 8 of this Act and the Department of Revenue for the purposes of ensuring compliance with this section.
- (4) Each cigarette certified under this section shall be recertified every three (3) years.
- (5) For each cigarette listed in a certification, a manufacturer shall pay to the state fire marshal a two hundred fifty dollar (\$250) fee. The state fire marshal may adjust the fee annually to ensure it defrays the actual costs of the processing, testing, enforcement, and oversight activities required by Sections 1 to 8 of this Act.
- (6) The "Reduced Cigarette Ignition Propensity and Firefighter Protection Act Enforcement Fund" is established in the Finance and Administration Cabinet for use by the state fire marshal solely for processing, testing, enforcement, and oversight activities set out in Sections 1 to 8 of this Act. The fund shall consist of certification fees required under subsection (5) of this section, and any other moneys made available for such purpose from any source. Moneys credited to the fund may be invested until needed. All interest earned in the fund shall be retained in the fund. Notwithstanding KRS 45.229, moneys in the fund shall not lapse, but shall carry forward at the end of the fiscal year.
- (7) If a manufacturer has certified a cigarette pursuant to this section, and afterward makes any change to the cigarette

that is likely to alter its compliance with the reduced cigarette ignition propensity standards required by Sections 1 to 8 of this Act, that cigarette shall not be sold or offered for sale in this state until the manufacturer retests the cigarette in accordance with the testing standards set forth in paragraph (a) of subsection (1) of Section 2 of this Act and maintains records of that retesting as required by Section 2 of this Act. Any altered cigarette which does not meet the performance standard set forth in paragraph (c) of subsection (1) of Section 2 of this Act shall not be sold in this state.

SECTION 4. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

A manufacturer shall place on each individual package of cigarettes the letters "FSC" or "FS" which signify "Fire Standards Compliance," indicating compliance with the fire safety performance standard set forth in paragraph (c) of subsection (1) of Section 2 of this Act. The letters shall appear in eight (8) point type and be permanently printed, stamped, engraved, or embossed on the package at or near the UPC Code, if present.

SECTION 5. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

- (1) A manufacturer, wholesale dealer, or any other person or entity who knowingly sells or offers to sell cigarettes, other than through retail sale, in violation of Section 2 of this Act, for the first offense shall be liable for a civil penalty not to exceed ten thousand dollars (\$10,000) per each sale of the cigarettes and, for a subsequent offense, be liable for a civil penalty not to exceed twenty-five thousand dollars (\$25,000) per each sale of the cigarettes, except that in no case shall the penalty against the person or entity exceed one hundred thousand dollars (\$100,000) for each thirty (30) day period.
- (2) A retailer who knowingly sells cigarettes in violation of Section 2 of this Act shall:
 - (a) For the first offense be liable for a civil penalty not to exceed five hundred dollars (\$500) and, for a subsequent offense, be liable for a civil penalty not to exceed two thousand dollars (\$2,000) per each sale or offer for sale of cigarettes, if the total number of cigarettes sold or offered for sale in the sale does not exceed one thousand (1,000) cigarettes; or
 - (b) For the first offense be liable for a civil penalty not to exceed one thousand dollars (\$1,000) and, for a subsequent offense, be liable for a civil penalty not to exceed five thousand dollars (\$5,000) per each sale or offer for sale of the cigarettes, if the total number of cigarettes sold or offered for sale in the sale exceeds one thousand (1,000) cigarettes, except that the penalty against any retailer shall not exceed twenty-five thousand dollars (\$25,000) during a thirty (30) day period.
- (3) In addition to any penalty prescribed by law, any corporation, partnership, sole proprietor, limited partnership, or association engaged in the manufacture of cigarettes that knowingly makes a false certification pursuant to Section 3 of this Act shall for the first offense be liable for a civil penalty not to exceed seventy-five thousand dollars (\$75,000) and, for a subsequent offense, be liable for a civil penalty not to exceed two hundred fifty thousand dollars (\$250,000) for each false certification.
- (4) Any other person violating any provision of Sections 1 to 8 of this Act shall be liable for a civil penalty for a first offense not to exceed one thousand dollars (\$1,000) and, for a subsequent offense, be liable for a civil penalty not to exceed five thousand dollars (\$5,000) for each violation.
- (5) Any cigarettes that have been sold or offered for sale that do not comply with the performance standard required by Section 2 of this Act shall be subject to forfeiture in accordance with the provisions of KRS 138.165. Before the destruction of any cigarette seized pursuant to KRS 138.165, the true holder of the trademark rights in the cigarette brand shall be permitted to inspect the cigarette.
- (6) In addition to any other remedy provided by law, the state fire marshal or Attorney General may file an action in Circuit Court for a violation of Sections 1 to 8 of this Act, including petitioning for injunctive relief or to recover any costs or damages suffered by the state because of a violation of Sections 1 to 8 of this Act, including enforcement costs relating to the specific violation and attorney's fees. Each violation of Sections 1 to 8 of this Act or of administrative regulations promulgated under Section 6 of this Act shall constitute a separate civil violation for which the state fire marshal or Attorney General may obtain relief.

SECTION 6. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

- (1) The state fire marshal may promulgate administrative regulations if necessary to carry out the purposes of Sections 1 to 8 of this Act in accordance with the provisions of KRS Chapter 13A.
- (2) The Department of Revenue in the regular course of conducting inspections of wholesale dealers and retailers, as authorized under the provisions of KRS 138.130 to 138.205, may inspect cigarettes to determine if the cigarettes are marked as required by Section 4 of this Act. If the cigarettes are not marked as required, the Department of Revenue shall notify the state fire marshal.
- (3) (a) To enforce provisions of Sections 1 to 8 of this Act, the Attorney General and the state fire marshal are authorized to examine the books, papers, invoices, and other records of any person in possession, control, or occupancy of any premises where cigarettes are placed, stored, sold, or offered for sale, as well as the stock of cigarettes on the premises.
 - (b) Every person in the possession, control, or occupancy of any premises where cigarettes are placed, sold, or offered for sale, is directed and required to give the Attorney General and the state fire marshal the means,

facilities, and opportunity for the examinations authorized by this section.

SECTION 7. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

There is hereby established in the State Treasury a special fund to be known as the "Fire Prevention and Public Safety Fund." The fund shall consist of all moneys recovered as penalties under Section 5 of this Act. The moneys shall be deposited to the credit of the fund and shall, in addition to any other moneys made available for such purpose, be made available to the state fire marshal to support fire safety and prevention programs.

SECTION 8. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

- (1) Nothing in Sections 1 to 8 of this Act shall be construed to prohibit any person or entity from manufacturing or selling cigarettes that do not meet the requirements of Section 2 of this Act if the cigarettes are or will be stamped for sale in another state or are packaged for sale outside the United States and that person or entity has taken reasonable steps to ensure that the cigarettes will not be sold or offered for sale to persons located in this state.
- (2) Sections 1 to 8 of this Act shall no longer apply if a federal reduced cigarette ignition propensity standard is adopted and becomes effective.
- (3) Notwithstanding any other provision of law, city, county, urban-county, charter county, or consolidated local government units of this state shall neither enact nor enforce any ordinance or other local law or regulation conflicting with, or preempted by, any provision of Sections 1 to 8 of this Act or with any policy of this state expressed by Sections 1 to 8 of this Act, whether that policy be expressed by inclusion of a provision in Sections 1 to 8 of this Act or by exclusion of that subject from this Act.

Section 9. This Act takes effect on April 1, 2008.

Calendar

SB 69 and 98 taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage of SB 54 and 92. (4:04 p.m.)

Representative Owens moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Owens moved the adoption of the following Legislative Citation No. 58.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Kevin Anderson, Jr. 2007 YMCA Black Achievers Youth Achiever of the Year and welcomes this laudable young man, whose acts of generosity and civic responsibility which earned him this prestigious accolade have included working with patients at Jewish Hospital, helping Spanish-speaking students learn English and hosting a Christian radio talk show. Selected for his dedication to the community, outstanding academic achievement and his stellar writing, speaking and leadership skills, this phenomenal young man, a four-year active member of Black Achievers who served as vice president of the Teen Senate as a sophomore, is currently a senior at Louisville Male High School. Inasmuch as Kevin Anderson's long term goals include pursuing a career in medicine, he worked in the health and medical cluster as a member of Black Achievers and studied anatomy, chemistry and biology at Male. Having been named the 2007 Youth Achiever of the Year was the fulfillment of another important goal for this young man. The son of Deborah and Kevin Anderson, Sr., Kevin Anderson, Jr. was also named the winner of a \$10,000 scholarship from the Humana Foundation; has received a full scholarship to Morehouse College in Atlanta; and has had six other universities offer him financial aid. Inasmuch as the outstanding young citizen has worked diligently and with great distinction to both realize his own dreams and to contribute passionately to the common good, the members of this august body are honored to join Representative Darryl T. Owens in offering the highest praise to Kevin Anderson, Jr. on this auspicious occasion and in extending warmest wishes for his continued success and good fortune. Done in Frankfort, Kentucky, this fifth day of March, in the year two thousand and seven.

Legislative Citation No. 58 was adopted without objection.

Orders of the Day

HB 401 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Denham moved that HB 401 be passed.

On the roll call the vote was: **Yeas 95, Nays 1.** (See March 5, 2007, roll call on **HB 401** - Appendix.)

HB 401 was passed and the title agreed to.

Representative Denham moved that the vote by which **HB 401** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 359, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved the adoption of Floor Amendment No. 1 to **HB 359**. Agreed.

Representative Moberly moved that **HB 359**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 3.** (See March 5, 2007, roll call on **HB 359** - Appendix.)

HB 359, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 359**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 438, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Spencer moved the adoption of the Committee Substitute to **HB 438**. Agreed.

Representative Spencer moved that **HB 438**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 100, Nays 0.** (See March 5, 2007, roll call on **HB 438** - Appendix.)

HB 438, by way of Committee Substitute, was passed and the title agreed to.

Representative Spencer moved that the vote by which **HB 438**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 191 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HB 191** be passed.

On the roll call the vote was: **Yeas 98, Nays 2.** (See March 5, 2007, roll call on **HB 191** - Appendix.)

HB 191 was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 191** was passed be reconsidered and said motion be placed on the table. Agreed.

HR 123 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wuchner moved that **HR 123** be adopted.

On the roll call the vote was: **Yeas 100, Nays 0.** (See March 5, 2007, roll call on **HR 123** - Appendix.)

HR 123 was adopted.

Representative Wuchner moved that the vote by which **HR 123** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 322 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved that **HB 322** be passed.

On the roll call the vote was: **Yeas 100, Nays 0.** (See March 5, 2007, roll call on **HB 322** - Appendix.)

HB 322 was passed and the title agreed to.

Representative Simpson moved that the vote by which **HB 322** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 310, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Firkins moved the adoption of the Committee Substitute to **HB 310**. Agreed.

Representative Firkins moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 310**. Agreed.

Representative Firkins moved that **HB 310**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 86, Nays 13.** (See March 5, 2007, roll call on **HB 310** - Appendix.)

HB 310, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Firkins moved that the vote by which **HB 310**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 220 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nelson moved that **HB 220** be passed.

On the roll call the vote was: **Yeas 100, Nays 0.** (See March 5, 2007, roll call on **HB 220** - Appendix.)

HB 220 was passed and the title agreed to.

Representative Nelson moved that the vote by which **HB 220** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 112, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 112**. Agreed.

Representative Burch moved that **HB 112**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 100, Nays 0.** (See March 5, 2007, roll call on **HB 112** - Appendix.)

HB 112, by way of Committee Substitute, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 112**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 376 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Henderson moved that **HB 376** be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See March 5, 2007, roll call on **HB 376** - Appendix.)

HB 376 was passed and the title agreed to.

Representative Henderson moved that the vote by which **HB 376** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 50 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Higdon moved that **HB 50** be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See March 5, 2007, roll call on **HB 50** - Appendix.)

HB 50 was passed and the title agreed to.

Representative Higdon moved that the vote by which **HB 50** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 127, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meeks moved the adoption of Floor Amendment No. 1 to **HB 127**. Agreed.

Representative Meeks moved that **HB 127**, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See March 5, 2007, roll call on **HB 127** - Appendix.)

HB 127, as amended, was passed and the title agreed to.

Representative Meeks moved that the vote by which **HB 127**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended and that the posting requirement be waived on **SB 57, 46, 86, 130, 153, 111, 140, 118, and 198**. Agreed.

Representative Adkins moved that **HB 443 and 476** be placed in the Orders of the Day. Agreed.

Representative Adkins moved that **HB 183** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Adkins moved that **HCR 159 and HB 180** be placed in the Orders of the Day. Agreed.

Representative Adkins moved that **HB 116** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Glenn moved the adoption of the following **Legislative Citation No. 59**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and applauds Nicholas "Nicky" Patrick Hayden as this esteemed young native of Owensboro, Kentucky, and the American Professional motorcycle racer charged with spearheading Repsol Honda's championship dreams, is, on this day, celebrated in the Chambers of the Kentucky House of Representatives for having won the 2006 MotoGrand Prix World Championship. Claiming this prestigious victory at the end of October 2006, in Valencia, Spain, while taking on the best riders in the world at the end of a seventeen-race season that spanned the globe, the "Kentucky Kid" is the first American rider since 2000 to win the greatest prize in two-wheel racing. The members of this honorable body are delighted to join with Representative Jim Glenn and Representative Tommy Thompson in honoring Nicky Hayden on this momentous occasion and in extending sincere best wishes for his continued success and good fortune. Done at Frankfort, Kentucky, this fifth day of March, in the year two thousand and seven.

Legislative Citation No. 59 was adopted without objection.

Representative McKee moved to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 193, by Representatives McKee, Keene, Koenig, and Fischer: A RESOLUTION honoring the Campbell County Senior Center.

Motions, Petitions, and Communications (Continued)

Representative McKee moved the adoption of the following **HR 193**:

HR 193, A RESOLUTION honoring the Campbell County Senior Center.

WHEREAS, the Campbell County Senior Center offers 20 weekly recreational activities for the senior citizens of Northern Kentucky; and

WHEREAS, the Campbell County Senior Center has more than 1,000 senior citizens registered at the center; and

WHEREAS, the Campbell County Senior Center has more than 200 senior citizens attend daily activities; and

WHEREAS, the Campbell County Senior Center has transformed the center into a model of wellness for its participants; and

WHEREAS, the Campbell County Senior Center's program offers the senior citizens of Northern Kentucky a wellness program that focuses on physical, intellectual, spiritual, social, emotional, and vocational growth; and

WHEREAS, the Campbell County Senior Center has received two national awards for its wellness model and programs; and

WHEREAS, the Campbell County Senior Center has partnered with Northern Kentucky University in allowing students to intern for these wellness programs; and

WHEREAS, the Campbell County Senior Center's participants have received amazing results from the wellness programs, including lower blood pressure, decreased sugar levels, weight loss, better balance, and an overall healthier outlook on life; and

WHEREAS, the Campbell County Senior Center continues to guide its participants on their personal wellness journeys; and

WHEREAS, the directors, staff, and participants of the Campbell County Senior Center should be congratulated for the success of their nationally recognized wellness program and for the positive impact the program has made on the lives of senior citizens throughout Northern Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hereby congratulates the Campbell County Senior Center on the success of its nationally recognized wellness programs.

Section 2. When the House of Representatives adjourns this day, it does so in honor of the Campbell County Senior Center.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the Director of the Campbell County Senior Center, Marsha Dufeck, 3504 Alexandria Pike, Highland Heights, Kentucky 41076; and to the Director of Human Services for the Campbell County Fiscal Court, Pat Dressman, 24 W. Fourth Street, P.O. Box 72340, Newport, Kentucky 41072-0340.

There being no objection, **HR 193** was adopted.

Representative Thompson moved to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 190, by Representative Thompson: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Lieutenant Commander Jane Elizabeth Lanham Tafoya.

Motions, Petitions, and Communications (Continued)

Representative Thompson moved the adoption of the following **HR 190**:

HR 190, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Lieutenant Commander Jane Elizabeth Lanham Tafoya.

With deepest respect and admiration, we pay homage and tribute to Lieutenant Commander Jane Elizabeth Lanham Tafoya, and we pause in silent reverence for her soul.

WHEREAS, Lieutenant Commander Jane Elizabeth Lanham Tafoya was born April 20, 1963, in Daviess County, Kentucky, and she traversed these earthly bounds September 19, 2006; and

WHEREAS, Jane Elizabeth Lanham Tafoya was the loving daughter of Avis Natalie Lanham and the late Marvin "Bill" Lanham; she was the devoted wife of John Tafoya; she was the caring mother of Rachel and Natalie Tafoya; she was the doting

sister of Brad Lanham, and the sister-in-law of Phyllis Lanham; she was the loving daughter-in-law of Miguel and Remedious Tafoya; and she also leaves behind many other family members who loved her dearly; and

WHEREAS, Lieutenant Commander Jane Elizabeth Lanham Tafoya attended St. Pius X School and Church; and she was a graduate of Owensboro Catholic High School, Murray State University, and Temple University; and

WHEREAS, Lieutenant Commander Jane Elizabeth Lanham Tafoya enlisted in the United States Navy in 1988; she was assigned to the Naval Branch Health Clinic, Bahrain; she was an industrial hygienist and previously served at the Naval Hospital and Naval Reserve Center in Philadelphia; the Bureau of Medicine in Washington, DC; the Naval Hospital, Camp Lejeune, North Carolina; aboard the *USS Ronald Reagan*; and at the Navy Environmental Preventive Medicine Unit 2, Norfolk, Virginia; and she deployed in support of Operation Iraqi Freedom; and

WHEREAS, the life of Lieutenant Commander Jane Elizabeth Lanham Tafoya ended prematurely from natural causes in Manama, Bahrain; and

WHEREAS, Lieutenant Commander Jane Elizabeth Lanham Tafoya served her country with honor and distinction; she was laid to rest with full military honors; and her awards and decorations include the National Defense Service Medal, Navy Achievement Medal, and Navy Command Medal; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Lieutenant Commander Jane Elizabeth Lanham Tafoya and is deeply grateful for the sacrifice she made for the freedom of all Americans; and

WHEREAS, the passing of Lieutenant Commander Jane Elizabeth Lanham Tafoya has left a void that cannot be filled, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Lieutenant Commander Jane Elizabeth Lanham Tafoya and extends to her family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Lieutenant Commander Jane Elizabeth Lanham Tafoya.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the husband of Lieutenant Commander Jane Elizabeth Lanham Tafoya, Tony Tafoya, 7 Moon Creek Drive, Smithville, Virginia 23430 and the mother of Lieutenant Commander Jane Elizabeth Lanham Tafoya, Avis Natalie Lanham, 900 Christopher Greenup Drive, Owensboro, Kentucky 42303-0635.

There being no objection, **HR 190** was adopted.

Representative Dedman moved the adoption of the following **HR 179**:

HR 179, A RESOLUTION recognizing Harrodsburg as the home of the Kentucky Fort Harrod Beef Festival.

WHEREAS, Kentucky's first annual Fort Harrod Beef Festival was held in June, 2006, at the Mercer County Fairgrounds, Old Fort Harrod State Park, and other sites around Harrodsburg; and

WHEREAS, the Fort Harrod Beef Festival recently won first place for the Most Innovative or New Activity at the Kentucky Festival and Events Association meeting in Louisville; and

WHEREAS, the 2007 festival will again be held at the Mercer County Fairgrounds and at Old Fort Harrod State Park on June 1-3; and

WHEREAS, festival activities will include concerts, grill-offs, beef education, juried arts and crafts, car shows, races, art displays, festival food, children's activities, and much more; and

WHEREAS, the festival will provide a fun, exciting, and educational weekend full of activities;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the General Assembly of the Commonwealth of Kentucky recognizes Harrodsburg as the home of the Kentucky Fort Harrod Beef Festival and congratulates the festival organizers for winning first place for the Most Innovative or New Activity.

There being no objection, **HR 179** was adopted.

Representative Pullin moved the adoption of the following **HR 42**:

HR 42, A RESOLUTION honoring the 100th anniversary of the School of Human Environmental Sciences, formerly the College of Home Economics, at the University of Kentucky.

WHEREAS, the human environmental sciences, family and consumer sciences, home economics, and domestic sciences at

the University of Kentucky has made a major impact on families and society over the past 100 years and continues to do so; and

WHEREAS, there are scores of distinguished graduates of the School of Human Environmental Sciences and the organizational structures predating its formation, including: family and consumer sciences teachers; cooperative extension agents serving all 120 Kentucky counties; interior and costume designers; consumer finance specialists; researchers in nutritional sciences and health-related scientists, particularly in public health, preventive medicine, premedical and dental school, and in the rehabilitation sciences; hospitality and hotel managers; chefs; marriage and family therapists; interdisciplinary early childhood educators and administrators; and

WHEREAS, there are many of the school's graduates who have used the knowledge and skills gained in their specific programs to pursue additional education in law, finance, and health-related careers; and

WHEREAS, numerous graduates have had distinguished public policy careers in local and state governments, including the first woman Governor of Kentucky; a member of the General Assembly; several elected local officials; and several administrators in state and federal government agencies; and

WHEREAS, the institution has historically been led by enterprising and risk-taking women, including Dr. Statie Erikson, the first woman to receive a Ph.D. from Berkeley University; who was known for her research and teaching in nutrition and eventually as a revered head of the school; and Dr. Abby Marlatt, head of the school, who was removed from her position for her civil rights activism in the early 1960s, but who was later acclaimed and celebrated by the university and in the state for her early civil rights activism and her lifetime of community activism, including promoting the needs of senior citizens; and

WHEREAS, alumni of the programs are business leaders, community activists, and volunteers throughout the nation; and

WHEREAS, what began in the basement of a women's dormitory at the University of Kentucky as an experiment has resulted in a major, high quality institution that has survived many university reorganizations; and

WHEREAS, the school, located in the College of Agriculture, continues to attract a growing number of outstanding men and women to its major fields of undergraduate and graduate study—students who recognize the importance of teaching, research, and extension services in meeting the needs of Kentucky families and communities and the importance of addressing perennial family, health, and environmental concerns; and

WHEREAS, the current faculty and staff of the School of Human Environmental Sciences are outstanding in their fields and committed to carrying on the proud traditions of the school; and

WHEREAS, the School of Human Environmental Sciences, formerly known as the Colleges of Home Economics and Human Environmental Sciences is celebrating 100 years of excellence this year;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. On this day, the fifteenth day of February 2007, this honorable body does hereby recognize and commend the School of Human Environmental Sciences and the students, graduates, and leaders of this enterprise as they celebrate 100 years of excellence.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Dr. Ann Vail, Director of the School of Human Environmental Sciences, University of Kentucky, 102 Erikson Hall, Lexington, KY 40546 and to Dr. Scott Smith, Dean, College of Agriculture, University of Kentucky, Lexington KY 40546-0091 and to Dr. Lee Todd, Jr., President, University of Kentucky, South Limestone, 107 Main Building, Lexington, KY 40506.

There being no objection, **HR 42** was adopted.

Representative Rudy moved to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 191, by Representatives Rudy, Rasche, Nesler, Gray, and Cherry: A RESOLUTION supporting the efforts of the Paducah Uranium Plant Asset Utilization Task Force.

Motions, Petitions, and Communications (Continued)

Representative Rudy moved the adoption of the following **HR 191**:

HR 191, A RESOLUTION supporting the efforts of the Paducah Uranium Plant Asset Utilization Task Force.

WHEREAS, the Paducah Uranium Plant Asset Utilization Task Force was chartered to demonstrate to state and federal elected officials that the community supports the use of the Paducah Gaseous Diffusion Plant site for the location of facilities that are complementary to the site; and

WHEREAS, the Paducah Uranium Plant Asset Utilization Task Force, as part of its charter, seeks to showcase Paducah,

McCracken County, and the western Kentucky region, with the goal of attracting a project or projects associated with the Department of Energy's Global Nuclear Energy Partnership. The Partnership is an initiative that seeks to develop worldwide consensus on expanded use of economical, carbon-free nuclear energy to meet growing electricity demand. This use will utilize a nuclear fuel cycle that enhances energy security while promoting nonproliferation; and

WHEREAS, Paducah, McCracken County, western Kentucky, west Tennessee, southeast Missouri, and southern Illinois have a fully qualified and experienced workforce of 2000 people; and the region has the only operational uranium conversion plant in the United States; and

WHEREAS, the Paducah Gaseous Diffusion Plant is the only operational uranium enrichment plant to recycle recovered uranium from the Consolidated Fuel Treatment Center; and

WHEREAS, the Paducah Uranium Plant Asset Utilization Task Force is conducting an informational campaign to educate the public about its efforts and the Global Nuclear Energy Partnership; and

WHEREAS, the Paducah Uranium Plant Asset Utilization Task Force's efforts to secure Global Nuclear Energy Partnership projects has world-class corporate partners in CH2M Hill and Honeywell, as well as outstanding community leadership from co-chairs Bill Paxton, mayor of Paducah, and Van Newberry, McCracken County Judge Executive; and

WHEREAS, the Global Nuclear Energy Partnership project or projects would bring 5000 construction jobs and 1000 permanent jobs to the region, enhancing the economies of western Kentucky, west Tennessee, southeast Missouri, and southern Illinois;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky House of Representatives supports the Paducah Uranium Plant Asset Utilization Task Force's efforts and urges the U.S. Department of Energy to locate one or more of the Global Nuclear Energy Partnership projects at the United States Department of Energy's federal reservation in McCracken County, Kentucky.

Section 2. The Clerk shall forward a copy of this Resolution to Mr. Timothy Frazier, GNEP Draft PEIS Document Manager, United States Department of Energy, 1000 Independence Ave SW, Washington D.C. 20585-0119.

There being no objection, **HR 191** was adopted.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 188, by Representative Meeks: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Evelyn Rose Jackson. It is with the deepest respect and admiration that we pay homage and tribute to Evelyn Rose Jackson, and we pause in silent reverence for her eternal soul.

HR 189, by Representative Richards: A RESOLUTION honoring Dale Brown, Superintendent of Warren County Schools, the recipient of the 2006 National Association for Gifted Children - Ball State Administrator of the Year Award.

HR 192, by Representative Burch: A RESOLUTION declaring April 2007 as National Donate Life Month in Kentucky.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **SB 111, 140, 118**

Licensing and Occupations: **SB 212**

Labor and Industry: **SB 103**

Motions, Petitions, and Communications (Continued)

Representative Adkins moved that the rules be suspended and that **HCR 160** be recommitted to the Committee on Natural Resources and Environment. Agreed.

Floor Amendments

Floor Amendment No. 1 to HCR 151, by Representative Graham:

HCR 151, On page 2, line 6, by deleting "13" and inserting "15" in lieu thereof; and

On page 2, line 15, after the word "designee;" by inserting "a representative of the Kentucky Historical Society; a representative of the Ida Lee Willis Memorial Foundation;".

Floor Amendment No. 3 to HB 443, by Representative Thompson:

HB 443, On page 1, line 7 after "Commonwealth" insert "holding accounts subject to levy as authorized by KRS 131.500";

On page 1, line 9, after "in", insert "ninety percent (90%) of";

On page 1, line 10, delete "six (6) months" and insert in lieu thereof "eighteen (18) months from the effective date of this Act, or unless the financial institution in which the system will be implemented and the department agree, in writing, to implement the system sooner in that financial institution";

On page 1, line 11, after "department" insert "and the financial institution";

On page 1, line 16, after "system" insert "operated by the financial institution as required by" and place brackets around and strike through "developed pursuant to";

On page 1, line 16, after "KRS" insert "205.772 and"; and

On page 2 after line 24 insert the following:

"Section 2. KRS 131.990 is amended to read as follows:

- (1) Any person who fails or refuses to obey a subpoena or order of the Kentucky Board of Tax Appeals made pursuant to KRS Chapter 13B shall be fined not less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500).
- (2)
 - (a) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(1) shall be fined not more than five hundred dollars (\$500) or imprisoned for not more than six (6) months, or both.
 - (b) Any person who violates the provisions of KRS 131.190(1) by divulging confidential taxpayer information shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
 - (c) Any person who violates the intentional unauthorized inspection provisions of KRS 131.190(4) shall be fined not more than one thousand dollars (\$1,000) or imprisoned for not more than one (1) year, or both.
 - (d) Any person who violates the provisions of KRS 131.190(4) by divulging confidential taxpayer information shall be fined not more than five thousand dollars (\$5,000) or imprisoned for not more than five (5) years, or both.
 - (e) Any present secretary or employee of the Finance and Administration Cabinet, commissioner or employee of the Department of Revenue, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, who violates the provisions of KRS 131.190(1) or (4) may, in addition to the penalties imposed under this subsection, be disqualified and removed from office or employment.
- (3) Any person who willfully fails to comply with the rules and regulations promulgated by the Department of Revenue for the administration of delinquent tax collections shall be fined not less than twenty dollars (\$20) nor more than one thousand dollars (\$1,000).
- (4) Any person who fails to do any act required or does any act forbidden by KRS 131.210 shall be fined not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
- (5) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it is shown to the satisfaction of the department that the failure is due to reasonable cause, pay a penalty of one-half of one percent (0.5%) of the amount that should have been remitted under the provisions of KRS 131.155 for each failure to comply.
- (6)
 - (a) Any person or financial institution that fails to comply with the provisions of Section 1 of this Act and KRS 131.674 within ninety (90) days after notification by the Department of Revenue shall, unless the failure is due to reasonable cause as defined in KRS 131.010, be fined not less than one thousand dollars (\$1,000) and no more than five thousand dollars (\$5,000) for each full month of noncompliance. The fine shall begin on the first day of the month beginning after the expiration of the ninety (90) days.
 - (b) Any financial institution that fails or refuses to comply with the provisions of Section 1 of this Act and KRS 131.674 within one hundred twenty (120) days after the notification by the Department of Revenue shall, unless the failure is due to reasonable cause as defined in KRS 131.010, forfeit its right to do business within the Commonwealth, unless and until the financial institution is in compliance. Upon notification by the Department of Revenue, the executive director of the Office of Financial Institutions shall, as applicable, revoke the authority of the financial institutions or its agents to do business in the Commonwealth.

Section 3. KRS 205.990 is amended to read as follows:

- (1) Any person who violates any of the provisions of KRS 205.170 or subsections (1) to (3) of KRS 205.175 shall be guilty of

a Class A misdemeanor.

- (2) Any person who violates subsection (4) of KRS 205.175 shall be guilty of a Class D felony.
- (3) Any person who willfully violates any of the provisions of KRS 205.310, or any rule or regulation thereunder, shall be guilty of a Class B misdemeanor. Each failure or violation shall constitute a separate offense.
- (4) Any bank, savings and loan association, credit union, or other financial institution which fails to comply with the provisions of subsection (1) of KRS 205.835 or which submits fraudulent information to the cabinet shall be guilty of a Class A misdemeanor.
- (5) Any bank, savings and loan association, credit union, investment company, savings institution, trust company, insurance or annuity company, pension or profit-sharing trust company, or other financial institution failing to comply with provisions of KRS 405.430(11) shall be subject to a penalty of five hundred dollars (\$500) for each failure to comply.
- (6) Any person or financial institution that fails to comply with the provisions of KRS 205.772 or any administrative regulation promulgated under KRS 205.772, within ninety (90) days after notification by the cabinet shall, unless the failure is due to reasonable cause as defined in KRS 131.010, be fined not less than one thousand dollars (\$1,000) and no more than five thousand dollars (\$5,000) for each full month of noncompliance. The fine shall begin on the first day of the month beginning after the expiration of the ninety (90) days."

Floor Amendment No. 3 to the Committee Substitute to HB 352, by Representative Keene:

HB 352, On page 2, after line 4, and on page 3, after line 6, by adding:

- "(4) The provisions of this section shall not apply to health benefit plans issued under Kentucky Access pursuant to Subtitle 17B of this chapter."

Floor Amendment No. 4 to the Committee Substitute to HB 214, by Representative Riggs:

HB 214, On page 1 by deleting lines 10 through 25; and

On page 2, by deleting lines 1 through 11 and inserting in lieu thereof the following:

"Section 2. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.515 and 15.520 [~~15.510~~], unless the context otherwise requires:

- (1) "[~~Local~~] Unit of government" means the Commonwealth of Kentucky, any city or county, a combination of cities and counties, a local board of education that has school security officers appointed under KRS 61.902, a state or public university, or a county sheriff's office of the Commonwealth.
- (2) (a) "Police officer" shall include [means] a full-time:
 - 1. a. Member of a lawfully organized police department of county, urban-county, or city government;
 - b. Sheriff or full-time deputy sheriff, including any sheriff or full-time deputy sheriff providing court security or appointed under KRS 70.030;
 - c. State or public university police officer; or
 - d. Kentucky Vehicle Enforcement officer; and
 - 2. Beginning on January 1, 2009, if the conditions established by subsection (3) of Section 3 of this Act are met, "police officer" shall include a full-time:
 - a. Department of Fish and Wildlife Resources officer;
 - b. Mounted police officer employed by the Kentucky Horse Park;
 - c. Investigator for the Office of the Attorney General;
 - d. Investigator for the Office of Charitable Gaming;
 - e. Officer for the Department of Parks;
 - f. Officer for the Department of Agriculture;
 - g. School security officer employed by a local board of education who is a special law enforcement officer appointed under KRS 61.902;
 - h. Office of Alcoholic Beverage Control field representative or investigator appointed under KRS 241.090;
 - i. Division of Insurance Fraud Investigation investigator appointed under KRS 304.47-040; and
 - j. County detective appointed in a county containing a consolidated local government with the power of arrest in the county and the right to execute process statewide in accordance with KRS 69.360.
- (b) "Police officer" shall not include:

1. A trooper, arson investigator, hazardous devices investigator, or legislative security specialist employed by the Kentucky State Police;
2. A sheriff who earns the maximum constitutional salary for this office;
3. A special deputy sheriff appointed under KRS 70.045;
4. A constable or deputy constable;
5. A district detective or deputy district detective;
6. A special local peace officer;
7. An auxiliary police officer; or
8. Any other peace officer not specifically authorized in KRS 15.410 to 15.515~~{member of a lawfully organized police department of county, urban county or city government, a sheriff or full time deputy sheriff, including any providing court security or appointed under KRS 70.030, or a state or public university police officer who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky State Police, any sheriff who earns the maximum constitutional salary for this office, any special deputy sheriff appointed under KRS 70.045, any constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510}.~~

(3) "Council" means the Kentucky Law Enforcement Council.

(4) "Validated job task analysis" means the core job description which describes the minimum entry level requirements, qualifications, and training requirements for peace officers in the Commonwealth which is based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study."; and

On page 2, line 19, by deleting "on July 1, 2007"; and

On page 2, line 26, after "(\$5,000,000)" by inserting the following ":

(3) The police officers listed in paragraph (a)2. of subsection (2) of Section 2 of this Act shall be included in the fund only upon a determination by the General Assembly that the fund includes sufficient resources to add the additional police officers in addition to maintaining existing and continuing obligations for the operational needs of the Department of Criminal Justice Training, the preservation and maintenance of training facilities, the satisfaction of existing obligations to police officers already participating in the fund, and full funding of the reserve amount established by subsection (2) of this section"; and

On page 3, by deleting lines 5 and 6; and

On page 3, line 11, by deleting "as defined in KRS 15.420(2)"; and

On page 3, by deleting lines 21 to 23; and

On page 3, line 24, by deleting "4." and inserting in lieu thereof "3."; and

On page 3, line 26, after "15.404" by deleting the "2" and inserting in lieu thereof "1"; and

On page 3, line 27 by deleting all text; and

On page 4, by deleting lines 1 and 2; and

On page 4, line 3, by deleting "5." and inserting in lieu thereof "4."; and

On page 4, line 9, after "1" by inserting "and"; and

On page 4, line 10, by deleting "6." and inserting in lieu thereof "5."; and

On page 4, line 11, by deleting the "1" and inserting in lieu thereof "2"; and

On page 4, line 12, after "Wildlife" by inserting "Resources"; and

On page 4, line 13, by deleting "Kentucky Vehicle Enforcement officers" and inserting in lieu thereof "Mounted patrol officers employed by the Kentucky Horse Park"; and

On page 4, line 15, by deleting "Department" and inserting in lieu thereof "Office"; and

On page 4, line 17, by deleting "1" and inserting in lieu thereof "2"; and

On page 5, line 1 by deleting "have successfully completed" and insert in lieu thereof "to successfully complete"; and

On page 5, line 9, by deleting "2." and inserting in lieu thereof "3."; and

On page 5, line 10, by deleting "3." and inserting in lieu thereof "4."; and

On page 5, line 16, after "1" by inserting "and"; and

On page 5, line 17, by deleting "4." and inserting in lieu thereof "5."; and

On page 5, line 22, by deleting "Department" and inserting in lieu thereof "Office"; and

On page 5, line 23, after "officers;" by deleting "and"; and

On page 5, line 24, after "officers;" by inserting "and"; and

On page 5, between lines 24 and 25, by inserting:

"g. Mounted patrol officers employed by the Kentucky Horse Park."; and

On page 14, line 10, by inserting an "(a)" after the "(3)"; and

On page 14, line 14, by inserting a "(b)" before the word "All" to establish a new paragraph; and

On page 14, line 17 by bracketing and striking the second "in"; and

On page 14, by deleting all new language on lines 17 through 25 and inserting in lieu thereof the following:

"shall not lapse but shall be carried forward into the next fiscal year. This fund is created for the vital purposes of providing and improving firefighter training and providing stipends for Kentucky firefighters who maintain their training proficiency. Moneys included in this fund are restricted funds that are obligated for the purposes set forth in KRS 95A.200 to 95A.300 and shall not be transferred or used for other purposes that would result in the fund having a balance of less than five million dollars (\$5,000,000)"; and

On page 14, line 27, by inserting a "(c)" before the word "All" to establish a new paragraph; and

On page 15, line 3, by bracketing and striking through the second ", in"; and

On page 15, by deleting all new language on lines 3 through 11 and inserting in lieu thereof the following:

"shall not lapse but shall be carried forward into the next fiscal year. This fund is created for the vital purposes of providing and improving police officer training and providing stipends for Kentucky police officers who maintain their training proficiency. Moneys included in this fund are restricted funds that are obligated for the purposes set forth in KRS 15.410 to 15.515 and shall not be transferred or used for other purposes that would result in the fund having a balance of less than five million dollars (\$5,000,000)"; and

On page 15, line 27, after "(2)" by deleting the remainder of the line; and

On page 16, by deleting the new language on lines 1 through 7 and inserting in lieu thereof the following:

"This fund is created for the vital purposes of providing and improving firefighter training and providing stipends for firefighters who maintain their training proficiency. Moneys included in this fund are hereby appropriated for the purposes set forth in KRS 95A.200 to 95A.300. Moneys included in this fund are restricted funds that are obligated for the purposes set forth in KRS 95A.200 to 95A.300 and shall not be transferred or used for other purposes that would result in the fund having a balance of less than five million dollars (\$5,000,000). Investment earnings from the fund shall remain in the fund. Any moneys remaining in the fund at the close of a fiscal year shall not lapse but shall be carried forward into the next fiscal year"; and

On page 16, line 13 by deleting the "]" and striking through "."; and

On page 16, lines 14 and 15, by striking through all language before the "." on line 15 and by placing a closing bracket before the "." on line 15; and

On page 16, after line 15, by inserting the following:

"Section 15. KRS 15.520 is amended to read as follows:

- (1) In order to establish a minimum system of professional conduct of the police officers of ~~{local}~~ units of government of this Commonwealth, the following standards of conduct are stated as the intention of the General Assembly to deal fairly and set administrative due process rights for police officers of the ~~{local}~~ unit of government and at the same time providing a means for redress by the citizens of the Commonwealth for wrongs allegedly done to them by police officers covered by this section:
 - (a) Any complaint taken from any individual alleging misconduct on the part of any police officer, as defined herein, shall be taken as follows:
 1. If the complaint alleges criminal activity on behalf of a police officer, the allegations may be investigated without a signed, sworn complaint of the individual;
 2. If the complaint alleges abuse of official authority or a violation of rules and regulations of the department, an affidavit, signed and sworn to by the complainant, shall be obtained;
 3. If a complaint is required to be obtained and the individual, upon request, refuses to make allegations under oath in the form of an affidavit, signed and sworn to, the department may investigate the allegations, but shall bring charges against the police officer only if the department can independently substantiate the allegations absent the sworn statement of the complainant;
 4. Nothing in this section shall preclude a department from investigating and charging an officer both criminally and administratively.
 - (b) No threats, promises, or coercions shall be used at any time against any police officer while he or she is a suspect in a criminal or departmental matter. Suspension from duty with or without pay, or reassignment to other than an officer's regular duties during the period shall not be deemed coercion. Prior to or within twenty-four (24) hours after suspending the officer pending investigation or disposition of a complaint, the officer shall be advised in

writing of the reasons for the suspension;

- (c) No police officer shall be subjected to interrogation in a departmental matter involving alleged misconduct on his or her part, until forty-eight (48) hours have expired from the time the request for interrogation is made to the accused officer, in writing. The interrogation shall be conducted while the officer is on duty. The police officer may be required to submit a written report of the alleged incident if the request is made by the department no later than the end of the subject officer's next tour of duty after the tour of duty during which the department initially was made aware of the charges;
- (d) If a police officer is under arrest, or likely to be arrested, or a suspect in any criminal investigation, he shall be afforded the same constitutional due process rights that are accorded to any civilian, including, but not limited to, the right to remain silent and the right to counsel, and shall be notified of those rights before any questioning commences. Nothing in this section shall prevent the suspension with or without pay or reassignment of the police officer pending disposition of the charges;
- (e) Any charge involving violation of any {local} unit of government rule or regulation shall be made in writing with sufficient specificity so as to fully inform the police officer of the nature and circumstances of the alleged violation in order that he may be able to properly defend himself. The charge shall be served on the police officer in writing;
- (f) When a police officer has been charged with a violation of departmental rules or regulations, no public statements shall be made concerning the alleged violation by any person or persons of the {local} unit of government or the police officer so charged, until final disposition of the charges;
- (g) No police officer as a condition of continued employment by the {local} unit of government shall be compelled to speak or testify or be questioned by any person or body of a nongovernmental nature; and
- (h) When a hearing is to be conducted by any appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes, the following administrative due process rights shall be recognized and these shall be the minimum rights afforded any police officer charged:

1. The accused police officer shall have been given at least seventy-two (72) hours notice of any hearing;
2. Copies of any sworn statements or affidavits to be considered by the hearing authority and any exculpatory statements or affidavits shall be furnished to the police officer no less than seventy-two (72) hours prior to the time of any hearing;
3. If any hearing is based upon a complaint of an individual, the individual shall be notified to appear at the time and place of the hearing by certified mail, return receipt requested;
4. If the return receipt has been returned unsigned, or the individual does not appear, except where due to circumstances beyond his control he cannot appear, at the time and place of the hearing, any charge made by that individual shall not be considered by the hearing authority and shall be dismissed with prejudice;
5. The accused police officer shall have the right and opportunity to obtain and have counsel present, and to be represented by the counsel;
6. The appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes shall subpoena and require the attendance of witnesses and the production by them of books, papers, records, and other documentary evidence at the request of the accused police officer or the charging party. If any person fails or refuses to appear under the subpoena, or to testify, or to attend, or produce the books, papers, records, or other documentary evidence lawfully required, the appointing authority, legislative body, or other body as designated by the Kentucky Revised Statutes may report to the Circuit Court or any judge thereof the failure or refusal, and apply for a rule. The Circuit Court, or any judge thereof, may on the application compel obedience by proceedings for contempt as in the case of disobedience of the requirements of a subpoena issued from the court;
7. The accused police officer shall be allowed to have presented, witnesses and any documentary evidence the police officer wishes to provide to the hearing authority, and may cross-examine all witnesses called by the charging party;
8. Any police officer suspended with or without pay who is not given a hearing as provided by this section within sixty (60) days of any charge being filed, the charge then shall be dismissed with prejudice and not be considered by any hearing authority and the officer shall be reinstated with full back pay and benefits; and
9. The failure to provide any of the rights or to follow the provisions of this section may be raised by the officer with the hearing authority. The hearing authority shall not exclude proffered evidence based on failure to follow the requirements of this section but shall consider whether, because of the failure, the proffered evidence lacks weight or credibility and whether the officer has been materially prejudiced.

- (2) Any police officer who shall be found guilty by any hearing authority of any charge, may bring an action in the Circuit Court in the county in which the {local} unit of government may be located to contest the action of that hearing authority, and the action shall be tried as an original action by the court.

- (3) The judgment of the Circuit Court shall be subject to appeal to the Court of Appeals. The procedure as to appeal to the Court of Appeals shall be the same as in any civil action. As the provisions of this section relate to a minimum system of professional conduct, nothing herein shall be construed as limiting or in any way affecting any rights previously afforded to police officers of the Commonwealth by statute, ordinance, or working agreement.
- (4) The provisions of this section shall apply only to police officers of ~~local~~ units of government who receive funds pursuant to KRS 15.410 through 15.992."

House Floor Amendment No. 1 to SB 10, by Representative Farmer:

SB 10, On page 2, after line 7, insert a new line to read:

"(7) No permit or inspection shall be required for the installation of a heating, ventilation, or air conditioning system done in conformance with licensed engineering drawings or plans."

Floor Amendment No. 3 to the Committee Substitute to HB 207, by Representative Webb:

HB 207, On page 28, line 7, after "each" by inserting "miner in a".

Floor Amendment No. 4 to the Committee Substitute to HB 207, by Representative Webb:

HB 207, On page 6, line 7, after "shall" by deleting "additionally"; and

On page 17, line 3, after "shall" by deleting "additionally"; and

On page 28, between lines 2 and 3, by inserting the following section:

"Section 17. KRS 352.150 is amended to read as follows:

- (1) After June 16, 1972, on single-track haulage roads in mines, which the persons employed in the mine must use while performing their work or while traveling on foot to and from their work, there shall be places of refuge on one (1) side not less than five (5) feet in depth from the side of the mine car, and five (5) feet wide, and not more than ninety (90) feet apart. Refuge holes of the same dimensions shall also be provided at switch throws.
- (2) Special places of refuge are not required on haulage roads on which room necks or breakthroughs occur at regular intervals not exceeding ninety (90) feet, and thus furnish places of refuge, or on haulage roads in which the track is so laid as to give a minimum clearance on one (1) side of not less than thirty (30) inches from the side of any haulage engine or any mine car, the clearance to be on the side of the road opposite that upon which electric wires are strung, if electric wires are strung in the road.
- (3) No unauthorized person shall travel on foot to or from work upon any haulage road or slope where transportation is by track, when other roads in proper condition for travel are available.
- (4) On all main haulage roads where hauling is done by machinery the mine foreman shall provide a proper system of signals, and a conspicuous light or marker approved by the commissioner on the front and rear of every trip or train of cars when in motion in the mine.
- (5) Mantrips shall be operated at safe speeds consistent with the condition of roads and type of equipment used and shall be so controlled that they can be stopped within the limits of visibility, in no event at a speed in excess of twelve (12) miles per hour.
- (6) Each mantrip consisting of more than one (1) mine car of men shall be under the charge of a certified official, and it shall be operated independently of any loaded trip of coal or other material.
- (7) Cars on the mantrip shall not be overloaded, and sufficient cars in good mechanical condition shall be provided.
- (8) No material or tools except small hand tools shall be transported in the same car with men on any mantrip unless in a separate, enclosed compartment of the car, and all persons shall ride inside of mantrip cars, except the motorman and brakeman or trip rider.
- (9) Men shall not load or unload before the cars in which they are to ride or are riding come to a full stop, and men shall proceed in an orderly manner to and from mantrips.
- (10) A waiting station shall be provided where men are required to wait for mantrips or man-cages. It shall have sufficient room, ample clearance from moving equipment, and adequate seating facilities.
- (11) Power wires shall be guarded effectively at mantrip stations where there is a possibility of any person coming in contact with energized electric wiring while loading or unloading from the mantrip.
- (12) Cars used for transporting men on slopes shall be equipped with a safety device capable of stopping the trip in event of failure of the rope or couplings. The device shall be approved by the commissioner.
- (13) Where belts are used for transporting men, unless the commissioner finds that a safety hazard exists which cannot be corrected, the belt transport will be allowed, and a minimum clearance of eighteen (18) inches shall be maintained between

the belt and the roof or cross bars, projecting equipment, cap pieces, overhead cables, wiring, and other objects; but where the height of the coal bed permits, the clearance shall not be less than twenty-four (24) inches.

- (14) Unless a greater speed is allowed by special permission from the commissioner, in which event the conditions, limitations, and rules imposed in connection with the grant of permission shall be observed, the belt speed shall not exceed two hundred fifty (250) feet per minute where the minimum overhead clearance is eighteen (18) inches, or three hundred (300) feet per minute when the minimum overhead clearance is twenty-four (24) inches, while men are loading, unloading, or being transported.
- (15) The space between men riding on a belt line shall not be less than six (6) feet.
- (16) Loading and unloading stations shall be illuminated properly.
- (17) A certified official or some other supervisory personnel appointed by the mine foreman shall supervise all mantrips.
- (18) At all mines utilizing track haulage or transportation, there shall be developed a safe and uniform system of traveling through all switch points to prevent collisions. This system shall be designed in a manner which ensures that all persons can determine who has the right of way in all circumstances. Information concerning this system shall be included in annual retraining.
- (19) Efficient equipment, either mobile or self-propelled, equipped with sufficient first-aid equipment and supplies, shall be available on all underground sections where men are present to transport injured workers to the surface.
- (20) At those mines that do not have a contract or other arrangement for providing ambulance service, a 4-wheel-drive vehicle or other vehicle suitable to the terrain equipped with sufficient first-aid equipment and supplies shall be available to the mines or preparation facilities for the transportation of injured workers. At those mines that have a contract or other arrangement for providing ambulance service, the access road to the mine or preparation facility shall be kept in a condition which is passable by the ambulance vehicle or other emergency rescue equipment.
- (21) The commissioner shall be empowered to draft additional administrative regulations providing for transportation of men when necessary.
- (22) An adequate means of transportation shall be available at all times on the working section while miners are working underground which can be used to transport miners to the surface in the event of an accident or other emergency. and by renumbering all subsequent subsections accordingly; and

On page 41, line 21, after the second occurrence of "Section" by deleting "17" and inserting "18" in lieu thereof.

Floor Amendment No. 5 to the Committee Substitute to **HB 207**, by Representative Webb:

HB 207, On page 24, line 2, before "operation" by inserting "continuous"; and

On page 24, line 19, after "Licensing." by inserting "The construction of mine seals according to the mine seal construction plan shall be certified in writing by the mine foreman or mine superintendent.".

Floor Amendment No. 6 to the Committee Substitute to **HB 207**, by Representative Webb:

HB 207, On page 41, line 18, after "on" by deleting "the" and inserting in lieu thereof "every" and after "shift" by deleting "where the work is to be performed".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 50, Representative Moore

HB 310, Representatives Hall and Edmonds

HB 322, Representative S. Lee

HB 381, Representative Kerr

HB 438, Representatives Edmonds, Hall, and S. Lee

HB 490, Representative Miller

Announcements

Committee on Transportation, Noon, Tuesday, March 6, 2007

Committee on Natural Resources and Environment, upon adjournment, Tuesday, March 6, 2007

Committee on Natural Resources and Environment, 9:00 a.m., Thursday, March 8, 2007, Room 129

Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs, 8:30 a.m., Tuesday, March 6, 2007

Committee on Education, 7:57 a.m., Tuesday, March 6, 2007

Committee on Appropriations and Revenue, 10:00 a.m., Tuesday, March 6, 2007

Adjournment

Representative Adkins moved to adjourn until the hour of 2:00 p.m. on Tuesday, March 6, 2007.

The motion that the House adjourn until 2:00 p.m., Tuesday, March 6, 2007, was adopted by voice vote.

TUESDAY, MARCH 6, 2007
TWENTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Reverend Dave Muse, Northside Baptist Church, Science Hill, Kentucky, guest of Representative Turner.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Special Music was provided by the Blue Grass Cousins Coal Miners - Donnie Sullivan, Bill Sullivan, Walter Sullivan, Charles Skeens, and James Justice of Pike County. The musicians were the guests of Representative Hall.

Special music was provided by trumpeter Patrick Hughes of Louisville, Kentucky, guest of Representative Burch.

The roll was called. All members were present.

Representative Ballard moved that the reading of the Journal of March 5, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills and Resolutions were filed by the following:

Representative Combs moved that she be recorded as voting "Yea" on **HB 359**. Agreed.

Representative Webb moved that she be recorded as voting "Yea" on **HB 359, 401, and 127**. Agreed.

Representative Moore moved that his vote be changed from "Yea" to "Nay" on **HB 310**. Agreed.

Representative Moberly moved that he be recorded as voting "Yea" on **HB 216**. Agreed.

Representative J. Lee moved that he be recorded as voting "Yea" on **HB 216**. Agreed.

Representative Weston moved that he be recorded as voting "Yea" on **HB 359**. Agreed.

Representative Crenshaw moved that he be recorded as voting "Yea" on **HB 401**. Agreed.

Representative Simpson moved that he be recorded as voting "Yea" on **HB 401 and 359**. Agreed.

Representative Edmonds moved that he be recorded as voting "Yea" on **HB 64, 540, 281, 287, 334, 131, 246, 296, 506, 469, 216, 355, 526, 32, 156, 439, 235, 208 and SB 83**. Agreed.

Representative Ballard moved that the rules be suspended to grant floor privileges to former Representative James E. Bruce from Christian County and his wife Jane. Agreed.

Representative Arnold moved that the rules be suspended to grant floor privileges and to act on a Resolution. Agreed.

Representative Arnold moved the adoption of the following **HR 185**:

HR 185, A RESOLUTION honoring the Union County High School Braves Wrestling Team, 2007 KHSAA Champions.

WHEREAS, on Saturday, February 17th, at the Frankfort Civic Center, the Union County Braves, after three intense days of competition, outpointed the most crowded field in history to capture the 2007 KHSAA Wrestling Tournament and claim the school's first wrestling title in 25 years; and

WHEREAS, the Braves totaled 148 points during the tournament, outpointing runner-up and traditional mat power Woodford County by just four points in a tournament that saw an incredible seven teams finish within 25 points of the leader; and

WHEREAS, the Braves had an exceedingly deep team with many contributors, and were led by their only individual champion, junior Mitch Ervin in the 152 -pound weight class; and

WHEREAS, an amazing eight of the 12 wrestlers who participated for Union County scored points, including senior Adam Carr (seventh in the 112-pound class), juniors Jarvis Elam (fourth in the 103-pound class), Jake Wempe (eighth in the 125-pound class), and Diante Wright (fifth in the 189-pound class), and sophomores Aaron Carr (seventh in the 119-pound class), Isaac Ervin (third in the 130-pound class), and Luke Ervin (fifth in the 135-pound class); and

WHEREAS, four other wrestlers for the Braves made it through the regional tournament to wrestle at the state meet: senior Carson Chambliss, juniors Josh Willett and Jarrad Burke, and sophomore Levi Griggs, and two members did not wrestle at the state meet, Joe Belt and Steve Taylor; and

WHEREAS, the Braves were led by head coach Dennis Walls, who was ably assisted by coaches Robert Ervin, Tim Ervin, Mark Jenkins, and Clint Hayes; and

WHEREAS, the accomplishments of this fine young group of athletes have brought great honor and distinction to their school and community, and should be saluted and honored;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, do hereby Join Representative John Arnold in applauding the dedication and accomplishments of the Union County Braves, and declare these young men to be examples to student athletes all across the Commonwealth.

Section 2. The members of this body congratulate the Union County Braves, head coach Dennis Walls, the assistant coaches and staff, Athletic Director Bill Drage, Principal Matt Ciecorka, and Superintendent Dr. Gerald Novak upon winning the 2007 KHSAA Wrestling Championship.

Section 3. The Clerk of the House of Representatives shall deliver a copy of this Resolution to Principal Matt Ciecorka, Union County High School, 510 Mart Street, Morganfield, Kentucky 42437.

There being no objection, **HR 185** was adopted.

Representative Pullin moved that the Rules be suspended to allow the House to pay tribute to two fallen soldiers from Kentucky who had died in military service to our country. Agreed.

Representative Cherry asked that the Clerk report Resolutions **HR 99** and **HR 190**. Agreed.

Representative Thompson commented on **HR 190**.

Representative J. Lee commented on **HR 99**.

HR 99:

HR 99, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Private First Class Christopher Neal White.

With deepest respect and admiration, we pay homage and tribute to Private First Class Christopher Neal White, and we pause in silent reverence for his soul.

WHEREAS, Private First Class Christopher Neal White was born December 9, 1982; he grew up in Hardin County, Kentucky; and he traversed these earthly bounds June 20, 2006; and

WHEREAS, Christopher Neal White was the loving son of William and Galia White; he was the caring brother of William Michael White; he was the paternal grandson of Carrol White; he was the maternal grandson of America Amatt and Enrique Chuez; and he leaves behind many other family members who loved him dearly; and

WHEREAS, Private First Class Christopher Neal White graduated from Central Hardin High School in 2001, where he played football and participated in weightlifting; and he also enjoyed hunting and fishing; and

WHEREAS, Private First Class Christopher Neal White enlisted in the United States Marine Corps in May 2005; he was assigned to the 1st Battalion, 1st Marine Regiment, 1st Marine Division, 1st Marine Expeditionary Force, Camp Pendleton, California; and he deployed to Iraq in January 2006 and was scheduled to complete his first tour of duty in August 2006; and

WHEREAS, the life of Private First Class Christopher Neal White ended prematurely when a roadside bomb detonated near his Humvee while conducting combat operations in Al Anbar province, Iraq; and

WHEREAS, Private First Class Christopher Neal White valiantly served his country with honor and distinction; a memorial service with full military honors was conducted in his memory; and his awards and decorations include the National Defense Service Medal, Iraq Campaign Medal, and Global War on Terrorism Service Medal; and

WHEREAS, Private First Class Christopher Neal White was described as "a good kid . . . likable guy" by his father; and he was also remembered by his friends as an "all round . . . outgoing person"; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Private First Class Christopher Neal White and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Private First Class Christopher Neal White has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Private First Class Christopher Neal White and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Private First Class Christopher Neal White.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the parents of Private First Class Christopher Neal White, William and Galia White, 3120 Channel Drive, Bolivia, North Carolina 28422.

Representative Cherry moved that **HR 99** and **HR 190** be adopted. There being no objection, **HR 99** was adopted.

(**HR 190** was previously adopted on March 5, 2007.)

Introduction of Bills and Resolutions

HCR 194, by Representative Meeks: A CONCURRENT RESOLUTION recognizing the 2006 amendments to the boxing and wrestling administrative regulations as the Greg Page Boxing and Safety Initiative.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Education: **SJR 125**

Health and Welfare: **SB 80, 198, SJR 6**

Labor and Industry: **SB 190**

Natural Resources and Environment: **SB 92**

State Government: **SB 197**

House Floor: **HR 187, 188, 189, 192**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Resolution has been posted for Committee consideration:

Health and Welfare: **SJR 6**

Report of Committees

The Committee on Elections, Constitutional Amendments and Intergovernmental Affairs reported **SB 14** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 14, AN ACT relating to elections and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.255 is amended to read as follows:

- (1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.
- (2) Except for those voters who have been certified as requiring assistance on a permanent basis, no voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, because of blindness, other physical disability, or an inability to read English, he is unable to vote without assistance. The oath shall be upon a voter assistance form prescribed by the State Board of Elections. Any person assisting a voter shall complete the voter assistance form.
- (3) Upon making and filing the oath with the precinct clerk, the voter requiring assistance shall retire to the voting machine or ballot completion area with the precinct judges, and one (1) of the judges shall, in the presence of the other judge and the voter, operate the machine or complete the ballot as the voter directs. A voter requiring assistance in voting may, if he prefers, be assisted by a person of his own choice who is not an election officer, except that the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union shall not assist a voter.
- (4) The precinct election clerk shall swear a person assisting a voter in voting to operate the voting machine or complete the

ballot in accordance with the directions of the voter, and the person sworn shall enter the voting booth or ballot completion area and operate the machine or complete the ballot for the voter as the voter directs.

- (5) A voter who requires voting assistance on a permanent basis because of blindness or other physical disability may apply to the county board of elections for certification. Application may be made when registering to vote or completing the voter assistance form by indicating that the reason for obtaining assistance is permanent. The county board of elections shall determine whether the applicant requires assistance on a permanent basis. The county board of elections shall notify the county clerk of persons certified as requiring permanent voting assistance and the county clerk shall enter the certification on the voter's registration record. The State Board of Elections shall indicate on the precinct roster of voters those voters who are certified to receive assistance permanently without signing the voter assistance form at the precinct.
- (6) "Voting booth" or "ballot completion area" means an area in which a voter casts his vote or completes his ballot which is designed to insure the secrecy of the vote. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific reason that requires him to receive assistance.
- (7) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it, except that those voters who because of a disability need extra time to cast a ballot shall be given a reasonable amount of time to vote.
- (8) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.
- (9) If the machine is so constructed as to require adjustment after one person has voted before another person may vote, the judges of election shall adjust it after each person has voted.
- (10) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.
- (11) If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.
- (12) The election sheriff shall be responsible for reporting violations of this section.

Section 2. Whereas it is necessary to update election statutes in a timely manner before the primary election, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee on Education reported SB 46, SB 57, SB 86, and SB 130 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 46, AN ACT relating to the Kentucky Educational Excellence Scholarship Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.7881 is amended to read as follows:

- (1) An eligible high school student~~students~~ who has~~have~~ graduated from high school and an eligible postsecondary student~~students~~ who has~~have~~ earned a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and a supplemental award, or a supplemental award only pursuant to KRS 164.7879(3)(c), shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or a supplemental award only for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsection (7)~~(6)~~ of this section.
- (2) (a) Beginning with the 2008-2009 academic year, an eligible high school student who has not graduated from high school may use a portion of the projected Kentucky educational excellence scholarship base scholarship amount earned to date to pay tuition for up to six (6) dual credit hours provided by a participating institution if:
 1. The student is participating in a dual enrollment program in accordance with KRS 164.098;
 2. There is an agreement in place between the participating postsecondary institution and the public school district or nonpublic high school setting the minimum qualification standards for eligibility. The Council on Postsecondary Education and the Kentucky Department of Education shall develop model agreements;
 3. The student has taken the ACT test and attained an ACT score of at least 18; and
 4. The course credit will meet the postsecondary education institution's general education requirements or will meet the requirements toward a degree in the student's academic and career path as identified in the

individual learning plan.

- (b) The projected scholarship earnings that may be used to pay tuition for dual credit courses shall be calculated based on the procedures described in KRS 164.7879 (1) and (2) governing the calculation of the base scholarship amount.
 - (c) The funds used to pay for a high school student's dual credit courses shall not exceed the total projected amount earned prior to enrollment in the dual credit course.
 - (d) The maximum award amount for an eligible postsecondary student shall be reduced by proportionally applying any amount used for dual credit courses while in high school over eight (8) academic terms, or ten (10) academic terms for a student who is enrolled in a five (5) year undergraduate degree program as described in subsection (7) of this section.
 - (e) Use of a Kentucky educational excellence scholarship base scholarship amount by an eligible high school student shall:
 - 1. Be used only for tuition for dual credit courses; and
 - 2. Not affect the length of time and the number of academic terms during which an eligible postsecondary student may receive a Kentucky educational excellence scholarship award under the provisions of KRS 164.7871 to 164.7885 and 164.7889.
- (3) To receive the Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, an eligible high school or postsecondary student shall:
- (a) Enroll in and attend a participating institution as a full-time student, ~~or a~~ part-time student, or dual credit student; and
 - (b) Maintain eligibility as provided in subsection ~~(4)(3)~~ of this section.
- ~~(4)(3)~~ Eligibility for a Kentucky educational excellence scholarship or a Kentucky educational excellence scholarship and supplemental award shall terminate upon the earlier of:
- (a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection ~~(6)(5)~~ or ~~(7)(6)~~ of this section; or
 - (b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, for a cumulative total of eight (8) academic terms if the student enrolls as at least a part-time student in a four (4) year program.
- ~~(5)(4)~~
- (a) The maximum award amount shall be determined by the authority and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible postsecondary student for an award period shall be delivered by the authority to the participating institution for disbursement to the eligible postsecondary student.
 - (b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible postsecondary student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible postsecondary student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible postsecondary student, except if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection ~~(6)(5)~~ of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period.
 - (c) 1. An eligible postsecondary student who is enrolled full-time in an undergraduate program of study, in the pharmacy program at the University of Kentucky, or in a program of study designated as an equivalent undergraduate program of study by the authority in an administrative regulation, shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study.
 - 2. To retain the maximum award for the second award period, an eligible postsecondary student shall have at least a 2.5 grade point average at the end of the first award period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection ~~(6)(5)~~ of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the maximum award for the award period in which he or she resumes enrollment.
 - 3. To retain the maximum award amount for subsequent award periods, an eligible postsecondary student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection ~~(6)(5)~~ of this section, and the participating institution does not certify a cumulative grade point

average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the same award for the award period in which he or she resumes enrollment as he or she received in the award period in which enrollment was interrupted.

4. Any eligible postsecondary student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.
5. Any eligible postsecondary student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.
6. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each Kentucky educational excellence scholarship recipient enrolled as a full-time or part-time student at the participating institution.
7. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.

~~(6)(5)}~~ The expiration of a student's eight (8) academic terms and five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:

- (a) A serious and extended illness or injury of the student, certified by an attending physician;
- (b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;
- (c) Natural disasters that would render a student unable to attend classes; or
- (d) Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or the Americorps, for up to three (3) years.

~~(7)(6)}~~ An eligible postsecondary student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the authority shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award only for a maximum of ten (10) academic terms. The expiration of an eligible postsecondary student's five (5) year eligibility shall be extended to six (6) years for eligible postsecondary students meeting the requirements of this subsection.

~~(8)(7)}~~ Each eligible high school student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Senator Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement.

Section 2. KRS 164.7885 is amended to read as follows:

- (1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the authority, a compiled list of all high school students during the academic year. A high school shall report the grade point average of an eligible high school student pursuant to KRS 164.7874 by January 15 following the end of the fall academic term in which the student completed the high school graduation requirements. The list shall identify the high school and shall contain each high school student's name, Social Security number, address, grade point average for the academic year, expected or actual graduation date, and highest ACT score. The list need not contain the ACT score if the authority receives the ACT score directly from the testing services. The authority shall notify each eligible high school student of his or her Kentucky educational excellence scholarship award earned each academic year. The authority shall determine the final Kentucky educational excellence scholarship and supplemental award based upon the actual final grade point average, ~~and~~ highest ACT score, and any adjustment under subsection (2) of Section 1 of this Act and shall notify each eligible twelfth-grade high school student of the final determination. The authority shall make available a list of eligible high school and postsecondary students to participating institutions.
- (2) The authority shall provide data access only to participating institutions that have either received an admission application from an eligible high school or postsecondary student or have been listed by the eligible high school or postsecondary student on the Free Application For Federal Student Aid.
- (3) For each eligible postsecondary student enrolling in a participating institution after July 1, 1999, or eligible high school student with dual enrollment under subsection (2) of Section 1 of this Act, the participating institution shall verify to the authority:
 - (a) The student's initial eligibility for a Kentucky educational excellence scholarship, Kentucky educational excellence scholarship and supplemental award, or supplemental award only pursuant to KRS 164.7879(3)(c) through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;
 - (b) The student's highest ACT score attained by the date of graduation from high school, provided that the

participating institution need not report the ACT score if the authority receives the ACT score directly from the testing services;

- (c) The eligible postsecondary student's full-time or part-time enrollment status at the beginning of each academic term;~~{and}~~
 - (d) The eligible postsecondary student's cumulative grade point average after the completion of each award period;
and
 - (e) The enrollment status of a high school student with dual enrollment under subsection (2) of Section 1 of this Act.
- (4) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible postsecondary students and all eligible high school students with dual enrollment enrolled for that academic term. Kentucky educational excellence scholarships and supplemental awards shall be disbursed by the authority to each eligible postsecondary student attending a participating institution and each eligible high school student with dual enrollment during the academic term within thirty (30) days after receiving a satisfactory report.
 - (5) The Kentucky educational excellence scholarship and the supplemental award shall not be reduced, except as provided in KRS 164.7881~~(5)(4)}~~ and subsection (2)(d) of Section 1 of this Act.
 - (6) Kentucky educational excellence scholarships and supplemental awards shall not be awarded or disbursed to any eligible postsecondary students who are:
 - (a) In default on any loan under Title IV of the federal act; or
 - (b) Liable for any amounts that exceed annual or aggregate limits on any loan under Title IV of the federal act; or
 - (c) Liable for overpayment of any grant or loan under Title IV of the federal act; or
 - (d) In default on any obligation to the authority under any programs administered by the authority until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.
 - (7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Kentucky educational excellence scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

Section 3. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

- (1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the authority;
- (2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;
- (3) "ACT score" means the composite score achieved on the ~~ACT~~~~American College Test~~ at a national test site on a national test date or an equivalent score, as determined by the authority, on the Scholastic Assessment Test;
- (4) "Authority" means the Kentucky Higher Education Assistance Authority;
- (5) "Award period" means two (2) consecutive academic terms;
- (6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;
- (7) "Council" means the Council on Postsecondary Education created under KRS 164.011;
- (8) "Eligible high school student" means any person who:
 - (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;
 - (b) Was enrolled after July 1, 1998:
 - 1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year; or
 - 2. In a Kentucky high school for the fall academic term of the senior year and who:
 - a. Was enrolled during the entire academic term;
 - b. Completed the high school's graduation requirements during the fall academic term; and
 - c. Was not enrolled in a secondary school during any other academic term of that academic year; and
 - 3. Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and
 - (c) Is not a convicted felon;
- (9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky

resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:

- (a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;
 - (b) Has the required postsecondary GPA~~{G.P.A.}~~ required under KRS 164.7881;
 - (c) Has remaining semesters of eligibility under KRS 164.7881;
 - (d) Is enrolled in a participating institution as a part-time or full-time student; and
 - (e) Is not a convicted felon;
- (10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;
- (11) "Grade point average or GPA" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;
- (12) "High school" means any Kentucky public high school, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;
- (13) "KEES" means Kentucky educational excellence scholarship;
- (14) "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection (8)(b)2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the authority;
- (15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;
- (16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;
- (17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(c). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;
- (18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:
- (a)
 - 1. Is publicly operated; or
 - 2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or
 - 3. Is designated by the authority as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and
 - (b) Continues to commit financial resources to student financial assistance programs;
- (19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and
- (20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Section 4. KRS 164.7879 is amended to read as follows:

- (1) Kentucky educational excellence scholarship awards shall be based upon an established base scholarship amount and an eligible high school student's grade point average. The base scholarship amount for students attaining a grade point average of at least 2.5 for the 1998-1999 academic year shall be as follows:

GPA	Amount	GPA	Amount
2.50	\$125.00	3.30	\$325.00
2.60	\$150.00	3.40	\$350.00
2.70	\$175.00	3.50	\$375.00
2.75	\$187.00	3.60	\$400.00
2.80	\$200.00	3.70	\$425.00
2.90	\$225.00	3.75	\$437.00
3.00	\$250.00	3.80	\$450.00
3.10	\$275.00	3.90	\$475.00

2007 Regular Session

3.20	\$300.00	4.00	\$500.00
3.25	\$312.00		

The authority shall review the base amount of the Kentucky educational excellence scholarship each academic year and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (2) (a) The authority shall commit to provide to each eligible high school student the base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average. The award shall be based upon the eligible high school student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible high school student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence scholarship through the promulgation of an administrative regulation by the authority.
- (b) Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874, any high school student who maintains Kentucky residency and completes the academic courses that are required for a Kentucky educational excellence scholarship while participating in an approved educational high school foreign exchange program or participating in the United States Congressional Page School may apply his or her grade point average for that academic year toward the base as described in paragraph (a) of this subsection. The grade point average shall be reported by the student's Kentucky home high school, based on an official transcript from the school that the student attended during the out-of-state educational experience. The authority shall promulgate administrative regulations that describe the approval process for the educational exchange programs that qualify under this paragraph. The provisions in this paragraph shall likewise apply to any Kentucky high school student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.
- (c) 1. Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874 and the requirement that a student graduate from a Kentucky high school, a high school student who completes the KEES curriculum while attending an accredited out-of-state high school or Department of Defense school may apply the grade point average for any applicable academic year toward the base as described in paragraph (a) of this subsection and shall also qualify for a supplemental award under subsection (3) of this section when:
- His or her custodial parent or guardian is in active service of the Armed Forces of the United States; and
 - The custodial parent or guardian maintained Kentucky as the home of record at the time the student attended an accredited out-of-state high school or a Department of Defense school.
2. The student or parent shall arrange for the out-of-state school to report the student's grade point average each academic year and the student's highest ACT score to the authority as required under KRS 164.7885. The authority shall promulgate administrative regulations implementing the requirements in this paragraph, including:
- The documentation that the parent shall submit to the authority establishing the student's eligibility for the scholarship; and
 - The assurances that an out-of state institution shall submit to the authority for submission of the student grade point average.
3. The provisions in this paragraph shall apply to the 2001-2002 school year and thereafter.
- (3) (a) The authority shall commit to provide to each eligible high school student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the ~~ACT~~^{ACT}~~American College Test~~, a supplemental award for the award period beginning in the fall of 1999, based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT		Annual	ACT		Annual
Score	Bonus		Score	Bonus	
15		\$21	22		\$171
16		\$43	23		\$193
17		\$64	24		\$214
18		\$86	25		\$236
19		\$107	26		\$257
20		\$129	27		\$279
21		\$150	28 or above		\$300

Subsequent supplemental awards for eligible high school students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

- (b) The authority shall commit to provide to each eligible high school student upon achievement after June 30, 1999, of an ACT score of at least 15 on the ~~ACT~~~~American College Test~~ a supplemental award based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT		ACT	
Score	Amount	Score	Amount
15	\$36	22	\$286
16	\$71	23	\$321
17	\$107	24	\$357
18	\$143	25	\$393
19	\$179	26	\$428
20	\$214	27	\$464
21	\$250	28 and above	\$500

The authority shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (c) The authority shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who are citizens, nationals, or permanent residents of the United States and who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education and Kentucky residents who are citizens, nationals, or permanent residents of the United States and who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class, and students under subsection (2)(c) of this section who do not attend an accredited high school.

SB 57, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 2006-1319 dated October 17, 2006, relating to reaffirming, abolishing, and creating various offices and divisions within the Department of Education.

SB 86, AN ACT relating to family resource and youth services centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.4975 is amended to read as follows:

As used in Section 2 of this Act~~[KRS 156.497]~~, 156.4975, and 156.4977:

- (1) "Core component" means one (1) of the activities or services for children and their families provided by a family resource or youth services center required by Section 2 of this Act~~[KRS 156.497(3) and (4)]~~.
- (2) "Optional component" means one (1) of the activities or services provided for children or their families as part of the implementation of a family resource or youth services center in addition to those required by Section 2 of this Act~~[KRS 156.497(3) and (4)]~~ and designed to satisfy unique community needs.
- (3) "Secretary" means the secretary of the Cabinet for Health and Family Services.
- ~~[(4) "Task Force" means the Interagency Task Force on Family Resource and Youth Services Centers.]~~

SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

- (1) Family resource and youth services centers shall be designed to meet the needs of children and their families by providing services to enhance a student's ability to succeed in school. If resources are limited, students and families who are the most economically disadvantaged shall receive priority status for receiving services.
- (2) Family resource centers shall be located in or near each elementary school in the Commonwealth in which twenty percent (20%) or more of the student body are eligible for free or reduced price school meals. Family resource centers shall promote identification and coordination of existing resources and shall include but not be limited to the following core components for each site:
 - (a) Full-time preschool child care for children two (2) and three (3) years of age;
 - (b) After-school child care for children ages four (4) through twelve (12), with the child care being full-time during the summer and on other days when school is not in session;
 - (c) Families in training, which shall consist of an integrated approach to home visits, group meetings, and monitoring child development for new and expectant parents;
 - (d) Family literacy services as described in KRS 158.360 or a similar program designed to provide opportunities for

parents and children to learn together and promote life-long learning; and

(e) Health services or referral to health services, or both.

(3) Youth services centers shall be located in or near each school in the Commonwealth, except elementary schools, in which twenty percent (20%) or more of the student body are eligible for free or reduced price school meals. Youth services centers shall promote identification and coordination of existing resources and shall include but not be limited to the following core components for each site:

(a) Referrals to health and social services;

(b) Career exploration and development;

(c) Summer and part-time job development for high school students;

(d) Substance abuse education and counseling; and

(e) Family crisis and mental health counseling.

(4) A grant program is established to provide financial assistance to eligible school districts to establish or maintain family resource or youth services centers. The Cabinet for Health and Family Services shall award grants pursuant to KRS 156.4977. Funding provided to the Cabinet for Health and Family Services for the grant program and agency administrative costs shall include an increase that is equal to or greater than the general fund growth factor provided in agency budget instructions.

(5) A family resource or youth services center that receives funding for one (1) year or more shall not be considered ineligible for funding based solely on the percent of the student body eligible for free or reduced school food program, unless the percent of the student body eligible for free or reduced school food program is below twenty percent (20%) for five (5) consecutive years.

(6) A school district shall not operate a family resource center or a youth services center which provides abortion counseling or makes referrals to a health care facility for the purposes of seeking an abortion.

Section 3. KRS 156.4977 is amended to read as follows:

- (1) ~~[Beginning with fiscal year 1992,]~~ Grants shall be awarded to eligible local school districts to implement~~[-or continue]~~ family resource and youth services centers as defined in Section 2 of this Act~~[KRS 156.497]~~.
- (2) Grant proposal instructions shall be developed by the Cabinet for Health and Family Services. The instructions shall be contained in a grant application package and distributed to each local public school district in which there are qualifying schools.
- (3) A proposal review team comprised of at least three (3) members shall review proposals and score each application in accordance with training provided and scoring procedures established by the Cabinet for Health and Family Services. Proposal reviewers shall be selected by the secretary of the Cabinet for Health and Family Services. The reviewers shall submit the scored proposals to the secretary of the Cabinet for Health and Family Services. Written notification of the secretary's final decision on proposals shall be provided by the secretary to each applicant school district.
- (4) The application from each qualifying school or school consortium shall contain the following:
 - (a) A statement of need;
 - (b) Proposed goals and outcomes;
 - (c) A description of the actual services and activities to be provided at the center and how they shall be provided;
 - (d) A description of how the children and families with the most urgent needs will be served first;
 - (e) Written agreements with other service providers;
 - (f) A description of the development, composition, and role of the local advisory council;
 - (g) The strategies to disseminate information;
 - (h) A training plan;
 - (i) A description of procedures to be followed to obtain parental permission for services and for sharing confidential information with other service providers. Procedures shall be developed pursuant to federal law and the Kentucky Revised Statutes including, but not limited to, KRS 210.410, 214.185, 222.441, 645.030, and Chapters 620 and 635 and shall require that no family resource center or youth services center offer contraceptives to minor students prior to receiving the express consent of the student's parent or legal guardian;
 - (j) A plan to minimize stigma;
 - (k) A work plan for each of the core components and optional components;
 - (l) Job descriptions for staff;
 - (m) A description of the center location and school accessibility;
 - (n) A description of the hours of operation of the center;
 - (o) A financial strategy and budget;
 - (p) A program evaluation plan; and

- (q) Letters of endorsement and commitment to the center from community agencies and organizations.
- (5) Grant proposal instruction and scoring procedures shall be made available to all qualifying schools.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The Division of Family Resource and Youth Services Centers of the Department for Human Support Services shall promulgate an administrative regulation to implement the provisions of Sections (2) and (3) of this Act. The administrative regulation shall include but not be limited to requirements for applications for continuation funding of a family resource or youth services center and center staff training.

SB 130, AN ACT relating to employee interest in contracts between a public postsecondary education institution and a business.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) For the purposes of this section, "business" has the same meaning as defined in KRS 11A.010.**
- (2) The governing board of each public postsecondary education institution may adopt regulations establishing the conditions under which and the procedures whereby the board may approve a specific instance of an employee having an interest in a contract between the institution and a business.**

Section 2. KRS 164.131 is amended to read as follows:

- (1) (a) The government of the University of Kentucky is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky.
- (b) All persons appointed after May 30, 1997, shall be required to attend and complete an orientation program prescribed by the council under KRS 164.020, as a condition of their service.
- (c) The board shall periodically evaluate the institution's progress in implementing its missions, goals, and objectives to conform to the strategic agenda. Officers and officials shall be held accountable for the status of the institution's progress.
- (d) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the council and a finding of fact by the council.
- (e) The board shall consist of sixteen (16) members appointed by the Governor, two (2) members of the faculty of the University of Kentucky, one (1) member of the University of Kentucky nonteaching personnel, and one (1) member of the student body of the University of Kentucky. The voting members of the board shall select a chairperson annually.
- (2) (a) The terms of the appointed members shall be for six (6) years and until their successors are appointed and qualified; except the initial appointments shall be as follows:
1. Two (2) members shall serve one (1) year terms;
 2. Two (2) members shall serve two (2) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university according to rules established by the board of trustees;
 3. Three (3) members shall serve three (3) year terms;
 4. Three (3) members shall serve four (4) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection;
 5. Three (3) members shall serve five (5) year terms; and
 6. Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under subparagraph 2. of this subsection.
- (b) 1. Three (3) of the appointments shall be graduates of the university and may include one (1) graduate of the institution who resides outside the Commonwealth;
2. Three (3) shall be representative of agricultural interests; and
3. Ten (10) shall be other distinguished citizens representative of the learned professions and may include one (1) who resides outside of Kentucky.
- (c) The Governor shall make the appointments so as to reflect proportional representation of the two (2) leading political parties of the Commonwealth based on the state's voter registration and to reflect no less than proportional representation of the minority racial composition of the Commonwealth.
- (d) Appointments to fill vacancies shall be made for the unexpired term in the same manner as provided for the original appointments.
- (3) The two (2) University of Kentucky faculty members shall be of the rank of assistant professor or above. They shall be elected by secret ballot by all University of Kentucky faculty members of the rank of assistant professor or above. Faculty

members shall serve for terms of three (3) years and until their successors are elected and qualified. Faculty members shall be eligible for reelection, but they shall be ineligible to continue to serve as members of the board of trustees if they cease to be members of the faculty of the university. Elections to fill vacancies shall be for the unexpired term in the same manner as provided for original elections.

- (4) The nonteaching personnel member shall be any full-time staff member, excluding the president, vice-presidents, academic deans, and academic department chairpersons. The staff member shall represent all nonteaching university employees including, but not limited to, building facilities and clerical personnel. The staff member shall be elected by secret ballot by the nonteaching employees. The staff member shall serve a term of three (3) years and until a successor is elected and qualified. The staff member shall be eligible for reelection, but a staff member who ceases being an employee of the university shall not be eligible to continue to serve as a member of the board. Elections to fill vacancies shall be for the unexpired term and shall be held in the same manner as provided for the original election.
- (5) The student member shall be the president of the student body of the university during the appropriate academic year and may be an out-of-state resident if applicable. If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year, a special election shall be held to select a full-time student. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.
- (6) The number of student and employee trustees of the University of Kentucky elected to the board shall not exceed four (4).
- (7) Unless specifically approved by the board of trustees under the provisions of Section 1 of this Act, no member of the administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with exception of compensation to the two (2) faculty members, and the one (1) nonteaching personnel member.
- (8) New appointees of the board shall not serve more than two (2) consecutive terms. Board members serving as of May 30, 1997, may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.

Section 3. KRS 164.390 is amended to read as follows:

Unless specifically approved by the governing board of an institution under the provisions of Section 1 of this Act, no president, professor, teacher, member of the executive council or other officer or employee shall be interested in any contract or purchase for the building or repairing of any structure or furnishing of any supplies for the use of a university or college.

Section 4. KRS 164.821 is amended to read as follows:

- (1) The government of the University of Louisville is vested in a board of trustees appointed for a term set by law pursuant to Section 23 of the Constitution of Kentucky. The board shall consist of seventeen (17) members appointed by the Governor; one (1) member of the teaching faculty of the University of Louisville who shall be the chief executive of the ranking unit of faculty government; a member of the permanent staff of the University of Louisville who shall be the chief executive of the staff senate; and a student member who shall be the president of the student body during the appropriate academic year.
 - (a) All persons appointed after May 30, 1997, shall be required to attend and complete an orientation program prescribed by the council under KRS 164.020 as a condition of their service.
 - (b) Board members may be removed by the Governor for cause, which shall include neglect of duty or malfeasance in office, after being afforded a hearing with counsel before the Council on Postsecondary Education and a finding of fact by the council.
 - (c) New appointees to the board shall not serve more than two (2) consecutive terms. Board members serving as of May 30, 1997, may be reappointed at the end of their existing terms and may serve two (2) additional full consecutive terms.
- (2) If the student member does not maintain his position as student body president or his status as a full-time student at any time during that academic year a special election shall be held to select a full-time student member. The student member shall serve for a term of one (1) year beginning with the first meeting of the fiscal year which contains that academic year.
- (3) The faculty member, staff member, and student body member shall cease to be eligible for membership on the board of trustees upon termination of their respective relationships with the university, and vacancies occurring for this reason shall be filled for the remainder of the respective terms in the same manner. The seventeen (17) citizen members of the board shall annually elect one (1) of their number to serve as chairperson of the board.
- (4) The gubernatorial appointments shall serve a term of six (6) years and until their successors are appointed and qualified, except the initial terms shall be as follows:
 - (a) Two (2) members shall serve one (1) year terms;
 - (b) Three (3) members shall serve two (2) year terms;
 - (c) Three (3) members shall serve three (3) year terms, one (1) of whom shall be a graduate of the university, selected from a list of three (3) names submitted by the alumni of the university in the manner and according to rules prescribed by the board of trustees;
 - (d) Three (3) members shall serve four (4) year terms;

- (e) Three (3) members shall serve five (5) year terms; and
 - (f) Three (3) members shall serve six (6) year terms, one (1) of whom shall be a graduate of the university, selected as under paragraph (c) of this subsection.
- (5) The Governor shall make his at-large appointments so as to divide the citizen representation upon the board to reflect proportional representation of the two (2) leading political parties in the Commonwealth based on the state's voter registration and shall reflect no less than proportional representation of the minority racial composition of the Commonwealth. The membership may include one (1) graduate of the institution who resides outside the Commonwealth, but he shall not be reimbursed for out-of-state travel.
- (6) Vacancies among the citizen members of the board occurring by death, resignation, or any other cause shall be filled by appointments made by the Governor for the expiration of the term, subject to the qualifications set forth in this section.
- (7) *Unless specifically approved by the board of trustees under the provisions of Section 1 of this Act*, no member of the teaching or administrative staff of the university shall be directly or indirectly interested in any contract with the university for the sale of property, materials, supplies, equipment, or services, with the exception of compensation to the faculty, staff and student members.

The Committee on Transportation reported **SB 155**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 155, AN ACT relating to highway signs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.830 is amended to read as follows:

As used in KRS 177.830 to 177.890, unless the context requires otherwise:

- (1) "Limited-access highway" means a road or highway or bridge constructed pursuant to the provisions of KRS 177.220 to 177.310;
- (2) "Interstate highway" means any highway, road, street, access facility, bridge, or overpass which is designated as a portion of the national system of interstate and defense highways as may be established by law, or as may be so designated by the Transportation Cabinet in the joint construction of the system by the Transportation Cabinet and the United States Department of Transportation, Bureau of Public Roads;
- (3) "Federal-aid primary highway" means any highway, road, street, appurtenant facility, bridge, or overpass which is designated as a portion of the federal-aid primary highway system as may be established by law or as may be so designated by the Transportation Cabinet and the United States Department of Transportation;
- (4) "Turnpike" means any road or highway or appurtenant facility constructed pursuant to the provisions of KRS 177.390 to 177.570, or pursuant to the provisions of any other definition of "turnpike" in the Kentucky Revised Statutes, or any other highway, road, parkway, bridge, or street upon which a toll or fee is charged for the use of motor vehicular traffic;
- (5) "Advertising device" means any billboard, sign, notice, poster, display, or other device intended to attract the attention of operators of motor vehicles on the highways, and shall include a structure erected or used in connection with the display of any device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state or other public agency having jurisdiction;
- (6) "Highway or highways" as used in KRS 177.830 to 177.890 means limited access highway, interstate highway, federal-aid primary highway, or turnpike as defined in KRS 177.830 to 177.890;
- (7) "Commercial or industrial zone" adjacent to a federal-aid primary highway means an area zoned to permit business, commerce or trade pursuant to lawful ordinance or regulation;
- (8) "Unzoned commercial or industrial area" adjacent to a federal-aid primary highway means an area which is not zoned by state or local law, regulation, or ordinance and on which either a commercial or industrial activity is conducted or a permanent structure therefor is located together with the area extending along the highway for such distances as may be determined by regulation promulgated by the secretary of the Transportation Cabinet. Each side of the highway will be considered separately in applying this definition--all measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall be along or parallel the edge of the pavement of the highway;
- (9) "Commercial or industrial activities" for purposes of unzoned industrial and commercial areas means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:
 - (a) Outdoor advertising structures;
 - (b) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;
 - (c) Activities normally or regularly in operation less than three (3) months of the year;

- (d) Transient or temporary activities;
 - (e) Activities not visible from the main traveled way;
 - (f) Activities more than 300 feet from the nearest edge of the right-of-way;
 - (g) Activities conducted in a building principally used as a residence;
 - (h) Railroad tracks and minor sidings;[-]
- (10) "Urban areas" means those areas having a population of five thousand (5,000) or more which have been designated by the United States Department of Commerce, Bureau of the Census, as an urban area. A list of cities which have designated urban areas shall be maintained by the Transportation Cabinet, Division of Planning, Frankfort, Kentucky 40622. The Transportation Cabinet shall maintain maps indicating the boundaries of the designated areas. The maps shall be available from the Transportation Cabinet for a fee not to exceed five dollars (\$5.00);
- (11) "Advertising device viewing zone" means:
- (a) An area seven hundred fifty (750) feet in the direction the advertising device is facing if the advertising device is perpendicular to the highway measured on the centerline of the travel lane, having as one (1) terminus the point of the centerline immediately opposite the advertising device; or
 - (b) An area seven hundred fifty (750) feet in the direction the advertising device is facing and three hundred seventy-five (375) feet past the advertising device if the advertising device is V-shaped or is parallel to the highway measured on the centerline of the travel lane, having as one (1) terminus the point of the centerline immediately opposite the advertising device;
- (12) "Cabinet" means the Kentucky Transportation Cabinet;
- (13) "Permit" means a permit issued by the cabinet to the owner of a legally erected advertising device to trim or prune vegetation that:
- (a) Currently interferes with the effectiveness of, or is obscuring, a legally erected advertising device; or
 - (b) Within the next two (2) years, will interfere with the effectiveness of, or will obscure, a legally erected advertising device;
- (14) "Trim or prune" means the selective removal of vegetation in front of an advertising device on an interstate highway, limited access highway, federal aid primary highway, turnpike, or connector road that is supervised by an International Society of Arboriculture certified arborist who follows the standards and practices established by the American National Standards Institute in "ANSI A300: Tree, Shrub, and other Woody Plant Maintenance-Standard Practices, Part 1: Pruning.";
- (15) "Routine maintenance," as it relates to a nonconforming advertising device, means:
- (a) The maintenance of an advertising device that is limited to replacement of nuts and bolts, nailing, riveting, or welding; cleaning or painting; or manipulating to level or plumb the advertising devices;
 - (b) The routine change of message;
 - (c) The repair of existing stringers, panels, facings, or poles, or the replacement of existing stringers, panels, or facings. The display shall remain substantially as it was on the date the structure was classified by the cabinet as nonconforming. Only original stringers, panels, and facings shall be used for repair. A nonconforming advertising device shall not be repaired if it is destroyed. Whether or not it is permissible to repair the supporting members of an advertising device, "routine maintenance" shall not mean adding guys or struts for the stabilization of the device or substantially changing the device; or
 - (d) The addition of catwalks constructed for the purposes of safety that do not enhance the structure or prolong the life of the advertising device;
- (16) "Destroyed" means that the advertising device has sustained damage by any means in excess of sixty percent (60%) of its value, including supports, poles, guys, struts, panels, facing, and bracing; and
- (17) "Routine change of message," as it relates to a nonconforming advertising device, means the message change on an advertising device from one (1) advertised product or activity to another, including the lamination, fixing, or preparation of existing or new panels or facings, at a plant or factory for the changing of messages as the normal operating procedure of a company.

Section 2. KRS 177.863 is amended to read as follows:

Within any commercial or industrial zone or unzoned commercial or industrial area adjacent to a federal-aid primary highway, advertising devices shall be subject to the following standards:

- (1) Prohibited advertising devices:
 - (a) Advertising devices that are not clean and in good repair.
 - (b) Advertising devices that are not securely affixed to a substantial structure.
 - (c) Advertising devices which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device.

- (d) Advertising devices which obstruct the view of official signs, or approaching and merging traffic.
 - (e) Advertising devices on trees, or painted upon natural features.
 - (f) Advertising devices exceeding one thousand two hundred fifty (1,250) square feet on each face including border and trim, but excluding supports.
 - (g) Advertising devices advertising an activity that is illegal under state or federal law.
 - (h) Obsolete advertising devices.
- (2) Spacing of advertising devices:
- (a) ~~An~~~~[No]~~ advertising device structure designed to be primarily viewed from a non-limited access federal-aid primary highway shall not be erected within three hundred (300) feet of any other~~[such]~~ advertising device structure on the same side of the highway, unless separated by a building, natural obstruction or roadway, ~~except~~~~[Provided, however, that]~~ in an incorporated municipality ~~the~~~~[such]~~ required distance shall be reduced to one hundred (100) feet.
 - (b) Double-faced -- V-type and/or back-to-back advertising device structures shall be one advertising device for spacing purposes.
 - (c) The minimum distance between advertising devices shall be measured along the nearest edge of the pavement between points directly opposite the advertising devices.
 - (d) Advertising devices advertising the sale or lease of the property on which they are located, or advertising the activity conducted thereon, are permitted, and shall not cause any other advertising device to be in violation of this chapter; notwithstanding any contrary provision.
- (3) Size of advertising devices:
- (a) The maximum area for any advertising device shall be one thousand two hundred fifty (1,250) square feet, including border and trim but excluding supports.
 - (b) An advertising device structure may contain one (1) or two (2) advertisements per facing, not to exceed the maximum area.
 - (c) Double faced structures will be permitted with the maximum area being allowed for each facing.
- (4) Lighting of advertising devices:
- Advertising devices may be illuminated, subject to the following restrictions:
- (a) Advertising devices which contain, include or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.
 - (b) Advertising devices are prohibited that~~[which]~~ are not effectively shielded ~~[as]~~ to prevent beams or rays of light from being directed at any portion of the traveled way of the highway and~~[which]~~ are of ~~an~~~~[such]~~ intensity or brilliance that causes glare or impairs~~[as to cause glare or to impair]~~ the vision of the driver of any motor vehicle, or~~[which]~~ otherwise interferes~~[interfere]~~ with any driver's operation of a motor vehicle~~[are prohibited]~~.
 - (c) ~~An~~~~[No]~~ advertising device shall not be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device or signal.

SECTION 3. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

- (1) The owner of a legally erected advertising device located on an interstate highway, limited access highway, federal aid primary highway, turnpike, or connector road may apply to the cabinet for a permit to trim or prune vegetation that obscures an advertising device viewing zone. A permit shall be required each time an owner needs to trim or prune vegetation that obscures the advertising device viewing zone. Each initial application to trim or prune vegetation shall be accompanied by a nonrefundable one hundred dollar (\$100) permit fee.
- (2) The application for a permit under this section shall include:
 - (a) Identification of the advertising device where the vegetation will be trimmed or pruned;
 - (b) Address and telephone number of the owner of the advertising device;
 - (c) A photograph and map or sketch showing the location of the advertising device, advertising viewing zone, and the portion of the device that is obstructed or will be obstructed within the next two (2) years;
 - (d) A photograph and map or sketch identifying all areas where vegetation will be trimmed or pruned;
 - (e) The recommendations of an International Society of Arbiculture certified arborist identifying the type of vegetation to be used in front of the advertising device once the trimming and pruning has been completed, including a recommendation for replacement of vegetation; and
 - (f) The results of an on-site inspection conducted by the cabinet and accompanied by the applicant.
- (3) The cabinet shall approve or deny a permit application within forty-five (45) days of receipt of the application. If a permit application is approved, the applicant shall immediately provide the cabinet with proof that the applicant has in

place a two thousand five hundred dollar (\$2,500) performance bond. A permit issued under this section shall be valid for one (1) year from the date it is issued.

- (4) Once a permit has been issued, the cabinet shall conduct monthly inspections until the work is complete to ensure the applicant has complied with and completed all terms of the permit. If the applicant has complied with and completed all terms of the permit, the cabinet shall issue the applicant a closure letter and place a copy of the letter in the applicant's file.
- (5) If the cabinet denies a permit or issues a restricted permit allowing only some of the vegetation-control measures outlined in the permit application, the cabinet shall provide specific reasons for the denial.
- (6) Within thirty (30) days of the date of the cabinet's decision to deny or issue a restricted permit, an applicant may file an amended application, free of charge, to address the reasons for the denial or issuance of a restricted permit.
- (7) The cabinet shall have thirty (30) days from the receipt of an amended application to respond to an amended application filed under subsection (6) of this section. If the cabinet does not respond to the amended application within thirty (30) days, it shall issue the applicant a permit for vegetation control within the specifications spelled out in the amended application.
- (8) If the cabinet denies or issues a restricted permit based on an amended application, the applicant may petition the Franklin Circuit Court to determine whether the denial or restrictions are appropriate.

SECTION 4. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

All trimming and pruning under a permit issued under Section 3 of this Act shall be performed by an International Society of Arboriculture certified arborist. All costs associated with approval of the permit and the arborist shall be paid by the permit holder.

Section 5. KRS 177.860 is amended to read as follows:

The commissioner of the Department of Highways shall prescribe by administrative regulations promulgated under KRS Chapter 13A ~~regulations~~ reasonable standards for the advertising devices hereinafter enumerated that are ~~designed~~ to protect the safety of, and to guide, the users of the highways and otherwise to achieve the objectives set forth in KRS 177.850. ~~The erection, routine~~ and maintenance, and routine change of message of any of the following advertising devices, if they comply with the regulations, shall not be deemed a violation of KRS 177.830 to 177.890:

- (1) An advertising device which is to be erected or maintained on property for the purpose of setting forth or indicating:
 - (a) The name and address of the owner, lessee, or occupant of the property; or
 - (b) The name or type of business or profession conducted on the property; or
 - (c) Information required or authorized by law to be posted or displayed on the advertising device;
- (2) An advertising device which is not visible from any traveled portion of the highway;
- (3) An advertising device indicating the sale or leasing of the property upon which it is placed;
- (4) Advertising devices which otherwise comply with the applicable zoning ordinances and regulations of any county or city, and which are to be located in a commercially or industrially developed area, in which the commissioner of highways determines, in exercise of his sound discretion, that the location of the advertising devices is compatible with the safety and convenience of the traveling public.

SECTION 6. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

A person that violates the provisions of Section 2 or 3 of this Act may be fined by the cabinet one hundred dollars (\$100) per day for each day the violation is present. A fine under this subsection shall not be levied if the person corrects the violation to the satisfaction of the Transportation Cabinet within the first thirty (30) days after the date of the initial notice by the cabinet of the violation. At the cabinet's discretion, the thirty (30) day grace period may be extended if the owner requests and can show good cause for extending the grace period.

The House Committee Substitute to SB 155 is as follows:

SB 155, AN ACT relating to highway signs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.830 is amended to read as follows:

As used in KRS 177.830 to 177.890, unless the context requires otherwise:

- (1) "Limited-access highway" means a road or highway or bridge constructed pursuant to the provisions of KRS 177.220 to 177.310;
- (2) "Interstate highway" means any highway, road, street, access facility, bridge, or overpass which is designated as a portion of the national system of interstate and defense highways as may be established by law, or as may be so designated by the Transportation Cabinet in the joint construction of the system by the Transportation Cabinet and the United States Department of Transportation, Bureau of Public Roads;

- (3) "Federal-aid primary highway" means any highway, road, street, appurtenant facility, bridge, or overpass which is designated as a portion of the federal-aid primary highway system as may be established by law or as may be so designated by the Transportation Cabinet and the United States Department of Transportation;
- (4) "Turnpike" means any road or highway or appurtenant facility constructed pursuant to the provisions of KRS 177.390 to 177.570, or pursuant to the provisions of any other definition of "turnpike" in the Kentucky Revised Statutes, or any other highway, road, parkway, bridge, or street upon which a toll or fee is charged for the use of motor vehicular traffic;
- (5) "Advertising device" means any billboard, sign, notice, poster, display, or other device intended to attract the attention of operators of motor vehicles on the highways, and shall include a structure erected or used in connection with the display of any device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state or other public agency having jurisdiction;
- (6) "Highway or highways" as used in KRS 177.830 to 177.890 means limited access highway, interstate highway, federal-aid primary highway, or turnpike as defined in KRS 177.830 to 177.890;
- (7) "Commercial or industrial zone" adjacent to a federal-aid primary highway means an area zoned to permit business, commerce or trade pursuant to lawful ordinance or regulation;
- (8) "Unzoned commercial or industrial area" adjacent to a federal-aid primary highway means an area which is not zoned by state or local law, regulation, or ordinance and on which either a commercial or industrial activity is conducted or a permanent structure therefor is located together with the area extending along the highway for such distances as may be determined by regulation promulgated by the secretary of the Transportation Cabinet. Each side of the highway will be considered separately in applying this definition--all measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall be along or parallel the edge of the pavement of the highway;
- (9) "Commercial or industrial activities" for purposes of unzoned industrial and commercial areas means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:
 - (a) Outdoor advertising structures;
 - (b) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;
 - (c) Activities normally or regularly in operation less than three (3) months of the year;
 - (d) Transient or temporary activities;
 - (e) Activities not visible from the main traveled way;
 - (f) Activities more than 300 feet from the nearest edge of the right-of-way;
 - (g) Activities conducted in a building principally used as a residence;
 - (h) Railroad tracks and minor sidings;[-]
- (10) "Urban areas" means those areas having a population of five thousand (5,000) or more which have been designated by the United States Department of Commerce, Bureau of the Census, as an urban area. A list of cities which have designated urban areas shall be maintained by the Transportation Cabinet, Division of Planning, Frankfort, Kentucky 40622. The Transportation Cabinet shall maintain maps indicating the boundaries of the designated areas. The maps shall be available from the Transportation Cabinet for a fee not to exceed five dollars (\$5.00);
- (11) "Advertising device viewing zone" means:
 - (a) An area seven hundred fifty (750) feet in the direction the advertising device is facing if the advertising device is perpendicular to the highway measured on the centerline of the travel lane, having as one (1) terminus the point of the centerline immediately opposite the advertising device; or
 - (b) An area seven hundred fifty (750) feet in the direction the advertising device is facing and three hundred seventy-five (375) feet past the advertising device if the advertising device is V-shaped or is parallel to the highway measured on the centerline of the travel lane, having as one (1) terminus the point of the centerline immediately opposite the advertising device;
- (12) "Cabinet" means the Kentucky Transportation Cabinet;
- (13) "Permit" means a permit issued by the cabinet to the owner of a legally erected advertising device to trim or prune vegetation that:
 - (a) Currently interferes with the effectiveness of, or is obscuring, a legally erected advertising device; or
 - (b) Within the next two (2) years, will interfere with the effectiveness of, or will obscure, a legally erected advertising device;
- (14) "Trim or prune" means the selective removal of vegetation in front of an advertising device on an interstate highway, limited access highway, federal aid primary highway, turnpike, or connector road that is supervised by an International Society of Arboriculture certified arborist who follows the standards and practices established by the American National Standards Institute in "ANSI A300: Tree, Shrub, and other Woody Plant Maintenance-Standard Practices,

Part 1: Pruning.":(15) "Routine maintenance," as it relates to a nonconforming advertising device, means:

- (a) The maintenance of an advertising device that is limited to replacement of nuts and bolts, nailing, riveting, or welding; cleaning or painting; or manipulating to level or plumb the advertising devices;
- (b) The routine change of message;
- (c) The repair of existing stringers, panels, facings, or poles, or the replacement of existing stringers, panels, or facings. The display shall remain substantially as it was on the date the structure was classified by the cabinet as nonconforming. Only original stringers, panels, and facings shall be used for repair. A nonconforming advertising device shall not be repaired if it is destroyed. Whether or not it is permissible to repair the supporting members of an advertising device, "routine maintenance" shall not mean adding guys or struts for the stabilization of the device or substantially changing the device; or
- (d) The addition of catwalks constructed for the purposes of safety that do not enhance the structure or prolong the life of the advertising device;

(16) "Destroyed" means that the advertising device has sustained damage by any means in excess of sixty percent (60%) of its value, including supports, poles, guys, struts, panels, facing, and bracing; and(17) "Routine change of message," as it relates to a nonconforming advertising device, means the message change on an advertising device from one (1) advertised product or activity to another, including the lamination, fixing, or preparation of existing or new panels or facings, at a plant or factory for the changing of messages as the normal operating procedure of a company.

Section 2. KRS 177.863 is amended to read as follows:

Within any commercial or industrial zone or unzoned commercial or industrial area adjacent to a federal-aid primary highway, advertising devices shall be subject to the following standards:

(1) Prohibited advertising devices:

- (a) Advertising devices that are not clean and in good repair.
- (b) Advertising devices that are not securely affixed to a substantial structure.
- (c) Advertising devices which attempt or appear to attempt to direct the movement of traffic or which interfere with, imitate or resemble any official traffic sign, signal or device.
- (d) Advertising devices which obstruct the view of official signs, or approaching and merging traffic.
- (e) Advertising devices on trees, or painted upon natural features.
- (f) Advertising devices exceeding one thousand two hundred fifty (1,250) square feet on each face including border and trim, but excluding supports.
- (g) Advertising devices advertising an activity that is illegal under state or federal law.
- (h) Obsolete advertising devices.

(2) Spacing of advertising devices:

- (a) ~~An~~^{No} advertising device structure designed to be primarily viewed from a non-limited access federal-aid primary highway shall not be erected within three hundred (300) feet of any other~~-such~~ advertising device structure on the same side of the highway, unless separated by a building, natural obstruction or roadway, ~~except~~^{Provided, however, that} in an incorporated municipality ~~the~~^{such} required distance shall be reduced to one hundred (100) feet.
- (b) Double-faced -- V-type and/or back-to-back advertising device structures shall be one advertising device for spacing purposes.
- (c) The minimum distance between advertising devices shall be measured along the nearest edge of the pavement between points directly opposite the advertising devices.
- (d) Advertising devices advertising the sale or lease of the property on which they are located, or advertising the activity conducted thereon, are permitted, and shall not cause any other advertising device to be in violation of this chapter; notwithstanding any contrary provision.

(3) Size of advertising devices:

- (a) The maximum area for any advertising device shall be one thousand two hundred fifty (1,250) square feet, including border and trim but excluding supports.
- (b) An advertising device structure may contain one (1) or two (2) advertisements per facing, not to exceed the maximum area.
- (c) Double faced structures will be permitted with the maximum area being allowed for each facing.

(4) Lighting of advertising devices:

Advertising devices may be illuminated, subject to the following restrictions:

- (a) Advertising devices which contain, include or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, weather, or similar information.
- (b) Advertising devices are prohibited that~~which~~ are not effectively shielded ~~as~~ to prevent beams or rays of light from being directed at any portion of the traveled way of the highway and~~which~~ are of an~~such~~ intensity or brilliance that causes glare or impairs~~as to cause glare or to impair~~ the vision of the driver of any motor vehicle, ~~or~~~~which~~ otherwise interferes~~interfere~~ with any driver's operation of a motor vehicle~~are prohibited~~.
- (c) An~~No~~ advertising device shall not be so illuminated that it interferes with the effectiveness of or obscures an official traffic sign, device or signal.

SECTION 3. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

- (1) The owner of a legally erected advertising device located on an interstate highway, limited access highway, federal aid primary highway, turnpike, or connector road may make application to the cabinet for a permit to trim or prune vegetation that obscures an advertising device viewing zone. Each application to trim or prune vegetation shall be accompanied by a nonrefundable two hundred dollar (\$200) permit fee. An approved application under this section shall be valid for seven (7) years from the date of approval of the application.
- (2) The application for a permit under this section shall include:
 - (a) Identification of the advertising device where the vegetation will be trimmed or pruned;
 - (b) Address and telephone number of the owner of the advertising device;
 - (c) A photograph and map or sketch showing the location of the advertising device, advertising viewing zone, and the portion of the device that is obstructed or will be obstructed within the next two (2) years;
 - (d) A photograph and map or sketch identifying all areas where vegetation will be trimmed or pruned; and
 - (e) The recommendations of an International Society of Arboriculture certified arborist identifying the type of vegetation to be used in front of the advertising device once the trimming and pruning has been completed, if required by the cabinet, including a recommendation for replacement of vegetation.
- (3) The cabinet shall approve or deny a permit application within forty-five (45) days of receipt of the application.
- (4) If the cabinet denies an application or approves of only some of the vegetation-control measures outlined in the application, the cabinet shall provide specific reasons for the denial.
- (5) Within thirty (30) days of the date of the cabinet's decision to deny or approve a portion of a permit application, an applicant may file an amended application, free of charge, to address the reasons for the denial or partial approval of an application.
- (6) The cabinet shall have thirty (30) days from the receipt of an amended application to respond to an amended application filed under subsection (5) of this section. If the cabinet does not respond to the amended application within thirty (30) days, the amended application shall be considered approved.
- (7) If the cabinet denies or offers partial approval of an amended application, the applicant may petition the Franklin Circuit Court to determine whether the denial or partial approvals are appropriate.

SECTION 4. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

- (1) An owner of an advertising device who has a valid application pursuant to Section 3 of this Act shall be required to secure a permit each time prior to trimming or pruning any vegetation that obscures the advertising device viewing zone.
- (2) The cabinet shall issue a permit based on a valid application upon payment of a one hundred fifty dollar (\$150) permit fee and proof that the applicant has in place a two thousand five hundred dollar (\$2,500) performance bond.
- (3) A permit issued under this section shall be valid until the completion of the work specified in the application, or one hundred eighty (180) days, whichever is shorter.
- (4) Once a permit has been issued, the cabinet shall monitor the work performed under the permit and shall conduct an inspection when the work is complete to ensure the permit holder has complied with and completed all terms of the permit. If the permit holder has complied with and completed all terms of the permit, the cabinet shall issue the permit holder a closure letter and place a copy of the letter in the permit holder's file.

SECTION 5. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

All trimming and pruning performed under a permit issued under Sections 3 and 4 of this Act shall be supervised by an International Society of Arboriculture certified arborist. All costs associated with work performed under a permit issued under Sections 3 and 4 of this Act and the costs of the services of an arborist shall be paid by the permit holder.

Section 6. KRS 177.860 is amended to read as follows:

The Transportation Cabinet~~commissioner of the Department of Highways~~ shall prescribe by administrative regulations promulgated under KRS Chapter 13A~~regulations~~ reasonable standards for the advertising devices hereinafter enumerated that are~~are~~ designed to protect the safety of, and to guide, the users of the highways and otherwise to achieve the objectives set forth in KRS 177.850. The cabinet shall also promulgate administrative regulations under KRS Chapter 13A to implement procedures

for issuance and monitoring of permits issued under Sections 3 and 4 of this Act. [and] The erection, routine [and] maintenance, and routine change of message of any of the following advertising devices, if they comply with the regulations, shall not be deemed a violation of KRS 177.830 to 177.890:

- (1) An advertising device which is to be erected or maintained on property for the purpose of setting forth or indicating:
 - (a) The name and address of the owner, lessee, or occupant of the property; or
 - (b) The name or type of business or profession conducted on the property; or
 - (c) Information required or authorized by law to be posted or displayed on the advertising device;
- (2) An advertising device which is not visible from any traveled portion of the highway;
- (3) An advertising device indicating the sale or leasing of the property upon which it is placed;
- (4) Advertising devices which otherwise comply with the applicable zoning ordinances and regulations of any county or city, and which are to be located in a commercially or industrially developed area, in which the commissioner of highways determines, in exercise of his sound discretion, that the location of the advertising devices is compatible with the safety and convenience of the traveling public.

SECTION 7. A NEW SECTION OF KRS 177.830 TO 177.890 IS CREATED TO READ AS FOLLOWS:

A person that violates the provisions of Section 3, 4, or 5 of this Act may be fined by the cabinet one hundred dollars (\$100) per day for each day the violation is present. A fine under this subsection shall not be levied if the person corrects the violation to the satisfaction of the Transportation Cabinet within the first thirty (30) days after the date of the initial notice by the cabinet of the violation. At the cabinet's discretion, the thirty (30) day grace period may be extended if the owner requests and can show good cause for extending the grace period.

The Committee on Local Government reported **HB 317, SB 100, SB 126, SB 145, and SB 153** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 317, AN ACT relating to the compensation of elected county officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.5275 is amended to read as follows:

- (1) The General Assembly of the Commonwealth of Kentucky hereby finds and determines that county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties are officers whose duties or jurisdictions are coextensive with that of the Commonwealth within the meaning of Section 246 of the Constitution of Kentucky.
- (2) Effective on the first Monday in January of 1999, the maximum salary of county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall be fixed by the Department for Local Government according to a salary schedule in accordance with Section 246 of the Kentucky Constitution. The salary schedule provides that these officials, as officers whose jurisdiction or duties are coextensive with the Commonwealth, shall be paid at a rate no greater than twelve thousand dollars (\$12,000) per annum as adjusted for any increase or decrease in the consumer price index and as described in subsection (4) of this section.
- (3) The salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs in all counties provides for nine (9) levels of salary based upon the population of the county in the year prior to the election of county officials as determined by the United States Department of Commerce, Bureau of the Census's annual estimates. To implement the salary schedule, the Department for Local Government shall, by November 1 of each year preceding the election of county officials, certify for each county the population group applicable to each county based on the most recent estimates of the United States Department of Commerce, Bureau of the Census. For the purposes of this section, the salary schedule for county judges/executive, county clerks, jailers who operate a full service jail, and sheriffs shall remain as determined by the Department for Local Government pursuant to this section, regardless of changes in the population estimates or the actual census count that may occur during the term for which the official has been elected or appointed. The salary schedule provides four (4) steps for yearly increments within each population group. County officers named in this section shall be paid according to the first step within their population group for the first year or portion thereof they serve in office. Thereafter, each officer, on January 1 of each subsequent year, shall be advanced automatically to the next step in the salary schedule until the maximum salary figure for the population group is reached. Prior to assuming office on the first Monday in January, 1999, or thereafter, any person assuming any of the offices for which the salary is determined by this section must certify to the commissioner of the Department for Local Government the total number of years, not to exceed four (4) years, that the person has previously served in the office. The department shall place the officer in the proper step based upon a formula of one (1) incremental step per full calendar year of service:

SALARY SCHEDULE

County Population by Group	Steps and Salary for Affected Officers			
Group I	Step 1	Step 2	Step 3	Step 4
0-4,999	\$ 6,600	\$ 6,800	\$ 7,000	\$ 7,200

Group II				
5,000-9,999	7,200	7,400	7,600	7,800
Group III				
10,000-19,999	7,800	8,000	8,200	8,400
Group IV				
20,000-29,999	8,100	8,400	8,700	9,000
Group V				
30,000-44,999	8,700	9,000	9,300	9,600
Group VI				
45,000-59,999	9,000	9,400	9,800	10,200
Group VII				
60,000-89,999	9,600	10,000	10,400	10,800
Group VIII				
90,000-499,999	9,900	10,400	10,900	11,400
Group IX				
500,000 and up	10,500	11,000	11,500	12,000

- (4) Upon publication of the annual consumer price index by the United States Department of Commerce, the Department for Local Government shall fix the salary of the county judge/executive, county clerk, jailer who operates a full service jail, and sheriff at an annual rate of salary to which the county official is entitled pursuant to the increase in the Consumer Price Index and the salary schedule contained in this section. This salary determination shall be retroactive to the preceding January 1.
- (5) Notwithstanding subsection (9) or any other provision contained in this section, no county official holding office on July 15, 1998, shall receive any reduction in salary or reduction in adjustment to salary otherwise allowable by the statutes in force on July 15, 1998.
- (6) In addition to the step increases based on service in office, each officer shall be paid an annual incentive of one hundred dollars (\$100) per calendar year for each forty (40) hour training unit successfully completed, based on continuing service in that office and, except as provided in this subsection, completion of at least forty (40) hours of approved training in each subsequent calendar year. If an officer fails, without good cause as determined by the commissioner of the Department for Local Government, to obtain the minimum amount of approved training in any year, the officer shall lose all training incentives previously accumulated. Each training unit shall be approved and certified by the Department for Local Government. No officer shall receive more than one (1) training unit per calendar year nor more than four (4) incentive payments per calendar year. Each officer shall be allowed to carry forward up to forty (40) hours of training credit into the following calendar year for the purpose of satisfying the minimum amount of training for that year. Each annual incentive payment shall be adjusted by the Department for Local Government on an annual basis for any increase or decrease in the consumer price index in the same manner as salaries are adjusted as described in subsection (4) of this section. The Department for Local Government shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish guidelines for the approval and certification of training units.
- (7) Except in counties that contain an urban-county form of government, justices of the peace who serve on fiscal courts, county commissioners, and jailers who operate life safety jails, jailers who are part of a transportation plan, or jailers who act as court bailiffs shall also be eligible for the training incentive payments in accordance with subsection (6) of this section.
- (8) The provisions of this section shall not apply to a county judge/executive in a county which has established a consolidated local government pursuant to KRS Chapter 67C.
- (9) If an elected official identified in subsection (1) of this section resigns on or after the effective date of this Act, begins receiving a retirement allowance, and is reemployed within six (6) months of his or her initial retirement date to the same county office, that county official:
- (a) Shall be paid in accordance with Step 1 of the salary schedule set out in subsection (3) of this section, regardless of accumulated years of experience prior to his or her retirement;
- (b) Shall not be advanced beyond Step 1 of the salary schedule for the remainder of his or her term in office;
- (c) Shall not be eligible to participate in a group health insurance plan provided by the county; and
- (d) Shall not contribute to a second retirement account as provided for in KRS 61.637.

Section 2. KRS 61.637 is amended to read as follows:

- (1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.515 to 61.705 and 78.520 to 78.852 and who is reemployed as an employee by a participating agency prior to August 1, 1998, shall have his retirement payments suspended for the duration of reemployment. Monthly payments shall not be suspended for a retired

member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

- (2) Employer and employee contributions shall be made as provided in KRS 61.515 to 61.705 and 78.520 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar (\$1), and the member shall be credited with additional service credit.
- (3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.
- (4)
 - (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment;
 - (b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment;
 - (c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:
 1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;
 2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);
 3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;
 4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691;
 5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.
- (5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents (\$0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar (\$1) for every three dollars (\$3) earned if over age sixty-five (65).
- (6)
 - (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095; and
 - (b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.
- (7)
 - (a) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.
 - (b) A retired member whose disability retirement was discontinued pursuant to KRS 61.615 and who is reemployed in one (1) of the systems administered by the Kentucky Retirement Systems prior to his or her normal retirement date shall have his or her accounts combined upon termination for determining eligibility for benefits. If the member is eligible for retirement, the member's service and creditable compensation earned as a result of his or her reemployment shall be used in the calculation of benefits, except that the member's final compensation shall not be

less than the final compensation last used in determining his or her retirement allowance. The member shall not change beneficiary or payment option designations. This provision shall apply to members reemployed on or after August 1, 1998.

- (8) A retired member or his employer shall notify the retirement system if he has accepted employment with an agency that participates in the retirement system from which the member retired.
- (9) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits.
- (10) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.
- (11)
 - (a) If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.
 - (b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.
- (12)
 - (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's termination by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.
 - (b) The job descriptions and statements of duties shall be filed with the retirement office.
- (13) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:
 - (a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's termination.
 - (b) The retired member shall repay to the retirement system all benefits paid from systems administered by Kentucky Retirement Systems under reciprocity, including medical insurance benefits, that the member received after reemployment began.
 - (c) Upon termination, or subsequent to expiration of the six (6) month period from the date of termination, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691.
 - (d) Except as provided in subsection (7) of this section and Section 1 of this Act, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account.
 - (e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.
- (14)
 - (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.
 - (b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.
- (15)
 - (a) Except as provided by Section 1 of this Act, if a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.
 - (b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.
- (16) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 which he was eligible to purchase prior to his initial retirement.

SB 100, AN ACT relating to police in consolidated local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67C.319 is amended to read as follows:

- (1) Every consolidated local government police force merit system board created shall make, promulgate, and when necessary, amend rules for the qualifications, original appointment, probation, promotion, demotion, transfer, lay-off, reinstatement, suspension, and removal of the officers covered by KRS 67C.303, 67C.305, 67C.307, and 67C.309. No rule or regulation made, promulgated, or amended by any consolidated local government police force merit system board shall be inconsistent with the express provisions of this chapter. The board shall publish its rules and any amendments and shall supply certified copies to the mayor, legislative council, and the police chief and shall post a copy conspicuously in the office or place where the headquarters of the consolidated local government police is maintained. The copies of the rules and amendments shall be distributed and posted in the manner prescribed within three (3) days after adoption.
- (2) The rules in addition to other matters shall specifically provide for and cover the following:
 - (a) Physical, mental, educational, citizenship, and age requirements for new officers;
 - (b) Physical, mental, educational, citizenship, age, and length of service requirements for promotion from lower to higher rank or classification;
 - (c) A requirement that police officers have five (5) years of service as police officers before being eligible for promotion to the rank of sergeant;
 - (d) Provision for open, competitive, written, oral, and other mental and physical examinations to determine the relative fitness of all candidates for original appointment and for promotion;
 - (e) A requirement of public notice of all examinations to be given by the merit board;
 - (f) Organization and meetings of the board; and
 - (g) Procedure and conduct of public hearings.
- (3) The board, with the approval of the mayor, shall employ a chief examiner who shall be professionally qualified and experienced in the field of testing and who shall formulate, give, grade, and administer all written or other examinations as required by the board.
- (4) Physical fitness for promotion shall be presumed unless certified to the contrary by the chief of police who shall supply the board with medical records of the disability.
- (5) At least ninety (90) days' notice shall be given before a promotional examination is conducted.
- (6) Promotional tests shall be graded, as determined by the board, to include written, oral, and other examination scores. In addition, seniority~~[in grade]~~, not to exceed ten percent (10%) of a candidate's final evaluated rating, shall be awarded for each year of service~~[after five (5) full years of service]~~. The results of the written, oral and other examinations shall be combined with seniority to determine the applicant's final evaluated ratings. If the number of candidates exceeds the number of positions in the rank for which the candidates are being tested, the chief examiner may set a cut-off score on any of the tests, excluding seniority, that candidates must meet or exceed in order for them to progress in the selection process. The cut-off score shall be set such that the number of candidates equals one-half (1/2) the number of positions in the rank for which the candidates are being tested, that number to be rounded up, at the time of the posting. If ties exist at the cut-off score, individuals having tied scores shall progress in the selection process~~[rating]~~.
- (7) Promotional eligibility lists shall contain the names of successful candidates in the order of their standing through examination. An individual's results and ratings are subject to review by the individual candidate but are otherwise confidential.
- (8) The chief examiner shall compile the results of all examinations. Upon completion of grading of examinations, candidates shall be informed by mail of the final evaluated rating attained and their individual ranking on the eligibility list. An applicant may, by appointment, discuss his or her examination results within the offices of the chief examiner during business hours at any time when such review will not interfere with the work of the board. Such review must be requested within ten (10) calendar days following the establishment of the eligibility list. The board shall make examination questions and answers available for inspection by the applicant upon the filing of a written challenge.
- (9) In filling promotional vacancies, the chief of police shall select from not more than five (5) candidates graded highest on the appropriate eligibility list. The board shall determine the justification for not promoting a candidate with the higher evaluated rating who has been certified for promotion four (4) times. If the board determines that the candidate's nonpromotion is unjustified or unsupported by the evidence, the candidate shall be promoted. The certified rank list for promotions shall be valid for two (2) years and shall not be extended. All promotional vacancies shall be filled within sixty (60) days of the vacancy.

SB 126, AN ACT relating to peace officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.007 is amended to read as follows:

- (1) A peace officer, certified pursuant to KRS 15.380 to 15.404, who is~~[policeman]~~ directly employed as a ~~[full-time]~~ police officer by a Kentucky city, county, or urban-county government and whose department meets the requirements of KRS 15.440 and a sheriff, or ~~[full-time]~~ deputy sheriff who has been certified pursuant to KRS 15.380 to 15.404, who is officially requested by a law enforcement agency in another county in Kentucky to assist in any matter within the jurisdiction of the requesting agency shall possess, while responding to and for the duration of the matter for which the request was made, the same powers of arrest in the requesting county as he possesses in the county in which he is a police officer.
- (2) The provisions of this section shall not:
 - (a) Authorize assistance in any labor dispute or strike;
 - (b) Authorize assistance by a constable or deputy constable;
 - (c) Authorize assistance by a special local peace officer; or
 - (d) Authorize assistance by a special deputy sheriff.

SB 145, AN ACT relating to oaths.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 62.040 is amended to read as follows:

- (1) Every peace officer shall take an oath that he will endeavor, to the best of his ability, to detect and prosecute all gamblers and others violating the laws against gaming.
- (2) The oath specified in subsection (1) of this section may be administered by any person who may administer an oath pursuant to KRS 62.020. A person shall not administer the oath specified in subsection (1) of this section to himself or herself.

Section 2. KRS 70.010 is amended to read as follows:

- (1) In addition to the oath prescribed in the Constitution, every sheriff shall take the following oath~~[before the county judge/executive of his county]~~: "I, A B, do swear that I will do right, as well to the poor as to the rich, in all things belonging to my office as sheriff; that I will do no wrong to any one for any gift, reward or promise, nor for favor or hatred, and in all things I will faithfully and impartially execute the duties of my office according to the best of my skill and judgment, so help me God."
- (2) The oath specified in subsection (1) of this section may be administered by any person who may administer an oath pursuant to KRS 62.020. A person shall not administer the oath specified in subsection (1) of this section to himself or herself.

Section 3. KRS 62.020 is amended to read as follows:

- (1) The official oath of any officer may be administered by:
 - (a) Any state or federal judge, with Kentucky jurisdiction;~~[or]~~
 - (b) Any member of the General Assembly may administer an oath statewide; or
 - ~~(c)~~ Any county judge/executive, notary public, clerk of a court, or justice of the peace, within his district or county.
- (2) For those officers listed in paragraphs (a), (b), (c), (d), and (e) of this subsection, the person administering the oath shall certify in writing that the oath of office was administered and the date of its administration. The person administering the oath shall file a written certification:
 - (a) In the Secretary of State's office for:
 1. A member of the General Assembly;
 2. An officer elected from the state at large;
 3. An officer elected from a district greater than one (1) county; or
 4. An officer elected from a city whose boundaries extend beyond those of a single county;
 - (b) In the Secretary of State's office for:
 1. An officer appointed cabinet secretary; or
 2. An officer appointed a deputy or assistant to an elected constitutional officer and who is required by separate statute to take the oath of office;
 - (c) In the Governor's office for the Secretary of State and the assistant Secretary of State;
 - (d) In the office of the county clerk for the county from which an officer is elected to countywide office or office for a district within the county. However, the requirements of this paragraph shall not apply when the requirements of paragraph (a) of this subsection apply; and
 - (e) In the office of a circuit clerk for a county clerk within the jurisdiction of that circuit clerk.

SB 153, AN ACT relating to the certification of court security officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 15.380 TO 15.404 IS CREATED TO READ AS FOLLOWS:

- (1) A person certified as a court security officer after the effective date of this Act, under KRS 15.380 to 15.404 shall, at the time of becoming certified, meet the following minimum qualifications:
- (a) Be a citizen of the United States;
 - (b) Be at least twenty-one (21) years of age;
 - (c) Be a high school graduate or have successfully completed a General Educational Development (GED) examination;
 - (d) Possess a valid license to operate a motor vehicle;
 - (e) Be fingerprinted for a criminal background check;
 - (f) Not have been convicted of any felony;
 - (g) Not be prohibited by federal or state law from possessing a firearm;
 - (h) Have received and read the Kentucky Law Enforcement Officers Code of Ethics, as established by the council;
 - (i) Have not received a dishonorable discharge, a bad conduct discharge, or general discharge under other than honorable conditions if he or she served in any branch of the Armed Forces of the United States;
 - (j) Have passed a drug screening test administered or approved by the council by administrative regulation. A person shall be deemed to have passed a drug screening test if the results of the test are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own test that meets or exceeds this standard shall certify passing test results to the council, which shall accept them as complying with KRS 15.380 to 15.404;
 - (k) Have undergone a background investigation established or approved by the council by administrative regulation to determine suitability for the position of a court security officer. If the employing agency has established its own background investigation that meets or exceeds the standards of the council, as set forth by administrative regulation, the agency shall conduct the background investigation and shall certify background investigation results to the council, which shall accept them as complying with KRS 15.380 to 15.404;
 - (l) Have been interviewed by the employing agency;
 - (m) Have taken a psychological suitability screening administered or approved by the council by administrative regulation to determine the person's suitability to perform court security officer duties; and
 - (n) Have taken a polygraph examination administered or approved by the council by administrative regulation to determine his or her suitability to perform court security officer duties. Any agency that administers its own polygraph examination as approved by the council shall certify the results that indicate whether a person is suitable for employment as a court security officer to the council, which shall accept them as complying with KRS 15.380 to 15.404.
- (2) A court security officer employed on or before the effective date of this Act shall comply with the requirements of subsection (1) of this section within six (6) months of the effective date of this Act.
- (3) A peace officer who has previously attended law enforcement basic training and met the certification requirements of KRS 15.382 and Section 7 of this Act shall not be required to meet the requirements of this section to be appointed a court security officer, but shall meet the requirements of KRS 15.386(3).

SECTION 2. A NEW SECTION OF KRS 15.380 TO 15.404 IS CREATED TO READ AS FOLLOWS:

The certification of a court security officer may, after a hearing held in conformity with KRS Chapter 13B, be revoked by the council for one (1) or more of the following reasons:

- (1) Failure to meet or maintain training requirements;
- (2) Willful falsification of information to obtain or maintain certified status;
- (3) Certification was the result of an administrative error;
- (4) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;
- (5) Prohibition by federal or state law from possessing a firearm; or
- (6) Receipt of a dishonorable discharge, a bad conduct discharge, or general discharge under other than honorable conditions from any branch of the Armed Forces of the United States.

SECTION 3. A NEW SECTION OF KRS 15.380 TO 15.404 IS CREATED TO READ AS FOLLOWS:

- (1) A court security officer employed or appointed after the effective date of this Act shall satisfy the basic training requirements for employment if he or she successfully completes law enforcement training developed and approved by the Kentucky Law Enforcement Council and the Administrative Office of the Courts of at least eighty (80) hours.
- (2) A court security officer employed or appointed after the effective date of this Act shall successfully complete forty (40)

hours of biennial in-service training that has been certified or recognized by the Kentucky Law Enforcement Council, and that is appropriate to the officer's responsibilities.

- (3) In the event of extenuating circumstances beyond the control of a certified court security officer that prevent the officer from completing the basic or in-service training within the time specified in subsections (1) and (2) of this section, the commissioner of the department or his or her designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days in which to complete the training.
- (4) Any court security officer who fails to successfully complete basic training within the specified time periods, including extensions, shall lose his or her court security powers and his or her precertification status shall lapse. Any court security officer who fails to successfully complete in-service training within the specified time periods, including extensions, shall lose his or her court security powers and his or her certification status shall be changed to training deficiency status. When a court security officer is deficient in required training, the commissioner of the department or his or her designee shall notify the council, which shall notify the court security officer and his or her agency.
- (5) A certified court security officer who has lost his or her court security powers due solely to his or her failure to meet the in-service training requirements of this section may regain his or her certification status and court security powers upon successful completion of the training deficiency.

SECTION 4. A NEW SECTION OF KRS 15.380 TO 15.404 IS CREATED TO READ AS FOLLOWS:

The following certification categories shall exist for certified court security officers:

- (1) "Precertification status" means that the certified court security officer is currently employed or appointed by an agency and meets or exceeds all those minimum qualifications set forth in Section 1 of this Act, but has not successfully completed the training course provided in subsection (1) of Section 3 of this Act. Upon the council's verification that the minimum qualifications have been met, the officer shall have court security officer powers as authorized under the statute under which he or she was appointed or employed. If an officer fails to successfully complete the training course provided in subsection (1) of Section 3 of this Act within one (1) year of employment, his or her court security powers shall automatically terminate.
- (2) "Certification status" means that unless the certification is in revoked status or inactive status, the certified court security officer is currently employed or appointed by an agency and has met all training requirements. The officer shall have court security officer powers as authorized under the statute under which he or she was appointed or employed.
- (3) (a) "Inactive status" means that unless the certification is in revoked status:
 - 1. The person has been separated on or after December 1, 1998, from the agency by which he or she was employed or appointed and has no peace officer or court security officer powers; or
 - 2. The person is on military active duty for a period exceeding three hundred sixty-five (365) days.
- (b) The person may remain on inactive status. A person who is on inactive status and who returns to a court security officer position shall have certification status restored if he or she has successfully completed the training course under subsection (1) of Section 3 of this Act, has not committed an act for which his or her certified status may be revoked pursuant to Section 2 of this Act, and successfully completes an in-service training course as prescribed in an administrative regulation promulgated by the Kentucky Law Enforcement Council.
- (c) A person returning from inactive to active certification as a court security officer after the effective date of this Act, under KRS 15.380 to 15.404, shall meet the following minimum qualifications:
 - 1. Be a citizen of the United States;
 - 2. Possess a valid license to operate a motor vehicle;
 - 3. Be fingerprinted for a criminal background check;
 - 4. Not have been convicted of any felony;
 - 5. Not be prohibited by federal or state law from possessing a firearm;
 - 6. Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;
 - 7. Have not received a dishonorable discharge, bad conduct discharge, or general discharge under other than honorable conditions if having served in any branch of the Armed Forces of the United States;
 - 8. Have been interviewed by the employing agency; and
 - 9. Not have had certification as a peace officer permanently revoked in another state.
- (4) "Training deficiency status" means that unless the certification is in revoked status or inactive status, the certified court security officer is currently employed or appointed by an agency and has failed to meet all in-service training requirements. The officer's court security powers shall automatically terminate, and he or she shall not exercise court security officer powers in the Commonwealth until he or she has corrected the in-service training deficiency.
- (5) "Revoked status" means that the court security officer has no court security powers and his or her certification has

been revoked by the Kentucky Law Enforcement Council for any one (1) of the following reasons:

- (a) Failure to meet or maintain training requirements;
- (b) Willful falsification of information to obtain or maintain certified status;
- (c) Certification was the result of an administrative error;
- (d) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;
- (e) Prohibition by federal or state law from possessing a firearm; or
- (f) Receipt of a dishonorable discharge, a bad conduct discharge, or general discharge under other than honorable conditions from any branch of the Armed Forces of the United States.

(6) "Denied status" means that a person does not meet the requirements to achieve precertification status or certification status as a court security officer.

The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified court security officer.

SECTION 5. A NEW SECTION OF KRS 15.380 TO 15.404 IS CREATED TO READ AS FOLLOWS:

Except for persons currently employed in a hazardous duty position and who remain in that hazardous duty position while performing certified court security officer functions, the position of certified court security officer shall not be considered as a hazardous duty position within the meaning of KRS 61.592 and shall not be eligible to participate in the Kentucky Law Enforcement Foundation Program Fund unless the officer meets the requirements of KRS 15.382, 15.404, and 15.440.

Section 6. KRS 15.310 is amended to read as follows:

As used in KRS 15.315 to 15.510, 15.990, and 15.992, unless the context otherwise requires:

- (1) "Basic training course" means the peace officer or court security officer basic training course provided by the Department of Criminal Justice Training or a course approved and recognized by the Kentucky Law Enforcement Council;
- (2) "Certified court security officer" means a court security officer who is certified under KRS 15.380 to 15.404;
- (3) "Certified peace officer" means a peace officer who is certified under KRS 15.380 to 15.404[15.402];
- ~~(4)~~(3) "Certification" means the act by the council of issuing certification to a peace officer or court security officer who successfully completes the training requirements pursuant to KRS 15.404 and the requirements set forth within this chapter;
- ~~(5)~~(4) "Council" means the Kentucky Law Enforcement Council established by KRS 15.315 to 15.510, 15.990, and 15.992;
- (6) "Court security officer" means a person required to be certified under subsection (1)(c) of Section 7 of this Act and who is charged with the duties set out in Section 10 of this Act;
- ~~(7)~~(5) "Department" means the Department of Criminal Justice Training of the Justice Cabinet;
- ~~(8)~~(6) "Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus security officers, law enforcement support personnel, public airport authority security officers, other public and federal peace officers responsible for law enforcement, and special local peace officers licensed pursuant to KRS 61.360;
- ~~(9)~~(7) "Peace officer" means a person defined in KRS 446.010;
- ~~(10)~~(8) "Secretary" means the secretary of the Justice Cabinet; and
- ~~(11)~~(9) "Validated job task analysis" means the minimum entry level qualifications and training requirements for peace officers in the Commonwealth based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

Section 7. KRS 15.380 is amended to read as follows:

- (1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
 - (a) State Police officers, but for the commissioner of the State Police;
 - (b) City, county, and urban-county police officers;
 - (c) Court security officers and deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
 - (d) State or public university safety and security officers appointed pursuant to KRS 164.950;
 - (e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;
 - (f) Airport safety and security officers appointed under KRS 183.880;
 - (g) Office of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090;
 - (h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040;[and]

- (i) County detectives appointed in a county containing a consolidated local government with the power of arrest in the county and the right to execute process statewide in accordance with KRS 69.360; and
 - (j) Commonwealth detectives employed under KRS 69.110.
 - (2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Personnel Cabinet for job specifications.
 - (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.
 - (4) The following officers may, upon request of the employing agency, be certified by the council:
 - (a) Deputy coroners;
 - (b) Deputy constables;
 - (c) Deputy jailers;
 - (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
 - (e) Officers appointed under KRS 61.360;
 - (f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;
 - (g) Private security officers;
 - (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and
 - (i) Investigators employed by the Office of Charitable Gaming in accordance with KRS 238.510.
 - (5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:
 - (a) Sheriffs;
 - (b) Coroners;
 - (c) Constables;
 - (d) Jailers;
 - (e) Kentucky Horse Racing Authority security officers employed under KRS 230.240; and
 - (f) Commissioner of the State Police.
 - (6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.
- Section 8. KRS 15.388 is amended to read as follows:
- (1) Within five (5) working days of employment or appointment, the chief executive officer of the employing agency, or his designee, shall file a report with the council certifying that the newly employed officer is certified or meets or exceeds the precertification qualifications of KRS 15.382 for peace officers, or Section 1 of this Act for court security officers.
 - (2) If the person is certified, the council shall continue certified status.
 - (3) If the person is on inactive status, the council shall upgrade to certified status unless the certification is revoked or denied as provided by KRS 15.380 to 15.404.
 - (4) If the person is not certified and not on inactive status, but has successfully completed an applicable[a] basic training course approved and recognized by the council, the council shall designate the person as being in certified status unless the certification is revoked or denied as provided by KRS 15.380 to 15.404.
 - (5) If the person is not certified and not on inactive status, and has not successfully completed an applicable[a] basic training course approved and recognized by the council, the council shall designate the person as being in precertification status.
 - (6) A person who is in precertification status shall, upon successful completion of the required basic training, be certified unless he has committed an act that would result in revocation of his certificate in which case he shall be denied certification.
 - (7) A person who is denied certified status under this section shall have the same right of appeal as a person who has been revoked under KRS 15.380 to 15.404.
 - (8) If the certified peace officer has successfully completed the basic training required by KRS 15.404 and transfers from a peace officer or court security officer position from a current employer to a peace officer position for another employer, and both employers have, at least ten (10) working days prior to the effective date of the transfer, notified the council in writing of the transfer, the council shall maintain the officer in certified status.
 - (9) If the certified court security officer has successfully completed the basic training required by Section 3 of this Act and transfers from a court security officer position from a current employer to a court security officer position for another employer, and both employers have, at least ten (10) working days prior to the effective date of the transfer, notified the council in writing of the transfer, the council shall maintain the officer in certified status.

- (10) A certified court security officer who has met the requirements of Section 1 of this Act shall not transfer from a court security officer position to a peace officer position unless the certified court security officer meets all the requirements of a certified peace officer under KRS 15.382 and 15.404(1). If the certified court security officer has met the minimum qualifications of KRS 15.382, successfully completed the basic training required for certified peace officers under KRS 15.404(1), and transfers from a court security officer position from a current employer to a peace officer position for another employer, and both employers have, at least ten (10) working days prior to the effective date of the transfer, notified the council in writing of the transfer, the council shall maintain the officer in certified status.

Section 9. KRS 23A.090 is amended to read as follows:

- (1) The sheriff of the county in which the Circuit Court is sitting shall provide such deputies, certified court security officers, and ordinary equipment as the Chief Circuit Judge shall deem necessary to provide security services to the court and its facilities.
- (2) The sheriff shall be compensated for these duties at rates to be determined by law.

SECTION 10. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

- (1) A certified court security officer shall be charged with the following duties:
- (a) Attending sessions of any court of the Court of Justice in the county in which he or she is sworn;
 - (b) Keeping order in the courts;
 - (c) Providing security services to the courts within the court facility or immediate area of the court facility;
 - (d) Guarding prisoners during court appearances;
 - (e) Serving warrants and other court papers on individuals physically present in the courtroom;
 - (f) Transporting prisoners;
 - (g) Arresting and taking individuals into custody who are in the court facility or immediate area of the court facility, or while transporting prisoners; and
 - (h) Service of process and other papers relating to civil matters on individuals physically present in the courtroom.
- (2) A certified court security officer shall not:
- (a) Go outside the immediate area of the court facility in which he or she is providing security services to make an arrest or take an individual into custody, except when transporting prisoners;
 - (b) Patrol the roads, streets, or highways;
 - (c) Issue traffic citations, except to enforce parking regulations around the court facility; or
 - (d) Perform general law enforcement duties outside that of providing court security.

Section 11. KRS 70.030 is amended to read as follows:

- (1) The sheriff may appoint his or her own deputies and may revoke the appointment at his or her pleasure except where that revocation is prohibited by the provisions of KRS 70.260 to 70.273. In a county containing a consolidated local government or city of the first class with a deputy sheriff merit board, the term of office of a deputy shall continue from sheriff to sheriff unless a deputy is removed according to the provisions of KRS 70.260 to 70.273. Before any deputy executes the duties of his or her office, he or she shall take the oath required to be taken by the sheriff.
- (2) The sheriff may appoint his or her own certified court security officers and may revoke the appointment at his or her pleasure. A certified court security officer shall take an oath to faithfully perform the duties of his or her office and that he or she possesses the minimum qualifications under Section 1 of this Act.
- (3) The sheriff may appoint nonsworn clerical, technical, professional, and support personnel to assist him or her in the performance of the duties of his or her office. All nonsworn personnel shall serve at the pleasure of the sheriff.
- ~~(4)(3)~~ No sheriff whose county has adopted a deputy sheriff merit board under KRS 70.260 shall appoint a deputy who is a member of the immediate family of the sheriff. The term "member of the immediate family" has the meaning given in KRS 70.260.

- ~~(5)(4)~~ Except for certified court security officers, a sheriff's office may, upon the written request of the sheriff, participate in the Kentucky Law Enforcement Foundation Program Fund authorized by KRS 15.410 to 15.510 without the county establishing a deputy sheriff merit board. This subsection shall not prohibit the sheriff from requesting the consolidated local government or the fiscal court to establish a deputy sheriff merit board.

Section 12. KRS 70.036 is amended to read as follows:

- (1) Sheriffs, ~~and~~ bonded deputy sheriffs, and certified court security officers are authorized to wear approved uniforms while engaged in the performance of their duties. As used herein, "approved uniforms" means those uniforms the design and color of which are officially approved by the Kentucky Sheriffs' Association.
- (2) The expense of uniforms used by sheriffs, ~~and~~ their deputies, and certified court security officers in accordance with this section may be paid by the fiscal court from the county general fund. All such uniforms shall be the property of the county.

Section 13. KRS 70.140 is amended to read as follows:

The sheriff shall, by himself or deputy, attend and keep order in the fiscal court and any court of the Court of Justice and shall obey the orders of said courts, but a certified court security officer may only attend and keep order in any court of the Court of Justice and shall obey the orders of said court.

Section 14. KRS 527.020 is amended to read as follows:

- (1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.
- (2) Peace officers and certified court security officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.
- (3) Policemen directly employed by state, county, city, or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.
- (4) Persons, except those specified in subsection (5) of this section, licensed to carry a concealed deadly weapon pursuant to KRS 237.110 may carry a firearm or other concealed deadly weapon on or about their persons at all times within the Commonwealth of Kentucky, if the firearm or concealed deadly weapon is carried in conformity with the requirements of that section. Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried. No person or organization, public or private, shall prohibit a person licensed to carry a concealed deadly weapon from possessing a firearm, ammunition, or both, or other deadly weapon in his or her vehicle in compliance with the provisions of KRS 237.110 and 237.115. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.
- (5)
 - (a) The following persons, if they hold a license to carry a concealed deadly weapon pursuant to KRS 237.110, may carry a firearm or other concealed deadly weapon on or about their persons at all times and at all locations within the Commonwealth of Kentucky, without any limitation other than as provided in this subsection:
 1. A Commonwealth's attorney or assistant Commonwealth's attorney;
 2. A county attorney or assistant county attorney;
 3. A justice or judge of the Court of Justice; and
 4. A retired or senior status justice or judge of the Court of Justice.
 - (b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.
 - (c) A person specified in this section who is issued a concealed deadly weapon license shall be issued a license which bears on its face the statement that it is valid at all locations within the Commonwealth of Kentucky and may have such other identifying characteristics as determined by the Department of State Police.
- (6)
 - (a) Except provided in this subsection, the following persons may carry concealed deadly weapons on or about their person at all times and at all locations within the Commonwealth of Kentucky:
 1. An elected sheriff and full-time and part-time deputy sheriffs certified pursuant to KRS 15.380 to 15.404 when expressly authorized to do so by the unit of government employing the officer;
 2. An elected jailer and a deputy jailer who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the jailer; and
 3. The department head or any employee of a corrections department in any jurisdiction where the office of elected jailer has been merged with the office of sheriff who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the unit of government by which he or she is employed.(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.
- (7)
 - (a) A full-time paid peace officer of a government agency from another state or territory of the United States or an

elected sheriff from another territory of the United States may carry a concealed deadly weapon in Kentucky, on or off duty, if the other state or territory accords a Kentucky full-time paid peace officer and a Kentucky elected sheriff the same rights by law. If the other state or territory limits a Kentucky full-time paid peace officer or elected sheriff to carrying a concealed deadly weapon while on duty, then that same restriction shall apply to a full-time paid peace officer or elected sheriff from that state or territory.

- (b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.
- (8) A firearm or other deadly weapon shall not be deemed concealed on or about the person if it is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer, regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism. No person or organization, public or private, shall prohibit a person from keeping a firearm or ammunition, or both, or other deadly weapon in a glove compartment of a vehicle in accordance with the provisions of this subsection. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.
- (9) Carrying a concealed weapon is a Class A misdemeanor, unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used, or displayed, in which case it is a Class D felony.

SECTION 15. A NEW SECTION OF KRS 15.410 TO 15.510 IS CREATED TO READ AS FOLLOWS:

- (1) A court security officer certified pursuant to KRS 15.380 to 15.404 shall not be a deputy sheriff.
- (2) A court security officer certified pursuant to KRS 15.380 to 15.404 shall not be eligible for inclusion in the Kentucky Law Enforcement Foundation Program fund.
- (3) The appointment of a court security officer, whether certified or not, by a sheriff shall not affect the ability of the sheriff or certified deputy sheriffs to participate in the Kentucky Law Enforcement Foundation Program fund if all other requirements for participation in the fund under KRS 15.410 to 15.510 have been met. A sheriff or deputy sheriff who is otherwise eligible under KRS 15.410 to 15.510 for participation in the Kentucky Law Enforcement Foundation Program fund shall not be deemed ineligible because of the appointment of a court security officer by the sheriff or by any other body.

SECTION 16. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

- (1) No agency of a unit of local government, other than the sheriff, shall provide security services for the Court of Justice, a courthouse, or a courtroom unless the provision of the service is specifically authorized by the Kentucky Revised Statutes.
- (2) No agency of state government, other than the Kentucky State Police or the Administrative Office of the Courts, shall provide security services for the Court of Justice, a courthouse, or a courtroom unless the provision of the services is specifically authorized by the Kentucky Revised Statutes.
- (3) This section shall not preclude any peace officer, upon request of a court security officer or justice or judge of the Court of Justice, from providing security or law enforcement service for a specific incident or series of specific incidents.
- (4) This section shall not preclude any peace officer from taking law enforcement action in a courthouse or courtroom upon viewing the commission of an offense, or upon service of a warrant or civil or criminal process.

SECTION 17. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

- (1) In any county if the sheriff fails or refuses to provide certified peace officers or certified security officers for the provision of security services to any court of the Court of Justice then the Administrative Office of the Courts shall contract with a county, urban-county, charter county, consolidated local government, combined local government agency, or an agency of a city government to provide security services to any court of the Court of Justice in the county where the sheriff has failed or refused to provide such services.
- (2) Security personnel provided by a local government under contract to the Administrative Office of the Courts shall be certified peace officers, certified court security officers, or a combination thereof.
- (3) A court security officer provided by a unit of local government shall:
 - (a) Meet all of the qualifications and training specified in KRS 15.380 to 15.404; and
 - (b) Have the same power, duties, restrictions, and authority as a certified court security officer pursuant to KRS Chapter 70, and Sections 14 and 15 of this Act.

The Committee on Health and Welfare reported **SB 140**, with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 140, AN ACT relating to a voluntary acknowledgment-of-paternity registry.

WHEREAS, in Kentucky in 2005, there were 2,040 children in out-of-home care with the goal of adoption, but only 584 had judgments for the termination of parental rights of both parents; and

WHEREAS, the Kentucky Auditor of Public Accounts found that lengthy termination-of-parental-rights proceedings are the most significant cause of delays in the adoption process and recommended that the Cabinet for Health and Family Services study the effectiveness of birth father registries; and

WHEREAS, the Kentucky Blue Ribbon Panel on Adoptions, which was convened by the Cabinet for Health and Family Services, recently reviewed the process leading to the termination of parental rights and the adoption of children in the state's child welfare system and recommended changes in the judicial process; and

WHEREAS, according to the U.S. Department of Health and Human Services, at least 23 states, including Indiana, Ohio, and Tennessee, have statutes establishing putative father registries; and

WHEREAS, a voluntary acknowledgment-of-paternity registry could give the birth father an opportunity to protect his parental rights without having to rely upon either the adoptive parents or the birth mother for his information; and

WHEREAS, a voluntary acknowledgment-of-paternity registry could assure the birth mother and the adoptive parents that the adoption will not be disrupted because an unknown father or a father whose whereabouts are not known later appears on the scene; and

WHEREAS, a voluntary acknowledgment-of-paternity registry could create a more appropriate assumption of responsibility by the putative father because he has to take responsibility for protecting his own rights; and

WHEREAS, it is crucial that the Kentucky General Assembly ensure the safe and timely permanent placement of children, while protecting their rights and the parental rights of biological and adoptive parents;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Cabinet for Health and Family Services is hereby directed to appoint a panel and provide for any necessary expenses of the panel to evaluate the issues related to establishing and implementing a voluntary acknowledgment-of-paternity registry in the Commonwealth. The panel may be composed of members of the Blue Ribbon Panel on Adoption. The purpose of the registry shall be to record contact information for a man who wants to voluntarily claim that he may have fathered a child to whom he may claim paternity and that he wants to be notified in the event of an action to terminate parental rights or for leave to adopt the child. The goal of the registry shall be to facilitate the permanent placement of children who may otherwise experience extended temporary placements and to protect the rights of biological fathers who desire to establish paternity and take responsibility for a child. The issues to be evaluated shall include but not be limited to the following:

- (1) The administration of the registry by the Cabinet for Health and Family Services, including the registration forms, maintenance of information, procedures for requesting a registry search, the cost of operating a registry, and any fees that may be established for conducting a search;
- (2) Public notice of the registry, including where and how to register, circumstances under which registration may be required, and the consequences of registration;
- (3) Time frames for registering, notifying a registered man that he has been identified on a registry search, and filing an affidavit of paternity in order to retain parental rights;
- (4) Means by which a man may revoke his registration;
- (5) A requirement for the mother of a child to attempt to notify a birth father, if known to her, that a petition for the termination of parental rights or adoption of the child has been filed;
- (6) Limitations and confidentiality of a request for a search of the registry and the results of the search;
- (7) Requirements that an affidavit of a registry search be filed with a petition for the termination of parental rights or adoption;
- (8) The provision of registration forms and instructional information by local registrars;
- (9) The provision of information about the registry to be provided by hospitals;
- (10) Requirements to notify an identified registered father in an action to terminate parental rights or adoption;
- (11) The possible benefits of the registry for expediting the permanent placement of children;
- (12) Possible unintended consequences of implementing the registry, such as hindering the placement of children with paternal relatives or infringing on a biological father's paternal rights; and
- (13) The experiences and successes of other states that have implemented a similar paternity registry.

Section 2. The Cabinet for Health and Family Services shall report on findings of the evaluation by the panel to the Interim Joint Committee on Health and Welfare by December 31, 2007. The report shall include but not be limited to recommendations on the need for and feasibility of a voluntary acknowledgment-of-paternity registry and any legislation that may

be necessary to implement the registry.

The House Committee Substitute to SB 140 is as follows:

SB 140, AN ACT relating to a voluntary acknowledgment-of-paternity registry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

- (1) In order to protect the rights of a biological mother, a biological father, and their child, a protection and permanency panel shall review and approve or disapprove a recommendation to submit to the court a petition for the involuntary termination of parental rights for a child in the custody of the cabinet. The panel shall consist of:
 - (a) The secretary of the Cabinet for Health and Family Services;
 - (b) The commissioner of the Department for Community Based Services;
 - (c) The inspector general of the Cabinet for Health and Family Services; and
 - (d) The general counsel of the Office of Legal Services within the cabinet; and
 - (e) The director of the Division of Protection and Permanency within the cabinet.
- (2) The protection and permanency panel shall complete its review within five (5) working days of receiving the recommendation and prior to the submission of a petition to the court for involuntary termination of parental rights for a child in the custody of the cabinet. The review shall include cabinet records, including recommendations from the citizen foster care review board if appropriate, and may include but is not limited to written or oral comments from the parents or relatives of the child. A written summary of the panel's approval or disapproval of each recommendation shall be retained by the Office of Legal Services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 620 IS CREATED TO READ AS FOLLOWS:

The Chief Justice shall establish rules of administrative procedure relating to the management of juvenile cases, especially child protection and permanency cases that shall encompass the following:

- (1) The duties and responsibilities of the Court of Justice, including the Administrative Office of the Courts;
- (2) Case management and time standards for cases under the Juvenile Code;
- (3) Standards of practice and training for guardians ad litem and court-appointed counsel;
- (4) Procedures relating to court practices required to be performed by employees of the Cabinet for Health and Family Services, the Department for Juvenile Justice, and county attorneys in juvenile cases;
- (5) The rights of all parties to the action, including the right to notice and the opportunity to be heard for foster parents, pre-adoptive parents, and relative caregivers; and
- (6) Other procedural matters relating to cases under the Juvenile Code.

Section 3. KRS 199.502 is amended to read as follows:

- (1) Notwithstanding the provisions of KRS 199.500(1), an adoption may be granted without the consent of the biological living parents of a child if it is pleaded and proved as part of the adoption proceeding that any of the following conditions exist with respect to the child:
 - (a) That the parent has abandoned the child for a period of not less than ninety (90) days;
 - (b) That the parent had inflicted or allowed to be inflicted upon the child, by other than accidental means, serious physical injury;
 - (c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm; .
 - (d) That the parent has been convicted of a felony that involved the infliction of serious physical injury to a child named in the present adoption proceeding;
 - (e) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child, and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;
 - (f) That the parent has caused or allowed the child to be sexually abused or exploited;
 - (g) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child;
 - (h) That:
 1. The parent's parental rights to another child have been involuntarily terminated;

2. The child named in the present adoption proceeding was born subsequent to or during the pendency of the previous termination; and
3. The condition or factor which was the basis for the previous termination finding has not been corrected; or
- (i) That the parent has been convicted in a criminal proceeding of having caused or contributed to the death of another child as a result of physical or sexual abuse or neglect.

(2) The court shall appoint separate counsel for the parent who exercises custodial control or supervision of the child to be adopted and for the parent who does not exercise custodial control or supervision of the child, if known, if the court has determined by written findings that the parent is an indigent person pursuant to KRS Chapter 31. The fee for counsel for a parent shall be fixed by the court and shall not exceed five hundred dollars (\$500) and shall be paid by the petitioner. The clerk of the court shall arrange for service on all parties as provided on the petition, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel for the parent.

(3) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter findings of fact, conclusions of law, and a decision either:

- (a) Granting the adoption without the biological parent's consent; or
- (b) Dismissing the adoption petition, and stating whether the child shall be returned to the biological parent or the child's custody granted to the state, another agency, or the petitioner.

Section 4. KRS 620.080 is amended to read as follows:

(1) Unless waived by the child and his parent or other person exercising custodial control or supervision, a temporary removal hearing shall be held:

- (a) Within seventy-two (72) hours, excluding weekends and holidays, of the time when an emergency custody order is issued or when a child is taken into custody without the consent of his parent or other person exercising custodial control or supervision. If the time frame is waived by the parent under this paragraph, the temporary removal hearing shall be held no later than five (5) working days after the dates required in this subsection; and
- (b) In cases commenced by the filing of a petition, within ten (10) days of the date of filing.

(2) Prior to the commencement of the temporary removal hearing:

(a) The court shall appoint counsel for the child who shall act as a guardian ad litem to represent the best interests of the child and who may communicate the child's wishes to the court. The guardian ad litem shall be paid by the Finance and Administration Cabinet a fee fixed by the court not to exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250), which shall include representation through final disposition, if necessary, pursuant to Section 5 of this Act;

(b) The court shall appoint separate counsel for the parent or parents, or other person exercising custodial control or supervision of the child, if the court determines by written findings that the parent is an indigent pursuant to KRS Chapter 31. Appointed counsel shall be paid by the Finance and Administration Cabinet a fee fixed by the court not to exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250) which shall include representation through final disposition if necessary pursuant to Section 5 of this Act; and

(c) The court may, in the interests of justice:

1. Appoint separate counsel for a nonparent who exercises custodial control or supervision of the child if court determines by written findings that the person is an indigent person pursuant to KRS Chapter 31. The counsel shall be paid by the Finance and Administration Cabinet a fee fixed by the court not to exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250) which shall include representation, through final disposition if necessary pursuant to Section 5 of this Act; and
2. Appoint a court-appointed special advocate volunteer to represent the best interests of the child pursuant to KRS 620.500 to 620.550.

Attorneys appointed under this subsection shall remain as counsel through final disposition unless the judge, for good cause, replaces counsel through a new appointment. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of all orders appointing counsel and a court-appointed special advocate.

(3) At a temporary removal hearing, the court shall determine whether there are reasonable grounds to believe that the child would be dependent, neglected or abused if returned to or left in the custody of his parent or other person exercising custodial control or supervision even though it is not proved conclusively who has perpetrated the dependency, neglect or abuse. For good cause, the court may allow hearsay evidence. The Commonwealth shall bear the burden of proof by a preponderance of the evidence and if the Commonwealth should fail to establish same, the child shall be released to or retained in the custody of his parent or other person exercising custodial control or supervision.

(4) If the court determines that further proceedings are required, the court shall advise the child and his or her parent or

parents, or other person exercising custodial control or supervision, that each has a right to not incriminate themselves, a right to a full adjudicatory hearing where all witnesses may be confronted and cross-examined, that evidence may be presented on their own behalf, and that each has a right to an appeal.

Section 5. KRS 620.100 is amended to read as follows:

- (1) If the court determines, as a result of a temporary removal hearing, that a full adjudicatory proceeding is~~is further proceedings are~~ required, the court shall advise the child and his parent or other person exercising custodial control or supervision of their right to appointment of separate counsel. ~~;~~
- (a) ~~—~~ The court shall appoint counsel for the child to be paid for by the Finance and Administration Cabinet as specified in subsection (2) of Section 4 of this Act. The clerk of the court shall arrange for service on all parties, including the local representative of the department, of all orders appointing counsel or a court-appointed special advocate volunteer~~Cabinet for Health and Family Services, of the order appointing counsel. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250);~~
- (b) ~~—~~ The court shall appoint separate counsel for the parent who exercises custodial control or supervision if the parent is unable to afford counsel pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. The parent's counsel shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250);
- (c) ~~—~~ The court may, in the interest of justice, appoint separate counsel for a nonparent who exercises custodial control or supervision of the child, if the person is unable to afford counsel, pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Health and Family Services, of the order appointing counsel. Counsel for the person shall be provided or paid for by the Finance and Administration Cabinet. The fee to be fixed by the court shall not exceed five hundred dollars (\$500); however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars (\$250); and
- (d) ~~—~~ The court may, in the interest of justice, appoint a court-appointed special advocate volunteer to represent the best interests of the child pursuant to KRS 620.500 to 620.550. The clerk of the court shall arrange for service on all parties, including the local representative of the cabinet, of the order appointing the court appointed special advocate volunteer.
- (2) Prior to the commencement of an adjudicatory hearing~~[If the court determines that further proceedings are required]~~, the court also shall advise the child and his parent or other person exercising custodial control or supervision that they have a right to not incriminate themselves, ~~and~~ a right to ~~to~~ a full adjudicatory hearing at which they may confront and cross-examine all adverse witnesses, a right to present evidence on their own behalf, and a right to an appeal.
- (3) The adjudication shall determine the truth or falsity of the allegations in the complaint. The burden of proof shall be upon the complainant, and a determination of dependency, neglect, and abuse shall be made by a preponderance of the evidence. The Kentucky Rules of Civil Procedure shall apply.
- (4) The disposition shall determine the action to be taken by the court on behalf of the child and his or her parent or parents or other person exercising custodial control or supervision.

Section 6. KRS 625.041 is amended to read as follows:

- (1) The parties to an action for voluntary termination of parental rights shall be both biological parents, if known, and if the parental rights of either parent have not previously been terminated. The presence of the parent seeking termination, whose presence is not required if represented by counsel for the parent when an appearance-waiver and consent-to-adopt form is filed with the court, but the court shall appoint a guardian ad litem to represent the best interest of the child.
- (2) The guardian ad litem shall be paid a fee to be fixed by the court, not to exceed five hundred dollars (\$500), to be paid by the petitioner, except if the Cabinet for Health and Family Services receives custody of the child, the guardian ad litem shall be paid by the Finance and Administration Cabinet.
- (3) The parent may sign an appearance-waiver and consent-to-adopt form when the parent chooses not to attend a voluntary termination of parental rights proceedings. This form, prescribed by the Administrative Office of the Courts, shall:
 - (a) Contain a statement of acknowledgment and agreement, regarding the appearance at the proceeding, signed by the parent, counsel for the parent, and the cabinet. If the parent is a minor, the form shall also be signed by the guardian of the minor parent;
 - (b) Contain the parent's notarized signature;
 - (c) Contain any address to which the parent requests the final judgment be served.
- (4) If a joint petition is filed, counsel shall be designated as attorney for both parties.

Section 7. KRS 625.080 is amended to read as follows:

In any involuntary action for termination of parental rights:

- (1) The Circuit Court shall conduct a private hearing. An official stenographic or mechanical record shall be made of the proceedings and retained for a period of five (5) years. The court shall make findings of fact and conclusions of law, which may be made on the record, to support its judgment;
- (2) Any child to whom an involuntary action directly relates shall be made a party to the action and a guardian ad litem shall be appointed to represent the best interests of the child. The person appointed as a guardian ad litem shall be paid a fee not to exceed five hundred dollars (\$500), to be paid by the Finance and Administration Cabinet when the cabinet is the proposed custodian. When the cabinet is not the proposed custodian, the court may order the cost to be paid by the proposed adoptive parent, parents, agency, or the petitioner. Upon motion of any party, the child may be permitted to be present during the proceedings and to testify if the court finds such to be in the best interests of the child. In its discretion, the Circuit Court may interview the child in private, but a record of the interview shall be made, which, in the discretion of the court, may be sealed to be used only by an appellate court;
- (3) The parents have the right to legal representation in involuntary termination actions. The Circuit Court shall determine by written findings if the parent is indigent and, therefore, entitled to counsel pursuant to KRS Chapter 31. If the Circuit Court so finds, the Circuit Court shall inform the parent; and, upon request, if it appears reasonably necessary in the interest of justice, the Circuit Court shall appoint an attorney to represent the parent pursuant to KRS Chapter 31 to be ~~provided or~~ paid for by the Finance and Administration Cabinet a fee to be set by the court and not to exceed five hundred dollars (\$500);
- (4) If the parent is currently authorized to visit with the child, the court may continue to permit the parent to visit the child pending the final hearing unless it finds that visitation would not be in the best interest of the child. The court may order additional requirements relating to the visitation arrangements during the pendency of the termination of parental rights hearing.
- (5) The hearing under this chapter shall be held within sixty (60) days of the motion by a party or the guardian ad litem for a trial date.

Section 8. KRS 625.110 is amended to read as follows:

- (1) Any order for the involuntary termination of parental rights shall be conclusive and binding on all parties, except that an appeal may be taken from a judgment or order of the Circuit Court involuntarily terminating parental rights in accordance with the Kentucky Rules of Civil Procedure.
- (2) A parent who contested an involuntary termination of parental rights action under this chapter who chooses to file an appeal of right to the Court of Appeals has the right to legal representation in the appeal. If the Circuit Court determined the parent was indigent and entitled to court-appointed counsel pursuant to KRS Chapter 31 for the termination of parental rights proceedings, the appellate court shall appoint counsel for the parent pursuant to KRS Chapter 31.

SECTION 9. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

The Finance and Administration Cabinet shall authorize payment to an attorney appointed as counsel for an indigent individual or appointed as a guardian ad litem under KRS Chapter 620 or 625 if the attorney has documentation of participation in specialized training or continuing legal education that includes information on representing children in courts, the child welfare system, domestic relations, or other topics approved by the Administrative Office of the Courts. The cabinet may promulgate an administrative regulation pursuant to KRS Chapter 13A and the Court of Justice may establish rules of administrative procedure pursuant to Section 2 of this Act to implement the requirements of this section.

Section 10. KRS 202B.210 is amended to read as follows:

Upon the filing of a petition for involuntary admission pursuant to KRS 202B.045, the court shall appoint an attorney to represent the respondent with the appointment and representation to continue unless the respondent retains private counsel. The appointed attorney shall be forthwith notified by the clerk of the allegations in the petition and the date and purpose of the preliminary hearing. When it is necessary to appoint counsel, the District Court shall endeavor to appoint private counsel, if available, to represent respondents, from a list of attorneys who have volunteered to represent such respondents. The list shall be maintained by the District Court clerk. Private counsel appointed by the court shall be compensated in the manner set forth in subsection (2) of Section 4 of this Act ~~[620.100(1)(a)]~~. If no other method of appointing counsel for the respondent is available, the respondent shall be represented by the public advocate pursuant to KRS Chapter 31.

Section 11. (1) The General Assembly finds and declares the following:

- (a) In Kentucky in 2005, there were 2,040 children in out-of-home care with the goal of adoption, but only 584 had judgments for the termination of parental rights of both parents;
- (b) The Kentucky Auditor of Public Accounts found that lengthy termination-of-parental-rights proceedings are the most significant cause of delays in the adoption process and recommended that the Cabinet for Health and Family Services study the effectiveness of birth father registries;
- (c) The Kentucky Blue Ribbon Panel on Adoptions, which was convened by the Cabinet for Health and Family Services, recently reviewed the process leading to the termination of parental rights and the adoption of children in the state's child welfare system and recommended changes in the judicial process;
- (d) According to the U. S. Department of Health and Human Services, at least 23 states, including Indiana, Ohio, and

Tennessee, have statutes establishing putative father registries;

(e) A voluntary acknowledgment-of-paternity registry could give the birth father an opportunity to protect his parental rights without having to rely upon either the adoptive parents or the birth mother for his information;

(f) A voluntary acknowledgment-of-paternity registry could assure the birth mother and the adoptive parents that the adoption will not be disrupted because an unknown father or a father whose whereabouts are not known later appears on the scene;

(g) A voluntary acknowledgment-of-paternity registry could create a more appropriate assumption of responsibility by the putative father because he has to take responsibility for protecting his own rights; and

(h) It is crucial that the Kentucky General Assembly ensure the safe and timely permanent placement of children, while protecting their rights and the parental rights of biological and adoptive parents.

(2) The Cabinet for Health and Family Services is hereby directed to appoint a panel and provide for any necessary expenses of the panel to evaluate the issues related to establishing and implementing a voluntary acknowledgment-of-paternity registry in the Commonwealth. The panel may be composed of members of the Blue Ribbon Panel on Adoption. The purpose of the registry shall be to record contact information for a man who wants to voluntarily claim that he may have fathered a child to whom he may claim paternity and that he wants to be notified in the event of an action to terminate parental rights or for leave to adopt the child. The goal of the registry shall be to facilitate the permanent placement of children who may otherwise experience extended temporary placements and to protect the rights of biological fathers who desire to establish paternity and take responsibility for a child. The issues to be evaluated shall include but not be limited to the following:

(a) The administration of the registry by the Cabinet for Health and Family Services, including the registration forms, maintenance of information, procedures for requesting a registry search, the cost of operating a registry, and any fees that may be established for conducting a search;

(b) Public notice of the registry, including where and how to register, circumstances under which registration may be required, and the consequences of registration;

(c) Time frames for registering, notifying a registered man that he has been identified on a registry search, and filing an affidavit of paternity in order to retain parental rights;

(d) Means by which a man may revoke his registration;

(e) A requirement for the mother of a child to attempt to notify a birth father, if known to her, that a petition for the termination of parental rights or adoption of the child has been filed;

(f) Limitations and confidentiality of a request for a search of the registry and the results of the search;

(g) Requirements that an affidavit of a registry search be filed with a petition for the termination of parental rights or adoption;

(h) The provision of registration forms and instructional information by local registrars;

(i) The provision of information about the registry to be provided by hospitals;

(j) Requirements to notify an identified registered father in an action to terminate parental rights or adoption;

(k) The possible benefits of the registry for expediting the permanent placement of children;

(l) Possible unintended consequences of implementing the registry, such as hindering the placement of children with paternal relatives or infringing on a biological father's paternal rights; and

(m) The experiences and successes of other states that have implemented a similar paternity registry.

(3) The Cabinet for Health and Family Services shall report on findings of the evaluation by the panel to the Interim Joint Committee on Health and Welfare by December 31, 2007. The report shall include but not be limited to recommendations on the need for and feasibility of a voluntary acknowledgment-of-paternity registry and any legislation that may be necessary to implement the registry.

The House Committee Amendment No. 1 Title to **SB 140** is as follows:

SB 140, Amend the title to read as follows: "AN ACT relating to child protection and permanency."

Calendar

HB 567, SB 29, 30, 156, and 134 taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Senate Message

Announcing passage of **SB 25, 43, 72, 175, 196, 208, HB 244, HCR 25, 26, 29, 31, 32, and 75.** (2:55 p.m.)

Orders of the Day

HB 443, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thompson moved the adoption of Floor Amendment No. 3 to **HB 443**. Agreed.

Representative Thompson moved the adoption of Floor Amendment No. 1 to **HB 443**. Agreed.

Representative Thompson moved that **HB 443**, as amended, be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 6, 2007, roll call on **HB 443** - Appendix.)

HB 443, as amended, was passed.

Representative Thompson moved the adoption of Floor Amendment No. 2 Title to **HB 443**. Agreed.

Representative Thompson moved that the vote by which **HB 443**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 151, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved the adoption of Floor Amendment No. 1 to **HCR 151**. Agreed.

Representative Graham moved that **HCR 151**, as amended, be adopted.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 6, 2007, roll call on **HCR 151** - Appendix.)

HCR 151, as amended, was adopted.

Representative Graham moved that the vote by which **HCR 151**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 159, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Greer moved the adoption of Floor Amendment No. 1 to **HCR 159**. Agreed.

Representative Greer moved that **HCR 159**, as amended, be adopted.

On the roll call the vote was: **Yeas 100, Nays 0**. (See March 6, 2007, roll call on **HCR 159** - Appendix.)

HCR 159, as amended, was adopted.

Representative Greer moved that the vote by which **HCR 159**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 35, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crimm moved the adoption of Floor Amendment No. 1 to **HB 35**. Agreed.

Representative Crimm moved that **HB 35**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 4**. (See March 6, 2007, roll call on **HB 35** - Appendix.)

HB 35, as amended, was passed.

Representative Crimm moved the adoption of Floor Amendment No. 2 Title to **HB 35**. Agreed.

Representative Crimm moved that the vote by which **HB 35**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 275 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HB 275** be passed.

On the roll call the vote was: **Yeas 97, Nays 1.** (See March 6, 2007, roll call on **HB 275** - Appendix.)

HB 275 was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 275** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 72, with Committee Substitute and Committee Amendment attached thereto,

taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Spencer moved the adoption of the Committee Substitute to **HJR 72**. Agreed.

Representative Spencer moved that **HJR 72**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 77, Nays 23.** (See March 6, 2007, roll call on **HJR 72** - Appendix.)

HJR 72, by way of Committee Substitute, was adopted.

Representative Spencer moved the adoption of Committee Amendment No. 1 Title to **HJR 72**. Agreed.

Representative Spencer moved that the vote by which **HJR 72**, by way of committee Substitute, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 244, HCR 25, 26, 29, 31, 32, and 75** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 3:10 p.m.)

Orders of the Day (Continued)

HB 476, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nelson moved the adoption of Floor Amendment No. 1 to **HB 476**. Agreed.

Representative Nelson moved that **HB 476**, as amended, be passed.

On the roll call the vote was: **Yeas 90, Nays 7.** (See March 6, 2007, roll call on **HB 476** - Appendix.)

HB 476, as amended, was passed and the title agreed to.

Representative Nelson moved that the vote by which **HB 476**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representatives Hoover and Richards asked that the Journal reflect that they did not vote on **HB 476** pursuant to Section 57 of the Kentucky Constitution.

HB 288, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved the adoption of the Committee Substitute to **HB 288**. Agreed.

Representative Siler moved that **HB 288**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See March 6, 2007, roll call on **HB 288** - Appendix.)

HB 288, by way of Committee Substitute, was passed and the title agreed to.

Representative Siler moved that the vote by which **HB 288**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 471 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Belcher moved that **HB 471** be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See March 6, 2007, roll call on **HB 471** - Appendix.)

HB 471 was passed and the title agreed to.

Representative L. Belcher moved that the vote by which **HB 471** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 180, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ballard moved the adoption of the Committee Substitute to **HB 180**. Agreed.

Representative Ballard moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 180**. Agreed.

Representative Ballard moved that **HB 180**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 89, Nays 7.** (See March 6, 2007, roll call on **HB 180** - Appendix.)

HB 180, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Ballard moved that the vote by which **HB 180**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 207, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved the adoption of the Committee Substitute to **HB 207**. Agreed.

Representative Yonts moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 207**. Agreed.

Representative Yonts moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 207**. Agreed.

Representative Yonts moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 207**. Agreed.

Representative Yonts moved the adoption of Floor Amendment No. 6 to the Committee Substitute to **HB 207**. Agreed.

Representative Yonts moved that **HB 207**, by way of Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 100, Nays 0.** (See March 6, 2007, roll call on **HB 207** - Appendix.)

HB 207, by way of Committee Substitute, as amended, was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 207**, by way of Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 523, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bell moved the adoption of the Committee Substitute to **HB 523**. Agreed.

Representative Bell moved that **HB 523**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See March 6, 2007, roll call on **HB 523** - Appendix.)

HB 523, by way of Committee Substitute, was passed and the title agreed to.

Representative Bell moved that the vote by which **HB 523**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 274 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HB 274** be passed.

On the roll call the vote was: Yeas 73, Nays 21. (See March 6, 2007, roll call on **HB 274** - Appendix.)

HB 274 was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 274** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins moved that the rules be suspended to place **HB 397, 327, SB 60, 74, 159, SJR 48, and 93** in the Orders of the Day. (**HB 397** was placed in the Orders of the Day on March 1, 2007, for March 2, 2007.) Agreed.

Representative Adkins moved that the rules be suspended and that **HB 117 and 307** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Adkins moved that the rules be suspended and that **SB 144** be recommitted to the Committee on State Government. Agreed.

Representative Adkins moved that the rules be suspended and that the posting requirement be waived retroactively on **SB 198**. Agreed.

Representative Adkins moved that the rules be suspended and that the posting requirement be waived on **SB 143, 91, SJR 109, SB 185, 186, 196, SJR 6, SB 197, 171, and 174**. Agreed.

Representative Adkins moved that the rules be suspended, that **SB 175** be referred to the Committee on Banking and Insurance, and that the posting requirement be waived **SB 175**. Agreed.

Representative Adkins moved that the rules be suspended, that **SB 25** be referred to the Committee on Agriculture and Small Business, and that the posting requirement be waived on **SB 25**. Agreed.

Representative Adkins moved that the rules be suspended, that **SB 43** be referred to the Committee on Judiciary, and that the posting requirement be waived on **SB 43**. Agreed.

Representative Burch moved the adoption of the following **HR 192**:

HR 192, A RESOLUTION declaring April, 2007 as National Donate Life Month in Kentucky.

WHEREAS, organ and tissue transplantation can save, prolong, and improve the lives of hundreds of Kentuckians and tens of thousands of Americans each year; and

WHEREAS, approximately 750 Kentuckians are currently among the 93,000 Americans who are on waiting lists to receive an organ transplant; and

WHEREAS, tragically, because enough organs and tissues are not available, many of those in need of transplantation will die waiting; and

WHEREAS, an average of 17 people die every day awaiting an organ transplant that did not come in time, and

WHEREAS, continued efforts to increase awareness of the need for organ and tissue donation could mean the difference between life and death for citizens throughout Kentucky and the nation waiting for an organ; and

WHEREAS, the Kentucky Circuit Court Clerks Trust For Life, Kentucky Organ Donor Affiliates and all member organizations of the Kentucky Donate Life Coalition that work with the Kentucky Cabinet for Health and Family Services in promoting organ donation and the Kentucky Organ Donor Registry every day throughout the Commonwealth, encourage all Kentuckians to become organ donors to help save, prolong, and improve the quality of life of the citizens of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby proclaim April, 2007 as National Donate Life Month in Kentucky.

There being no objection, **HR 192** was adopted.

Representative DeCesare moved the adoption of the following **HR 68**:

HR 68, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Miss Abby Ellen Cummings.

WHEREAS, little Abby Ellen Cummings departed this life prematurely on November 14, 2006, at the age of 11 years, reminding us that life is precious and should be lived with gratitude for each day; and

WHEREAS, Abby was the beloved daughter of Dwight and Betty Jean (B.J.) Cummings. She was a student at Lost River Elementary School and a member of the Woodburn Baptist Church; and

WHEREAS, Abby's passing is mourned by her parents; her twin sister, Amy; her brother, Dustin Cummings; her grandparents, Fred Van Meter and Shirley Cummings; her great grandfather, Dolie Mayes; and a host of aunts, uncles, cousins, and countless friends and well-wishers who saw her through her year-long battle with cancer; and

WHEREAS, Abby was preceded in death by her grandparents Bobby Cummings and Kathleen Van Meter, and her great grandparents, Robert and Earline Cummings;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deepest sympathy upon the untimely passing of Miss Abby Ellen Cummings, and extends to her family and friends its sincere condolences.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Miss Abby Ellen Cummings.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Gentleman from Warren 21 for presentation to the Cummings family.

There being no objection, **HR 68** was adopted.

Representative Montell moved that Floor Amendment No. 1 to **HB 16** be withdrawn. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 195, by Representative Ford: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Floyd Stanley Carter, Sr.

HR 196, by Representatives Rader, Stewart, Turner, and Siler: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sergeant First Class Lance S. Cornett.

HR 197, by Representative Simpson: A RESOLUTION urging the city of Covington to rename 12th Street in honor and memory of Dr. Martin Luther King, Jr.

HR 198, by Representatives Kerr and Draud: A RESOLUTION declaring September, 2007, as National Alcohol and Drug Addiction Recovery Month in Kentucky.

HR 199, by Representative DeCesare: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Bettie Sue Robertson DeCesare.

Motions, Petitions, and Communications (Continued)

Representative Ford moved the adoption of the following **HR 195**:

HR 195, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Floyd Stanley Carter, Sr.

WHEREAS, Floyd Stanley Carter, Sr. was born on February 14, 1917, in Illinois, to Charles C. and Susie Mae Riddle, and departed this life on February 26, 2007, at the age of 90 years; and

WHEREAS, Floyd Stanley Carter, Sr. was an esteemed citizen of Mt. Vernon, an Army veteran of World War II, an ironworker, a Baptist minister, and a member of Northside Baptist Church; and

WHEREAS, Floyd Stanley Carter, Sr., was preceded in death by his wife, Iva Carter; brothers Henry Carter and Clarence Carter; and sisters Dicie Ford and Elizabeth McNew; and

WHEREAS, Floyd Stanley Carter, Sr. leaves behind his son, Floyd Carter, Jr., of Lexington; daughters Joyce Bussell of Brodhead, Janice Haller of Cathedral City, California, Brenda Beckett of Lawrenceburg, and Judy Carter of Merced, California; brothers Kenneth Carter and Charles Carter of Mt. Vernon; sisters Ion Parsons and Glenna Baker of Mt. Vernon, and Irene Anderkin of Mansfield, Ohio; 12 grandchildren; 17 great-grandchildren; and 17 great-great-grandchildren;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deepest sympathy upon the passing of Floyd Stanley Carter, Sr.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Floyd Stanley Carter, Sr.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the gentleman from Rockcastle 80 for presentation to the Carter family.

There being no objection, **HR 195** was adopted.

Representative Kerr moved the adoption of the following **HR 198**:

HR 198, A RESOLUTION declaring September, 2007, as National Alcohol and Drug Addiction Recovery Month in Kentucky.

WHEREAS, 74 percent of Americans say that addiction to alcohol has had some impact on them at some point in their lives, whether it was their own personal addiction, that of a friend or family member, or other experiences with addiction; and

WHEREAS, 63 percent of Americans also say that addiction to either drugs or alcohol has had a great deal or some impact on their lives; and

WHEREAS, stigma and discrimination present obstacles and can be a mark of disgrace to those with substance use disorders who need access to treatment facilities, and for those who want to reestablish their place in the community by entering the workforce; and

WHEREAS, educating our community about how substance use disorders affect children, families, and all community members is essential to overcoming stigma and discrimination; and

WHEREAS, People Advocating Recovery is a statewide group of individuals that has been working to educate the Commonwealth on substance use disorders for several years and working to eliminate barriers to recovery from addiction; and

WHEREAS, recognizing the achievement of those who seek out treatment services and ensuring that such services are readily available to those who need assistance is vitally important; and

WHEREAS, substance use disorders are a treatable, yet serious health care problem, and steps can be taken to address it and so build a stronger, healthier community; and

WHEREAS, to help achieve this goal, the U.S. Department of Health and Human Services, the Substance Abuse and Mental Health Services Administration, the White House Office of National Drug Control Policy, and People Advocating Recovery invite all residents of the Commonwealth of Kentucky to participate in National Alcohol and Drug Addiction Recovery Month;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby proclaim September, 2007, as National Alcohol and Drug Addiction Recovery Month in Kentucky.

There being no objection, **HR 198** was adopted.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Labor and Industry: **SB 174** (SB 174 was referred to the Committee on Transportation on March 2, 2007.)

Floor Amendments

Floor Amendment No. 7 to the Committee Substitute to **HB 207**, by Representative Hall:

HB 207, On page 31, line 27, after "laws" by inserting a "." and striking the remainder of the line; and

On page 32, by striking line 1 in its entirety.

House Floor Amendment No. 1 to the House Committee Substitute to **SB 74**, by Representative McKee:

SB 74, On page 4, after line 4, by adding the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 75 IS CREATED TO READ AS FOLLOWS:

If ad valorem taxes have been collected under the provisions of KRS 75.015 or 75.040 when no taxes were due for the tax year beginning on January 1, 2005, moneys not refunded after the two (2) year period set out under the provisions of KRS 134.590 shall not be considered unclaimed property of the state and may be expended by the fire district board of trustees."

House Floor Amendment No. 2 to **SB 74**, by Representative McKee:

SB 74, On page 4, after line 2, by adding the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 75 IS CREATED TO READ AS FOLLOWS:

If ad valorem taxes have been collected under the provisions of KRS 75.015 or 75.040 when no taxes were due for the tax year beginning on January 1, 2005, moneys not refunded after the two (2) year period set out under the provisions of KRS 134.590 shall not be considered unclaimed property of the state and may be expended by the fire district board of trustees."

Floor Amendment No. 11 to the Committee Substitute to **HB 207**, by Representative Hall:

HB 207, On page 6, line 6, after "annually." by deleting the remainder of the line; and

On page 6, line 7 by deleting all bold underlined language from the line; and

On page 17, line 2, after "months." by deleting the remainder of the line; and

On page 17, by deleting line 3 in its entirety; and

On page 17, line 4, by deleting all bold underlined language from the line.

Floor Amendment No. 10 to the Committee Substitute to **HB 207**, by Representative Hall:

HB 207, On page 33, line 10, after "the" by deleting "office" and inserting "mine operator" in lieu thereof.

Floor Amendment No. 9 to the Committee Substitute to **HB 207**, by Representative Hall:

HB 207, On page 15, line 22, after "shift" by removing the opening bracket and strikethroughs on "[with"; and

On page 15, line 23 by removing the closing bracket after "employees]" and all strikethroughs from the existing language on the line; and

On page 15, line 23, after ";" by inserting ". Mines with a workforce of less than fifty (50) employees shall be required to have at least one (1) emergency medical or mine emergency technician".

Floor Amendment No. 8 to the Committee Substitute to **HB 207**, by Representative Hall:

HB 207, On page 5, line 4, after "Commission." by inserting "The Office of Mine Safety and Licensing shall develop a safety bulletin that uses the information contained in the fatality report to highlight any cause of the fatal accident and recommend best safety practices that would prevent accidents of a similar type from occurring in the future. The safety bulletin shall be mailed to all certified coal miners employed at mines in Kentucky.".

House Floor Amendment No. 2 to the House Committee Substitute to **SJR 93**, by Representative Upchurch:

SJR 93, On page 4, after line 1, insert the following:

"Section 12. The Transportation Cabinet shall honor musician Don Parmley at the Clinton County/Wayne County line and the Pulaski County/Wayne County line on Kentucky Route 90 entering into Wayne County with signs that read, "Welcome to Wayne County, Home of Don Parmley, Founding Member of the Bluegrass Cardinals." The Transportation Cabinet shall within 30 days of the effective date of this Resolution, erect signs at the locations specified that read "Welcome to Wayne County, Home of Don Parmley, Founding Member of the Bluegrass Cardinals."

House Floor Amendment No. 3 Title to **SJR 93**, by Representative Upchurch:

SJR 93, By amending the title to read "A JOINT RESOLUTION honoring distinguished Kentuckians for their service to the Commonwealth."

House Floor Amendment No. 1 to **SB 134**, by Representative McKee:

SB 134, On page 7, lines 2 to 6, by deleting subsection (5) in its entirety and inserting the following in lieu thereof:

"(5) For cigarettes certified in compliance with this section, a manufacturer shall pay to the state fire marshal a fee of one thousand dollars (\$1,000) per brand family. "Brand family" shall have the same meaning as in KRS 131.604."

House Floor Amendment No. 1 Title to **SB 140**, by Representative Burch:

SB 140, Amend the title to read as follows: "AN ACT relating to child protection and permanency."

Motions, Petitions, and Communications (Continued)

The following member filed requests to have his name added as co-sponsor of Bills and Resolutions:

HB 207, Representative Graham

Announcements

Committee on Health and Welfare, upon adjournment, Wednesday, March 7, 2007

Committee on Appropriations and Revenue, 10:00 a.m., Wednesday, March 7, 2007, Room 174

Committee on Natural Resources and Environment, Wednesday, Room 129

Committee on Agriculture and Small Business, 8:30 a.m., Wednesday, March 7, 2007

Committee on Licensing and Occupations, No 8:00 a.m. meeting on Wednesday, March 7, 2007

Committee on Banking and Insurance, 10:00 a.m., Wednesday, March 7, 2007, Room 129

Adjournment

Representative Adkins moved to adjourn until the hour of 2:00 p.m. on Wednesday, March 7, 2007.

The motion that the House adjourn until 2:00 p.m., Wednesday, March 7, 2007, was adopted by voice vote.

WEDNESDAY, MARCH 7, 2007
TWENTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Chaplain Lt. Gordon James Klingenschmitt, USNR Corps Norfolk Naval Station, and the guest of Representative Riner.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Special Music was performed by South Laurel High School Chorus, guests of Representative Rader.

The roll was called. All members were present.

Representative Ballard moved that the reading of the Journal of March 6, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills and Resolutions were filed by the following:

Representative Crimm moved that he be recorded as voting "Yea" on **HB 180**. Agreed.

Representative Stein moved that she be recorded as voting "Yea" on **HB 523** and **274**. Agreed.

Representative Harmon moved that his vote be changed from "Nay" to "Yea" on **HB 465**. Agreed.

Representative Marzian moved that she be recorded as voting "Yea" on **HB 35**. Agreed.

Representative DeWeese moved that his vote be changed from "Nay" to "Yea" on **HB 274**. Agreed.

Representative Collins moved that his vote be changed from "Nay" to "Yea" on **HB 476**. Agreed.

Representative Mobley moved that he be recorded as voting "Yea" on **HB 476**. Agreed.

Representative Mobley moved that he be recorded as voting "Yea" on **HB 288**. Agreed.

Representative B. Smith moved that he be recorded as voting "Yea" on **HB 288**. Agreed.

Representative Gray moved that he be recorded as voting "Yea" on **HB 275**. Agreed.

Representative Miller moved that he be recorded as voting "Yea" on **HB 443**. Agreed.

Representative Miller moved that he be recorded as voting "Yea" on **HCR 151**. Agreed.

Report On Enrolled Bills

HB 244, HCR 25, 26, 29, 31, 32, and 75 were delivered to the Senate and signed by the President. Delivered to the Governor on March 6, 2007, at 6:15 p.m.

Senate Message

Announcing passage of **SB 89** and **203**.

Message received in regard to **HB 63**: The Senate has passed **HB 63** with the following Amendment: Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 418**: The Senate has passed **HB 418** by way of Committee Substitute with the following Amendments: Senate Committee Amendment No. 2 and Senate Committee Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body. (2:01 p.m.)

Representative Combs moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Combs moved the adoption of the following **Legislative Citation No. 64**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the members and coaching staff of the Pikeville Junior High School Varsity Cheerleading Squad upon recently being named the Universal Cheerleading Association's 2007 Small Junior High National Champions. Additionally, while cheerleading for the Pikeville High School Lady Panther Basketball Team, this exceptional group of talented athletes, with no member above the eighth grade, captured the KHSAA District 59 and Region XV At-Large Medium Varsity Championship titles and was named the Kentucky State-At-Large First Runner-Up. Inasmuch as these talented athletes have demonstrated great heart, fine team spirit and exceptional athletic skill, the members of this distinguished body are delighted to join Representative Leslie A. Combs in applauding the phenomenal success of the Pikeville Junior High School Varsity Cheerleading Squad and in extending best wishes for continued accomplishment and good fortune. Done in Frankfort, Kentucky, this seventh day of March, in the year two thousand and seven.

Legislative Citation No. 64 was adopted without objection.

Representative Nelson moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Nelson moved the adoption of the following **Legislative Citation No. 61**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the esteemed participants of Leadership Bell County an outstanding program that seeks to enhance the leadership skills of citizens who are well-informed about the quality of life and the infrastructure of their communities and which is currently in its seventh year, having interacted with nearly 125 concerned community participants, including physicians, lawyers, students, educators, local government employees, retailers, and representatives of community and social service groups. Inasmuch as programs such as Leadership Bell County are a vital link in promoting the overall success of our communities and this fine Commonwealth, this honorable body is pleased to join with Representative Rick Nelson in commending the members of Leadership Bell County and graciously welcoming them to the House Chamber to be recognized during the 2007 Regular Session of the Kentucky General Assembly. Done in Frankfort, Kentucky, this fifth day of March, in the year two thousand and seven.

Legislative Citation No. 61 was adopted without objection.

Introduction of Bills and Resolutions

HR 200, by Representative DeCesare: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Eldridge Monroe Joyner.

HR 201, by Representative Riner: A RESOLUTION adjourning the Kentucky House of Representatives in honor of the United States Navy Chaplain Corps and Chaplain Gordon James Klingenschmitt for service to God, country, and the Commonwealth of Kentucky.

HR 202, by Representatives Burch and Marzian: A RESOLUTION encouraging the Cabinet for Health and Family Services to implement a pilot program for treatment of brain injuries.

HR 203, by Representative Adkins: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Clarice Elaine Greene Conley.

HR 204, by Representative Higdon: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Nancy Colvin.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Education: **SB 208**

Natural Resources and Environment: **SB 196**

House Floor: **HR 196, 197, 199**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Resolution has been posted for Committee consideration:

Education: **SJR 125**

Report of Committees

The Committee on Natural Resources and Environment reported **SB 125** and **SB 187** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 125, AN ACT relating to waste tires.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.01-010 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

- (1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;
- (2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;
- (3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;
- (4) "Closure" means the time at which a waste treatment, storage, or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;
- (5) "Commission" means the Environmental Quality Commission;
- (6) "Compost" means solid waste which has undergone biological decomposition of organic matter, been disinfected using composting or similar technologies, been stabilized to a degree which is potentially beneficial to plant growth and which is approved for use or sale as a soil amendment, artificial topsoil, growing medium amendment, or other similar uses;
- (7) "Composting" means the process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner:
 - (a) "Composting" may include a process which creates an anaerobic zone within the composting material;
 - (b) "Composting" does not include simple exposure of solid waste under uncontrolled conditions resulting in natural decay;
- (8) "Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness;
- (9) "Cabinet" means the Environmental and Public Protection Cabinet;
- (10) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;
- (11) "District" means an air pollution control district as provided for in KRS Chapter 77;
- (12) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;
- (13) "Generator" means any person, by site, whose act or process produces waste;
- (14) "Materials recovery facility" means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials;
- (15) "Municipal solid waste disposal facility" means any type of waste site or facility where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including other waste allowed under Subtitle D of the Federal Resource Conservation and Recovery Act of 1976, as amended, and includes, but is not limited to, incinerators and waste-to-energy facilities that burn municipal solid waste, and contained and residential landfills, but does not include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary, or a medical waste incinerator which is owned, operated, and located on the property of a hospital or university which is regulated by the cabinet and used for the

purpose of treatment, prior to landfill, of medical waste received from the generator exclusively or in combination with medical waste generated by professionals or facilities licensed or regulated or operated by the Commonwealth;

- (16) "Municipal solid waste reduction" means source reduction, waste minimization, reuse, recycling, composting, and materials recovery;
- (17) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;
- (18) "Post-closure monitoring and maintenance" means the routine care, maintenance, and monitoring of a solid waste or hazardous waste treatment, storage, or disposal facility following closure of the facility;
- (19) "Publicly owned treatment works" means any device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth;
- (20) "Recovered material" means those materials, including but not limited to compost, which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis. Notwithstanding any provision of law to the contrary, tire-derived fuel, as defined in subsection (54) of this section, shall be considered a recovered material;
- (21) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material, but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to this chapter and administrative regulations adopted by the cabinet;
- (22) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products, including refuse-derived fuel when processed in accordance with administrative regulations established by the cabinet, but does not include the incineration or combustion of materials for the recovery of energy;
- (23) "Refuse-derived fuel" means a sized, processed fuel product derived from the extensive separation of municipal solid waste, which includes the extraction of recoverable materials for recycling and the removal of nonprocessables such as dirt and gravel prior to processing the balance of the municipal solid waste into the refuse-derived fuel product;
- (24) "Secretary" means the secretary of the Environmental and Public Protection Cabinet;
- (25) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes, or other wastes;
- (26) "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage, or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;
- (27) "Waste site or facility" means any place where waste is managed, processed, or disposed of by incineration, landfilling, or any other method, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility, or the combustion of processed waste in a utility boiler;
- (28) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;
- (29) "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto;
- (30) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;
- (31) "Waste" means:
 - (a) "Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse, and overburden), agricultural operations, and from community activities, but does not include those materials including, but not limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, tire-derived fuel, special wastes as designated by KRS 224.50-760, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil

2007 Regular Session

conditioners, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923):

1. "Household solid waste" means solid waste, including garbage and trash generated by single and multiple family residences, hotels, motels, bunkhouses, ranger stations, crew quarters, and recreational areas such as picnic areas, parks, and campgrounds, but it does not include tire-derived fuel;
 2. "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other service and nonmanufacturing activities, excluding tire-derived fuel and household and industrial solid waste;
 3. "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including, but not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products, except tire-derived fuel; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment; and
 4. "Municipal solid waste" means household solid waste and commercial solid waste; and
- (b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;
- (32) "Waste management district" means any county or group of counties electing to form under the provisions of KRS Chapter 109 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580);
- (33) "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes, and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;
- (34) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural, or other legitimate purposes;
- (35) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing, or recovery of any natural resource which may be discharged into water;
- (36) "NPDES" means National Pollutant Discharge Elimination System;
- (37) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of waste during its transportation from the point of generation to the point of disposal, treatment, or storage;
- (38) "Open dump" means any facility or site for the disposal of solid waste which does not have a valid permit issued by the cabinet or does not meet the environmental performance standards established under regulations promulgated by the cabinet;
- (39) "Solid waste management" means the administration of solid waste activities: collection, storage, transportation, transfer, processing, treatment, and disposal, which shall be in accordance with a cabinet-approved county or multicounty solid waste management plan;
- (40) "Solid waste management area" or "area" means any geographical area established or designated by the cabinet in accordance with the provisions of this chapter;
- (41) "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility which is subject to regulation pursuant to the chapter for control of environmental impacts and to prevent any public nuisance;
- (42) "Hazardous constituent" shall conform to the requirements of the Resource Conservation and Recovery Act (RCRA), as amended;

- (43) "Land disposal" includes but is not limited to any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave;
- (44) "Key personnel" means an officer, partner, director, manager, or shareholder of five percent (5%) or more of stock or financial interest in a corporation, partnership, or association or parent, subsidiary, or affiliate corporation and its officers, directors, or shareholders of five percent (5%) or more of stock or financial interest;
- (45) "Universal collection" means a municipal solid waste collection system which is established by ordinance and approved by the cabinet and requires access for each household or solid waste generator in a county. A commercial or industrial entity which transports or contracts for the transport of the municipal solid waste it generates or which operates a solid waste management facility for its exclusive use may be excluded from participation;
- (46) "Governing body" means a county, a waste management district, an entity created pursuant to the Interlocal Cooperation Act, a taxing district created pursuant to the provisions of KRS 65.180 to 65.192, a special district created pursuant to the provisions of KRS 65.160 to 65.176, or counties acting under contract pursuant to KRS 109.082;
- (47) "Convenience center" means a facility that is manned during operating hours for the collection and subsequent transportation of municipal solid wastes;
- (48) "Transfer facility" means any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation;
- (49) "Collection box" means an unmanned receptacle utilized to collect municipal solid waste;
- (50) "Newsprint" means that class or kind of paper chiefly used for printing newspapers and weighing more than twenty-four and one-half (24 1/2) pounds, but less than thirty-five (35) pounds for five hundred (500) sheets of paper two (2) feet by three (3) feet in size, on rolls that are not less than thirteen (13) inches wide and twenty-eight (28) inches in diameter and having a brightness of less than sixty (60);
- (51) "Postconsumer waste paper" means discarded paper after it has served its intended use by a publisher;
- (52) "Publisher" means a person engaged in the business of publishing newspapers, advertisement flyers, telephone books, and other printed material;~~{and}~~
- (53) "Recycled content" means the proportion of fiber in newsprint that is derived from postconsumer waste paper; ***and***
- (54) "Tire-derived fuel" or "TDF" means a product made from waste tires to the exact specifications of a system designed to accept tire-derived fuel as a primary or supplemental fuel source, that have been reduced to particle sizes not greater than two (2) inches by two (2) inches and that is destined for transportation from the waste tire processor for use as a fuel. "Tire-derived fuel" shall not mean refuse-derived fuel.***

Section 2. KRS 224.50-856 is amended to read as follows:

- (1) No person shall engage in disposal of waste tires in Kentucky except by transfer to a permitted solid waste disposal facility and except as follows:
 - (a) ***1.*** If transferred to a contained landfill, the waste tires shall be processed to prevent the entrapment of air or water;
 - 2.{{b}}*** If transferred to a residual landfill, the waste tires shall be rendered suitable for disposal in a landfill and the landfill shall accept only waste tires for disposal; or
 - 3.{{e}}*** If transferred to an incinerator or to any facility for use as a fuel, the incinerator or other facility shall be permitted ***in accordance with KRS 224.20-110 and 224.40-310*** to allow the burning of waste tires and shall have received a local determination related to the waste tires in accordance with KRS 224.40-315(1); ***and***
 - (b) Facilities proposing to use tire-derived fuel, as that term is defined in subsection (54) of Section 1 of this Act, as a fuel or for other energy recovery, shall not be required to receive a local determination related to the tire-derived fuel use under KRS 224.40-315(1). The Division of Air Quality shall provide for public notice and an opportunity for comment on any application seeking approval for use of tire-derived fuel.***
- (2) No person shall accumulate more than twenty-five (25) waste tires in Kentucky at a time for processing, by baling, chopping, recycling, shredding, or other means of changing their shape, size, or chemical content without meeting the requirements of the waste tire program. For processing which had been approved by the cabinet before July 15, 1998, the person who had received the approval shall register within forty-five (45) days of July 15, 1998.
- (3) No person shall transport more than fifty (50) waste tires in Kentucky at a time, either in one (1) vehicle or more than one (1) vehicle managed by or operated under contract with that person, without meeting the requirements of the waste tire program, unless transported in accordance with subsection (5) of this section.
- (4) No person shall accumulate more than one hundred (100) waste tires in Kentucky at a time without meeting the requirements of the waste tire program, unless exempted by KRS 224.50-854 or accumulated in accordance with subsection (5) or (6) of this section. For accumulations of more than one hundred (100) tires not accumulated in accordance with subsection (5) or (6) of this section and existing on July 15, 1998, the person who has accumulated the tires shall register within forty-five (45) days of July 15, 1998.

2007 Regular Session

- (5) A person making retail sales of new motor vehicle tires in Kentucky may accumulate up to one thousand (1,000) waste tires at the place where retail sales are made without registering as an accumulator as required by KRS 224.50-858, if the waste tires are stored in accordance with the requirements of KRS 224.50-860(3), (5), (6), (7), and (8), and stored on-site in a building, in an adjacent covered area, or closed container where public access is prohibited after business hours. The retailer may transport the waste tires it accumulates at the place where retail sales are made without registering as a transporter as required by KRS 224.50-858 if the waste tires will remain in the retailer's possession until they reach their destination.
- (6) An automotive recycling dealer in Kentucky who is licensed by the Transportation Cabinet pursuant to KRS 190.010 to 190.080 may accumulate up to one thousand (1,000) waste tires at the place where automotive recycling is done without registering as an accumulator as required by KRS 224.50-858 if the waste tires are stored in accordance with KRS 224.50-860(2) to (11) and stored on-site in a building, in an adjacent covered area, or closed container where public access is prohibited after business hours.

SB 187, AN ACT relating to abandoned mine land.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

The cabinet may use amounts available in grants made annually to the Commonwealth under Section 2 of this Act for the reclamation of eligible land and water prioritized under subsection (3) of Section 3 of this Act. However, the expenditure shall not occur unless the reclamation is done in conjunction with the expenditure of funds for reclamation projects prioritized under subsections (1) and (2) of Section 3 of this Act, irrespective of when the higher priority project was initially funded.

Section 2. KRS 350.550 is amended to read as follows:

- (1) There is hereby created within the Commonwealth of Kentucky an Abandoned Mine Lands Program, to be administered within the Environmental and Public Protection Cabinet. The secretary of the Environmental and Public Protection Cabinet may promulgate regulations necessary to implement this program. The provisions of KRS 350.150, 350.152, 350.154, 350.156(1) and (2), 350.158, 350.161, and 350.163 shall not be applicable to this program.
- (2) The Finance and Administration Cabinet is hereby directed to establish a fund to be known as the Abandoned Mine Reclamation Fund (hereinafter referred to as the "fund").
- (3) The fund shall consist of amounts deposited in the fund from time to time, including but not limited to:
 - (a) The reclamation fees levied pursuant to Section 402 of P.L. 95-87 and allocated to the Commonwealth of Kentucky;
 - (b) Any income derived from or any user charge imposed on or for land reclaimed pursuant to the Abandoned Mine Lands Program after the expenses of the program have been deducted;
 - (c) Donations by persons, corporations, associations, governmental entities, and foundations for the purposes of the Abandoned Mine Lands Program;
 - (d) Interest credited to the fund pursuant to Section 401(e) of P.L. 95-87 and allocated to the Commonwealth of Kentucky; and
 - (e) All other moneys as provided for consistent with this chapter.
- (4) Moneys in the fund may be used for the following purposes:
 - (a) Reclamation and restoration of land and water resources adversely affected by past coal mining, including but not limited to reclamation and restoration of abandoned surface mine areas, abandoned coal processing areas, and abandoned coal refuse disposal areas; sealing and filling of abandoned deep mine entries and voids; planting of land adversely affected by past coal mining to prevent erosion and sedimentation; prevention, abatement, treatment, and control of water pollution created by coal mine drainage, including restoration of stream beds, and construction and operation of water treatment plants; prevention, abatement, and control of burning coal refuse disposal areas and burning coal in situ; and prevention, abatement, and control of coal mine subsidence;
 - (b) Acquisition and filling of voids and sealing of tunnels, shafts, and entryways;
 - (c) Acquisition of land as provided for in this chapter;
 - ~~(d) Studies by state agencies, by contract with public and private organizations to provide information, advice, and technical assistance, including research and demonstration projects, conducted for the purposes of this program;~~
 - ~~(e) Restoration, reclamation, abatement, control, or prevention of adverse effects of coal mining which constitute an emergency as provided for in this program;~~

~~(e)}~~ Administrative expenses of the program to accomplish the purposes of this program;

~~(d)}~~ For the purposes of Section 507(c) of P.L. 95-87; and

~~(g)}~~ All other necessary expenses to accomplish the purposes of this program.

Section 3. KRS 350.555 is amended to read as follows:

Expenditure of moneys from the fund on lands and water eligible pursuant to KRS ~~350.560~~~~[350.565]~~ for the purposes of the Abandoned Mine Lands Program shall reflect the following priorities in the order stated:

- (1) (a) The protection of public health, safety,~~[general welfare,]~~ and property from extreme danger of adverse effects of coal mining practices; and
 (b) The restoration of land and water resources and the environment that have been degraded by the adverse effects of coal mining practices and which are situated adjacent to a site that has been or will be remediated under this subsection;
- (2) (a) The protection of public health ~~and[,]~~ safety~~[, and general welfare]~~ from the adverse effects of coal mining practices; and
 (b) The restoration of land and water resources and the environment that have been degraded by the adverse effects of coal mining practices and which are situated adjacent to a site that has been or will be remediated under this subsection; and
- (3) The restoration of land and water resources and the environment previously degraded by adverse effects of coal mining practices, including measures for the conservation and development of soil, water (excluding channelization), and woodland resources, fish and wildlife, recreation resources, and economic productivity~~;~~
- ~~(4) Research and demonstration projects relating to the development of surface mining reclamation and water quality control program methods and techniques;~~
- ~~(5) The protection, repair, replacement, construction, or enhancement of public facilities such as utilities, roads, and recreation and conservation facilities adversely affected by coal mining practices; and~~
- ~~(6) The development of publicly owned land adversely affected by coal mining practices, including land acquired for reclamation as provided in the Abandoned Mine Lands Program for recreation and historic purposes, conservation, and open-space benefits.]~~

Section 4. KRS 350.560 is amended to read as follows:

- (1) Lands and water eligible for reclamation or drainage abatement expenditures under the Abandoned Mine Lands Program are those which were mined for coal or which were affected by coal mining, wastebanks, coal processing, or other coal mining processes, and were abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under the provisions of this chapter. Surface coal mining operations on lands eligible for remining shall not affect the eligibility of those lands for reclamation and restoration under this chapter after the release of the bond or deposit for a remining operation as provided under KRS 350.093. In the event the bond or deposit for a surface coal mining operation on lands eligible for remining is forfeited, funds available under this chapter may be used if the amount of the bond or deposit is not sufficient to provide for adequate reclamation or abatement, except that if conditions warrant the cabinet shall immediately exercise its authority under KRS 350.585.
- (2) If the cabinet determines that the reclamation priority, under the priorities of KRS 350.555(1) and (2), of a site is the same or more urgent than the priority of sites under subsection (1) of this section, the following sites shall also be eligible for reclamation or drainage abatement expenditures:
 - (a) Unreclaimed sites which were mined for coal or which were affected by coal mining, waste banks, coal processing, or other mining processes and left in an inadequate reclamation status during the period beginning August 4, 1977, and ending May 18, 1982, for which the bond, or other form of financial guarantee, was insufficient to provide adequate reclamation or abatement of the site; or
 - (b) Unreclaimed sites which were mined for coal or which were affected by coal mining, waste banks, coal processing, or other coal mining processes and left in an inadequate reclamation status during the period beginning on August 4, 1977, and ending on or before November 5, 1990, where the surety for the permittee became insolvent during the period, and as of November 5, 1990, funds immediately available from proceedings relating to the insolvency, or from other sources have been insufficient to provide for adequate reclamation and abatement at the site.
- (3) Sites under subsection (2) in the immediate vicinity of a residential area or which have an adverse economic impact upon a local community shall be given priority.
- (4) ~~[Up to thirty percent (30%) of the]~~Funds allocated to the Commonwealth through annual grants from the Secretary of the Interior may be expended for the purposes of protecting, repairing, replacing, constructing, or enhancing facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices. If the adverse effect on water supplies referred to in this subsection occurred both prior to and after August 3, 1977, subsections (1) and (2), above, shall not be construed to prohibit use of funds for the purposes of this subsection, if the adverse effects occurred predominantly prior to August 3, 1977.
- (5) Where the Governor has made a certification under KRS 350.553 and the Secretary of the Interior has concurred in the certification, the reclamation categories of KRS 350.553(2) shall take effect, supplanting the categories of subsections (1), (2), and (4) above.

Section 5. KRS 350.575 is amended to read as follows:

- (1) Within six (6) months after the completion of projects to restore, reclaim, abate, control, or prevent adverse effects of past

coal mining practices on privately owned land, the cabinet shall itemize the moneys so expended and may file a statement thereof in the office of the county in which the land lies which has the responsibility under local law for the recording of judgments against land, together with a notarized appraisal by an independent appraiser of the value of the land before the restoration, reclamation, abatement, control, or prevention of adverse effects of past coal mining practices if the moneys so expended shall result in a significant increase in property value. Such statement shall constitute a lien upon the said land. The lien shall not exceed the amount determined by the appraisal to be the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. No lien shall be filed against the property of any person, in accordance with this section, ~~who owned the surface prior to May 2, 1977, and~~ who neither consented to nor participated in nor exercised control over the mining operation which necessitated the reclamation performed hereunder. The cabinet may waive the lien consistent with its regulations.

- (2) The landowner may proceed as provided by local law to petition within sixty (60) days of the filing of the lien, to determine the increase in the market value of the land as a result of the restoration, reclamation, abatement, control, or prevention of the adverse effects of past coal mining practices. The amount reported to be the increase in value of the premises shall constitute the amount of the lien and shall be recorded with the statement herein provided. Any party aggrieved by the decision may appeal as provided by local law.
- (3) The lien provided in this section shall be entered in the county office in which the land lies and which has responsibility under local law for the recording of judgments against land. Such statement shall constitute a lien upon the said land as of the date of the expenditure of the moneys and shall have priority as a lien second only to the lien of real estate taxes imposed upon said land.

Section 6. KRS 350.597 is amended to read as follows:

- (1) The Finance and Administration Cabinet shall establish a special trust fund which may receive and retain up to thirty percent (30%) ~~ten percent (10%)~~ of the total grants made annually by the Secretary of the Interior, pursuant to Section 402(g)(6) ~~and (7)~~ of Pub. L. No. [P.L.] 95-87, as amended by the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432.
- (2) Sums deposited into the special trust fund, and interest earned thereon, shall be expended for ~~either:~~
 - (a) ~~For the priorities stated in KRS 350.555 after September 30, 1995; or~~
 - (b) ~~For~~ acid mine drainage abatement and treatment in accordance with the requirements of Section 402(g)(6) ~~(7)~~ of Pub. L. No. [P.L.] 95-87, as amended by the Tax Relief and Health Care Act of 2006, Pub. L. No. 109-432.

The Committee on Agriculture and Small Business reported SB 25, SB 91, and SJR 109 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 25, AN ACT relating to nutrition.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

- (1) The Kentucky Farmers Market Nutrition Program is created within the Kentucky Department of Agriculture, in collaboration with the Cabinet for Health and Family Services, for the purpose of enhancing nutrition. The program services may include the provision of fresh, locally grown produce to low-income citizens, including but not limited to seniors and recipients of the Special Supplemental Nutrition Program for Women, Infants, and Children provided by the federal Food and Nutrition Services.
- (2) The department may collaborate with the United States Department of Agriculture, the University of Kentucky College of Agriculture Cooperative Extension, local Area Agencies on Aging, community agencies, foundations, philanthropic organizations, farmers, and local fiscal courts to:
 - (a) Identify funding sources;
 - (b) Establish services and a program delivery strategy;
 - (c) Market the program to citizens and farmers; and
 - (d) Develop strategies to introduce fresh, locally grown fruits and vegetables into school food programs.
- (3) The department may promulgate administrative regulations to establish eligibility criteria and implement the program established in subsection (1) of this section.
- (4) The department may accept gifts, grants, federal or state funds, or any other public or private funds to develop or implement the program.
- (5) The Kentucky Farmers Market Nutrition Program fund is created in the State Treasury as a trust and agency account. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the Commissioner of the Kentucky Department of Agriculture. This fund shall be used solely for the purpose of providing nutritious food to low-income citizens. The fund shall not lapse, and funds not expended during any fiscal year shall carry forward to the next fiscal year.

SECTION 2. A NEW SECTION OF KRS CHAPTER 260 IS CREATED TO READ AS FOLLOWS:

The Commissioner of the Kentucky Department of Agriculture shall submit an annual report to the Interim Joint Committee on Health and Welfare and the Interim Joint Committee on Agriculture and Natural Resources, which includes but is not limited to:

- (1) The amount of funding received for the Kentucky Farmers Market Nutrition Program;*
- (2) The economic impact of the program;*
- (3) Strategies implemented to market the program and improve nutrition; and*
- (4) Statistics related to the number of individuals served and farmers' markets participating in the program.*

Section 3. The delivery of services and marketing authorized under Section 1 of this Act shall be implemented upon receipt of adequate funding.

SB 91, AN ACT relating to fertilizer.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217B.270 is amended to read as follows:

- (1) The Commonwealth of Kentucky hereby determines that the citizens of the state benefit from a system of safe, effective, and scientifically sound fertilizer and pesticide regulation on agricultural and silvicultural land. The Commonwealth further finds that a system of fertilizer and pesticide regulation which is consistent, coordinated, and comports with both federal and state technical expertise is essential to the public health, safety, and welfare, and that local regulation of fertilizer and pesticides does not materially assist in achieving these benefits.
- (2) No city, town, county, or other political subdivision of the Commonwealth shall adopt or continue in effect any ordinance, resolution, rule, or regulation regarding agriculture and silviculture fertilizer regulated pursuant to KRS 250.371 and pesticide sale or use, including without limitation: registration, notification of use, advertising and marketing distribution, applicator training and certification, storage, transportation, disposal, disclosure of confidential information, or product composition.
- (3) Nothing in this section shall be construed to:
 - (a) Abrogate any authority afforded by the state statutes to any program cabinet established under KRS Chapter 12 or any state or federal mandated hazardous materials regulations or fire safety codes and comprehensive hazardous materials management program;
 - (b) Abrogate the planning and zoning authority granted local government pursuant to KRS Chapter 100; or
 - (c) Waive any reporting requirement established by state or federal law or regulation.

SECTION 2. A NEW SECTION OF KRS 250.361 TO 250.451 IS CREATED TO READ AS FOLLOWS:

- (1) No city, town, county, or other political subdivision of the Commonwealth shall adopt or continue in effect any ordinance, resolution, rule, or regulation regarding the registration, packaging, labeling, sale, storage, distribution, use, and application of fertilizers regulated pursuant to KRS 250.371. Local legislation in violation of this section is void and unenforceable.*
- (2) Nothing in this section shall be construed to:*
 - (a) Abrogate any authority afforded by the state statutes to any program cabinet established under KRS Chapter 12 or any state or federal mandated hazardous materials regulations or fire safety codes and comprehensive hazardous materials management program;*
 - (b) Abrogate the planning and zoning authority granted local government pursuant to KRS Chapter 100; or*
 - (c) Waive any reporting requirement established by state or federal law or regulation.*

SJR 109, A JOINT RESOLUTION directing the Environmental and Public Protection Cabinet to develop a drought mitigation and response plan for the Commonwealth, pursuant to KRS Chapter 151.

WHEREAS, KRS Chapter 151 requires the Commonwealth to protect the rights of all persons who are equitably and reasonably interested in the use and availability of water; and to provide for the adequate disposition of water among the people of the Commonwealth entitled to its use during severe drought or times of emergency; and

WHEREAS, drought is a natural recurring feature of the climate of the Commonwealth, with no reliable method to predict its onset, intensity, or duration; and

WHEREAS, as demands on water supplies continue to grow, droughts of a magnitude that do not presently cause impacts may become significant in the future; thereby increasing the frequency of water-shortage conditions; and

WHEREAS, during times of water shortage, a limited quantity of water must be shared among potable, industrial, agricultural, commercial, environmental, and recreational demands; and

WHEREAS, the Environmental and Public Protection Cabinet's water shortage response plan that was developed in response to the original statute is nineteen years old, is based on local water supply assessments and water-shortage response strategies, and does not address water shortages that affect self-supplied domestic uses, livestock watering demands, and other similar situations; and

WHEREAS, there exists no comprehensive drought mitigation and response strategy that coordinates the actions of the Commonwealth in preparing for and responding to drought; and

WHEREAS, it is necessary for the Commonwealth to develop a comprehensive and systematic process of long-range management and orderly development of the Commonwealth's water resources and to plan for drought emergencies; and

WHEREAS, the Environmental and Public Protection Cabinet is granted the authority pursuant to KRS 151.200 in times of drought emergency or other similar situations to balance the rights and availability of water among water users;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Environmental and Public Protection Cabinet shall develop, in consultation with a Drought Mitigation and Response Advisory Council, a drought mitigation and response plan to provide for drought mitigation and emergency planning.

Section 2. The secretary of the Environmental and Public Protection Cabinet shall appoint members to the Drought Mitigation and Response Advisory Council. This council shall include the Kentucky Division of Emergency Management, and representatives of state and federal agencies that regulate or otherwise have a role in water supply, water resources management, and drought response. The advisory council shall also include representatives of various water-dependent sectors, including city and county governments, the agricultural community, the electrical power generators for the Commonwealth of Kentucky, industrial users, commercial users, and municipal and private water utilities. The advisory council may also include representatives of citizen groups, environmental groups, recreational groups, developers, the academic community, and other interested parties as the secretary deems appropriate.

Section 3. The Environmental and Public Protection Cabinet shall schedule regular meetings with the Drought Mitigation and Response Advisory Council and work with the council in developing a statewide drought mitigation and response plan.

Section 4. The statewide mitigation and response plan shall be consistent with KRS Chapter 151.

Section 5. The Environmental and Public Protection Cabinet shall submit the statewide drought mitigation and response plan to the Legislative Research Commission and to the Interim Joint Committee on Agriculture and Natural Resources by December 31, 2008.

The Committee on Banking and Insurance reported **HB 498**, **HB 529**, and **SB 175** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 498, AN ACT relating to use of territory as a factor in establishing insurance rates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

To the extent it has credible data, an insurer that uses territory as a factor in establishing rates shall submit a statement to the executive director certifying that:

- (1) The territories used by the insurer have been reviewed within the past three (3) years; and
- (2) Use of the territories is actuarially justified.

HB 529, AN ACT relating to late payments on loans or extensions of credit.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

- (1) A lender or creditor who makes a loan or extends credit to a resident of Kentucky on or after the effective date of this Act shall not make an adverse report to any consumer reporting agency that a person is late on a payment on its account if the payment is received or postmarked no later than the thirtieth day after the scheduled payment due date.
- (2) A violation of this section shall be deemed an unfair, false, misleading, or deceptive act or practice in the conduct of trade or commerce in violation of KRS 367.170. All of the remedies, powers, and duties delegated to the Attorney General by KRS 367.190 to 367.300 and penalties pertaining to acts and practices declared unlawful under KRS 367.170 shall be applied to acts and practices in violation of this section.

SB 175, AN ACT relating to providing claims experience data to large group health benefit plans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-846 is amended to read as follows:

- (1) Any insurer issuing or delivering group health benefit plans in the Commonwealth shall provide to an employer-organized association health benefit plan, within thirty (30) calendar days after a written request, the information relating to its health benefit plan that has been requested, including but not limited to the following information for the previous three (3) years or for the entire period of coverage, whichever is shorter:
- (a) Aggregate claims experience by month, including claims experience for pharmacy benefits;
 - (b) Total premiums paid by month;
 - (c) Total number of insureds on a monthly basis by coverage tier; and
 - (d) Sufficient detailed claims information to permit the employer-organized association to verify eligibility and participation of the groups and individuals participating in the employer-organized association program.
- The office shall, by July 15, 2005, promulgate administrative regulations to implement the provisions of this section and define the extent that individual information shall be provided.
- (2) This section shall not require the insurer to disclose any nonpublic personal health information without the written consent of the individual who is the subject of the information, as required by administrative regulations promulgated by the executive director. However, nonpublic personal health information may be provided to the employer-organized association health benefit plan and large group health benefit plan with fifty-one (51) or more enrolled employees as a covered entity to cover entity transfer under the Federal Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. sec. 300gg et seq., provided that the health benefit plan certifies to the insurer that it has adopted HIPAA-required safeguards and will treat the nonpublic personal health information in accordance with HIPAA standards.
- (3) Any insurer issuing or delivering group health benefit plans in the Commonwealth shall provide to a large group health benefit plan with fifty-one (51) or more enrolled employees, within thirty (30) calendar days after receipt of a written request, the following information relating to its health benefit plan:
- (a) Total premiums paid by month;
 - (b) Total number of insureds on a monthly basis by coverage tier;
 - (c) Additional utilization data to help the employer measure costs in the following areas:
 - 1. Detailed prescription drug utilization information, including generic versus brand utilization;
 - 2. Number of office visits to primary care providers and specialists;
 - 3. Number of emergency room visits;
 - 4. Number of inpatient and outpatient hospitalizations;
 - 5. Number of members utilizing deductible and out-of-pocket expenses by cost level; and
 - 6. A list of the most prevalent disease categories.
- (4) Insurers shall not be required to produce reports requested pursuant to subsection (3) of this section more than twice annually.

The Committee on Seniors, Military Affairs, and Public Safety reported SB 185 and SB 186 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 185, AN ACT relating to military affairs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 36.025 is amended to read as follows:

- (1) The Governor, with the recommendation of the adjutant general, may appoint a deputy adjutant general for the Army National Guard and a deputy adjutant general for the Air National Guard, who at the time of appointment shall be at least thirty (30) years of age and shall be serving as a commissioned officer in the Kentucky National Guard. The Governor shall issue a commission to each such~~the~~ deputy adjutant general in the grade of brigadier general, provided such individual is qualified for federal recognition in that grade. The position of deputy adjutant general shall require full-time employment in the Department of Military Affairs.~~[Such appointment shall be for tenure of office of the appointing authority.]~~ The deputy ~~adjutants~~~~adjutant~~ general shall be compensated at the base rate of pay, not including subsistence and quarters allowances as provided in KRS 38.205, or as prescribed in KRS 64.640.
- (2) The Governor, with the recommendation of the adjutant general, may appoint an assistant adjutant general for the Army National Guard and an assistant adjutant general for the Air National Guard, who at the time of appointment shall be at least thirty (30) years of age and shall be serving as a commissioned officer in the Kentucky National Guard. The Governor shall issue a commission to each such assistant adjutant general in the grade of brigadier general, provided such individual is qualified for federal recognition in that grade.~~[Such appointment shall be for the tenure of office of the appointing authority.]~~ The assistant adjutants general may be compensated for all state service performed by them, as provided in KRS 38.205.

SB 186, AN ACT relating to military affairs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198A.040 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of this chapter including, but without limiting the generality of the foregoing, the power:

- (1) To make or participate in the making of insured construction loans to sponsors of land development or residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that construction loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;
- (2) To make or participate in the making of insured mortgage loans to sponsors of residential housing; provided, however, that such loans shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;
- (3) To purchase or participate in the purchase of insured mortgage loans made to sponsors of residential housing or to persons of lower and moderate income for residential housing; provided, however, that any such purchase shall be made only upon the determination by the corporation that mortgage loans have been refused in writing, wholly or in part, from private lenders in the Commonwealth of Kentucky upon reasonably equivalent terms and conditions;
- (4) To make temporary loans from the housing development fund;
- (5) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments, and other evidences of indebtedness;
- (6) To acquire real property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage, operate, hold, clear, improve, and rehabilitate such real property; and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber such real property where such use of real property is necessary or appropriate to the purpose of the Kentucky Housing Corporation;
- (7) To sell, at public or private sale, all or any part of any mortgage or other instrument or document securing a construction, land development, mortgage, or temporary loan of any type permitted by this chapter;
- (8) To procure insurance against any loss in connection with its operations in such amounts, and from such insurers, as it may deem necessary or desirable;
- (9) To consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purposes, to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract, or agreement of any kind to which the corporation is a party;
- (10) To acquire, establish, operate, lease, and sublease residential housing for persons and families of lower and moderate income and to enter into agreements or other transactions with any federal, state, or local governmental agency for the purpose of providing adequate living quarters for such persons and families in cities and counties where a need has been found for such housing and where no local housing authorities or other organizations exist to fill such need;
- (11) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, interest on the obligations for a period not exceeding two (2) years from their date, consultant, advisory, and legal fees and such other expenses as are necessary or incident to such borrowing;
- (12) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;
- (13) To provide technical and advisory services to sponsors of residential housing and to residents and potential residents thereof, including but not limited to, housing selection and purchase procedures, family budgeting, property use and maintenance, household management, and utilization of community resources;
- (14) To promote research and development in scientific methods of constructing low cost residential housing of high durability;
- (15) To encourage community organizations to participate in residential housing development;
- (16) To make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary to accomplish the purposes of this chapter;
- (17) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source whatsoever and to agree to, and to comply with, conditions attached thereto;
- (18) To sue and be sued in its own name, plead and be impleaded;
- (19) To maintain an office in the city of Frankfort and at such other place or places as it may determine;
- (20) To adopt an official seal and alter the same at pleasure;
- (21) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations, and policies in connection with the performance of its functions and duties;

- (22) To employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers, and such other consultants and employees as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor, provided that any personal service contracts entered into shall be subject to review by the Government Contract Review Committee of the Legislative Research Commission;
- (23) To invest any funds held in reserve or in sinking fund accounts or any moneys not required for immediate disbursement in obligations guaranteed by the Commonwealth, the United States, or their agencies or instrumentalities; provided, however, that the return on such investments shall not violate any rulings of the Internal Revenue Service regarding the investment of the proceeds of any federally tax exempt bond issue;
- (24) To make or participate in the making of rehabilitation loans to the sponsors or owners of residential housing; provided, however, that any such rehabilitation loan shall be made only upon the determination by the corporation that the rehabilitation loan was not otherwise available wholly or in part from private lenders upon reasonably equivalent terms and conditions;
- (25) To insure or reinsure construction, mortgage, and rehabilitation loans on residential housing; provided, however, that any such insurance, reinsurance, or waiver shall be made only upon the determination by the corporation:
 - (a) That such insurance or reinsurance is not otherwise available wholly or in part from private insurers upon reasonably equivalent terms and conditions; and
 - (b) That such loan is a reasonably sound business investment; and provided further that insurance may be waived only where the corporation finds that the amount of the loan does not exceed eighty-five percent (85%) of the development costs, or eighty-five percent (85%) of the value of the property secured by the mortgage as determined by at least two (2) appraisers who are independent of the sponsors, builders, and developers;
- (26) To make grants from appropriated funds, agency and trust funds, and any other funds from any source available to the corporation, to sponsors, municipalities, local housing authorities, and to owners of residential housing for the development, construction, rehabilitation, or maintenance of residential housing and such facilities related thereto as corporation shall deem important for a proper living environment, all on such terms and conditions as may be deemed appropriate by the corporation;
- (27) To make periodic grants to reduce principal and interest payments on mortgages or rentals payable by persons and families of lower and moderate income; and
- (28) (a) To make a grant to reduce principal and interest payments on a mortgage or a rental payable by a regular member of the United States Armed Forces, who names Kentucky as home of record for military purposes, during that member's deployment on active duty outside the United States, or payable by a member of a state National Guard or a Reserve component, who names Kentucky as home of record for military purposes, during that member's federal active duty. To qualify for a grant, a member~~[of a state National Guard or a Reserve component]~~ shall meet reasonable standards established by the corporation, including having family income equal to or less than two hundred percent (200%) of the state or area median income; and
 - (b) To provide a member identified in paragraph (a) of this subsection~~[of a state National Guard or a Reserve component, who names Kentucky as home of record for military purposes,]~~ and that member's Kentucky resident spouse with the educational, technical, and ombudsman services that are necessary to maintain a mortgage during that member's federal active duty.

The Kentucky Housing Corporation shall be exempt from the regulations of the Office of Insurance and the laws of the Commonwealth relating thereto.

Section 2. KRS 36.480 is amended to read as follows:

- (1) The Kentucky Department of Military Affairs shall publish, and periodically update, information on its Web site to assist military spouses in obtaining professional and occupational licenses, certificates, registrations, permits, and other credentials. At a minimum, the department's Web site shall provide links to relevant Department of Defense and Kentucky state agency Web sites~~[establish procedures to assist the spouses of military personnel acquiring and obtaining professional and occupational licenses, certificates, registrations, permits, or other credentials. A person shall be eligible for assistance under this section if he or she is the spouse of a member of the United States Armed Forces, including a member of a state's National Guard or Reserve on federal active duty who moves into Kentucky when the member of the United States Armed Forces is reassigned by the military. The department shall:~~
 - (a) ~~Establish a process by which the department shall verify whether or not the military spouse has relocated because of the reassignment of his or her spouse by the military;~~
 - (b) ~~Work directly with other states, testing providers, and organizations issuing credentials to accelerate the application process for obtaining state licenses, certifications, registrations, or permits. To fulfill this directive, the department shall seek input from and disseminate information to state agencies and credentialing boards on ways to accelerate the process by which eligible military spouses moving into the Commonwealth may obtain the credentials required for occupational and professional credentialing as expeditiously as possible; and~~
 - (c) ~~Coordinate the activities of other state agencies and credentialing boards to establish a clearinghouse by which information on obtaining licenses, certificates, registration, and permits may be accessed. In coordinating the~~

2007 Regular Session

~~information, the department shall compile information from other state agencies and credentialing boards on the occupations and professions requiring a state permit, registration, certification, license, or other qualifying document and the name, telephone number, and address of a contact person for each such occupation or profession.~~

- ~~(2) Any state agency or credentialing board issuing permits, registrations, certificates, or licenses that are a prerequisite to a person engaging in an occupation or profession shall assist the Kentucky Department of Military Affairs in expediting the application process for such permits, registrations, certificates, or licenses for military spouses who come into Kentucky because their spouses are reassigned by the military.~~
- ~~(3) The department shall prepare and issue an annual report on its activities in meeting the directives of this section by June 1 of each year. A copy of the report shall be submitted to the Interim Joint Committee on Licensing and Occupations and the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection].~~

Section 3. The following KRS section is repealed:

36.478 "Mission: Welcome Home" Program.

The Committee on State Government reported **SB 144**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Referred to the Committee on Rules.

The House Committee Substitute to **SB 144** is as follows:

SB 144, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.420 is amended to read as follows:

The Department of Kentucky State Police shall furnish adequate protection for the property and facilities of the General Assembly and the Legislative Research Commission, both during and between sessions of the General Assembly, and shall render such additional security services as may be required by the co-chairmen of the Legislative Research Commission.

Section 2. KRS 7.111 is amended to read as follows:

- (1) The Department of Kentucky State Police, Department of Corrections, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Administrative Office of the Courts shall provide access to their databases and the centralized criminal history record information system and the data contained therein to other criminal justice agencies, including criminal justice statistical analysis centers, and to the Legislative Research Commission. The right of access granted herein shall not include the right to add to, delete, or alter data without permission of the agency holding the data.
- (2) Criminal justice agencies and the Legislative Research Commission shall not make public information on an individual person's criminal history record where such record is protected by state or federal law or regulation.
- (3) The Legislative Research Commission shall have access to information which does not identify an individual person when determined by the director of the Legislative Research Commission to be necessary for a legislative purpose.
- (4) The Legislative Research Commission shall have access to individual persons' criminal history records subject to the following provisions:
 - (a) Access shall not include information on federal offenses or convictions;
 - (b) Access shall not include information on out-of-state convictions; and
 - (c) Requests for the release of the information shall be approved by the Legislative Research Commission by vote at a meeting of the Commission.

Section 3. KRS 11.065 is amended to read as follows:

- (1) The secretaries of the Justice and Public Safety Cabinet, the Education Cabinet, the Environmental and Public Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Cabinet for Health and Family Services, the Finance and Administration Cabinet, the Commerce Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet, the state budget director, the Governor's chief of staff, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman, and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.
- (2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform other duties the Governor may require of them.
- (3) The cabinet shall consider matters involving policies and procedures the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 4. KRS 11.160 is amended to read as follows:

- (1) When a statute specifically requires Senate confirmation of an appointment by the Governor or by other appointing

authority, the appointment shall be handled in the following manner:

- (a) All names of persons nominated when the General Assembly is not in session shall be submitted for confirmation no later than the next regular session of the General Assembly. The Governor who makes the appointment, or other appointing authority, shall deliver the name of the nominee to the clerk of the Senate upon appointment or no later than the fifteenth legislative day of the next regular session of the General Assembly. The Governor may submit a nominee for confirmation at any special session that occurs between the date of initial appointment and the next regular session of the General Assembly. If the Governor desires to submit the name of a nominee for confirmation at a special session of the General Assembly, he shall place confirmation of the nominee on the call for special session.
- (b) All names of persons nominated to positions during a regular session of the General Assembly shall be submitted for confirmation at that regular session.

The Governor who makes the appointment, or other appointing authority, shall submit the name of the nominee, together with such accompanying information as may expedite the consideration of the appointment to the clerk of the Senate not more than three (3) legislative days after making the appointment, unless the appointment is made during the last fifteen (15) legislative days, in which case the nominee's name and information shall be submitted not more than one (1) legislative day later.

- (c) For each nominee, the Governor who makes the appointment, or other appointing authority, shall deliver to the clerk of the Senate a letter of appointment. The letter of appointment shall be accompanied by a resume which contains at least the following information:
 - 1. Complete employment history of the nominee;
 - 2. Complete educational background of the nominee; and
 - 3. Current and past employment by or financial relationships with the Commonwealth of Kentucky or any of its political subdivisions held by the nominee and any member of the nominee's immediate family.
- (d) When a statute requires an interim legislative committee to hold a public hearing on a particular appointment, the Governor who makes the appointment, or other appointing authority, shall deliver the letter of appointment and resume for each nominee to the Legislative Research Commission within seven (7) days after making the appointment.
- (e) The Legislative Research Commission may utilize the services of its staff or other appropriate persons or organizations to investigate the background of nominees and to verify the information provided. The Department of Kentucky State Police shall conduct and provide a criminal record history on a nominee if requested by the Legislative Research Commission.
- (f) During periods when the General Assembly is not in session, the Governor's or other appointing authority's power of appointment shall not be diminished, and nominees may assume the responsibilities of the position pending confirmation. During that period, they shall be considered for all purposes to have been appointed and to be lawful occupants of the post to which they have been nominated, except that they shall be subject to the confirmation process when the General Assembly is next in regular session or special session called for the purpose of confirming the nominees.
- (g) If the Governor who makes the appointment, or other appointing authority, fails to submit the name of the nominee or if the Senate declines to consider a nominee, the position shall become vacant as of sine die adjournment of the applicable special or regular session of the General Assembly at which the appointment was to be confirmed. If the Senate declines to confirm the nominee, the position shall become vacant upon the date the Senate declined to confirm.
- (h) Any person not confirmed by the Senate shall not be reappointed by the Governor, or other appointing authority, to the same position for which confirmation is required for a period of two (2) years from the date the Senate declined to confirm the nomination or the date of sine die adjournment if the Senate declined to consider the nomination.

- (2) When a statute specifically requires Senate and House of Representatives confirmation of an appointment by the Governor or by other appointing authority, the appointment shall be handled in the following manner:

- (a) All names of persons nominated when the General Assembly is not in session shall be submitted for confirmation no later than the next regular session of the General Assembly. The Governor who makes the appointment, or other appointing authority, shall deliver the name of the nominee to the clerk of the House of Representatives no later than the fifteenth legislative day of the next regular session of the General Assembly. The Governor may submit a nominee for confirmation at any special session that occurs between the date of initial appointment and the next regular session of the General Assembly. If the Governor desires to submit the name of a nominee for confirmation at a special session of the General Assembly, he shall place confirmation of the nominee on the call for special session.
- (b) All names of persons nominated to positions during a regular session of the General Assembly shall be submitted for confirmation at that regular session. The Governor who makes the appointment, or other appointing authority, shall submit the name of the nominee to the clerk of the House of Representatives not more than three (3)

2007 Regular Session

legislative days after making the appointment, unless the appointment is made during the last fifteen (15) legislative days, in which case the nominee's name and information shall be submitted not more than one (1) legislative day later.

- (c) For each nominee, the Governor who makes the appointment, or other appointing authority, shall deliver to the clerk of the House of Representatives a letter of appointment. The letter of appointment shall be accompanied by a resume which contains at least the following information:
 - 1. Complete employment history of the nominee;
 - 2. Complete educational background of the nominee; and
 - 3. Current and past employment by or financial relationships with the Commonwealth of Kentucky or any of its political subdivisions held by the nominee and any member of the nominee's immediate family.
- (d) When a statute requires an interim legislative committee to hold a public hearing on a particular appointment, the Governor who makes the appointment, or other appointing authority, shall deliver the letter of appointment and resume for each nominee to the Legislative Research Commission within seven (7) days after making the appointment.
- (e) The Legislative Research Commission may utilize the services of its staff or other appropriate persons or organizations to investigate the background of nominees and to verify the information provided. The Department of Kentucky State Police shall conduct and provide a criminal record history on a nominee if requested by the Legislative Research Commission.
- (f) The confirmation shall originate in the House of Representatives. If the House of Representatives does not confirm an appointment, the Senate shall not consider the appointment.
- (g) When both the Senate and the House of Representatives have confirmed an appointment, the Senate shall notify the House of Representatives of the final approval. The clerk of the House shall then notify the Governor, or other appointing authority, and the appointee in writing of the General Assembly's action.
- (h) During periods when the General Assembly is not in session, the Governor's or other appointing authority's power of appointment shall not be diminished, and nominees may assume the responsibilities of the position pending confirmation. During that period, they shall be considered for all purposes to have been appointed and to be lawful occupants of the post to which they have been nominated, except that they shall be subject to the confirmation process when the General Assembly is next in regular session or special session called for the purpose of confirming the nominees.
- (i) If the Governor who makes the appointment, or other appointing authority, fails to submit the name of the nominee or if the House of Representatives or the Senate declines to consider a nominee, the position shall become vacant as of sine die adjournment of the regular session of the General Assembly at which the appointment was to be confirmed. If the House of Representatives or the Senate declines to confirm the nominee, the position shall become vacant upon the date that a chamber of the General Assembly first declined to confirm.
- (j) Any person not confirmed by the House of Representatives or the Senate shall not be reappointed by the Governor, or other appointing authority, to the same position for which confirmation is required for a period of two (2) years from the date that a chamber of the General Assembly first declined to confirm the nomination, or the date of sine die adjournment if the House of Representatives or the Senate declined to consider the nomination.

Section 5. KRS 11.515 is amended to read as follows:

- (1) There is hereby established a Geographic Information Advisory Council to advise the executive director of the Commonwealth Office of Technology on issues relating to geographic information and geographic information systems.
- (2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.
- (3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.
- (4) The Geographic Information Advisory Council shall consist of twenty-four (24) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.
 - (a) The council shall consist of:
 - 1. The secretary of the Transportation Cabinet or his designee;
 - 2. The secretary of the Cabinet for Health and Family Services or his or her designee;
 - 3. The director of the Kentucky Geological Survey or his designee;
 - 4. The secretary of the Finance and Administration Cabinet or his designee;
 - 5. The executive director of the Commonwealth Office of Technology or her or his designee;

6. The secretary of the Economic Development Cabinet or his designee;
 7. The commissioner of the Department for Local Government or his designee;
 8. The secretary of the Justice *and Public Safety* Cabinet or his designee;
 9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
 10. The adjutant general of the Department of Military Affairs or his designee;
 11. The commissioner of the Department of Education or his designee;
 12. The secretary of the Environmental and Public Protection Cabinet or his designee;
 13. The Commissioner of the Department of Agriculture or his designee;
 14. The secretary of the Commerce Cabinet or his designee;
 15. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
 16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;
 17. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
 18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
 19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
 20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;
 21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
 22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.
- (b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.
- (5) The chair shall be appointed by the Governor. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.
- (6) A member of the council shall not:
- (a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that have, a substantial interest in the geographic information industry and is doing business in the Commonwealth;
 - (b) Own, control, or have, directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;
 - (c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;
 - (d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have, substantial interest in the geographic information industry;
 - (e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or
 - (f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.
- (7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.
- (8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.
- (9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.
- (10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 6. KRS 11.5163 is amended to read as follows:

- (1) The executive director shall establish and implement a statewide public safety interoperability plan. This plan shall include the development of required architecture and standards that will insure that new or upgraded Commonwealth public safety communications systems will interoperate. The Kentucky Wireless Interoperability Executive Committee shall be responsible for the evaluation and recommendation of all wireless communications architecture, standards, and strategies. The executive director shall provide direction, stewardship, leadership, and general oversight of information technology and information resources. The executive director shall report by September 15 annually to the Interim Joint Committee on Seniors, Veterans, Military Affairs, and Public Protection and the Interim Joint Committee on State Government on progress and activity by agencies of the Commonwealth to comply with standards to achieve public safety communications interoperability.
- (2) The Kentucky Wireless Interoperability Executive Committee shall serve as the advisory body for all wireless communications strategies presented by agencies of the Commonwealth and local governments. All state agencies in the Commonwealth shall present all project plans for primary wireless public safety voice or data communications systems for review and recommendation by the committee, and the committee shall forward the plans to the executive director for final approval. Local government entities shall present project plans for primary wireless public safety voice or data communications systems for review and recommendation by the Kentucky Wireless Interoperability Executive Committee.
- (3) The committee shall develop funding and support plans that provide for the maintenance of and technological upgrades to the public safety shared infrastructure, and shall make recommendations to the executive director, the Governor's Office for Policy and Management, and the General Assembly.
- (4) The executive director shall examine the project plans for primary wireless public safety voice or data communications systems of state agencies as required by subsection (2) of this section, and shall determine whether they meet the required architecture and standards for primary wireless public safety voice or data communications systems.
- (5) The Kentucky Wireless Interoperability Executive Committee shall consist of twenty-one (21) members as follows:
 - (a) A person knowledgeable in the field of wireless communications appointed by the executive director who shall serve as chair;
 - (b) The executive director of the Office of Infrastructure Services, Commonwealth Office of Technology;
 - (c) The executive director of the Office of the 911 Coordinator;
 - (d) The executive director of Kentucky Educational Television, or the executive director's designee;
 - (e) The chief information officer of the Transportation Cabinet;
 - (f) The chief information officer of the Justice and Public Safety Cabinet;
 - (g) The chief information officer of the Department of Kentucky State Police;
 - (h) The commissioner of the Department of Fish and Wildlife Resources, or the commissioner's designee;
 - (i) The chief information officer of the Environmental and Public Protection Cabinet;
 - (j) The director of the Division of Emergency Management, Department of Military Affairs;
 - (k) The executive director of the Kentucky Office of Homeland Security;
 - (l) The chief information officer, Department for Public Health, Cabinet for Health and Family Services;
 - (m) A representative from an institution of postsecondary education appointed by the Governor from a list of three (3) names submitted by the president of the Council on Postsecondary Education;
 - (n) The executive director of the Center for Rural Development, or the executive director's designee;
 - (o) A representative from a municipal government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky League of Cities;
 - (p) A representative from a county government to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Counties;
 - (q) A representative from a municipal police department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Chiefs of Police;
 - (r) A representative from a local fire department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Association of Fire Chiefs;
 - (s) A representative from a county sheriff's department to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Sheriffs' Association;
 - (t) A representative from a local Emergency Medical Services agency to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Board of Emergency Medical Services; and
 - (u) A representative from a local 911 dispatch center to be appointed by the Governor from a list of three (3) names submitted by the Kentucky Chapter of the National Emergency Number Association/Association of Public Safety Communications Officials.

- (6) Appointed members of the committee shall serve for a two (2) year term. Members who serve by virtue of an office shall serve on the committee while they hold that office.
- (7) The committee shall meet quarterly, or as often as necessary for the conduct of its business. A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at committee meetings.
- (8) The committee shall be attached to the Commonwealth Office of Technology for administrative purposes only. Members shall not be paid, and shall not be reimbursed for travel expenses.
- (9) The Public Safety Working Group is hereby created for the primary purpose of fostering cooperation, planning, and development of the public safety frequency spectrum as regulated by the Federal Communications Commission, including the 700 MHz public safety band. The group shall endeavor to bring about a seamless, coordinated, and integrated public safety communications network for the safe, effective, and efficient protection of life and property. The Public Safety Working Group membership and other working group memberships deemed necessary shall be appointed by the chair of the Kentucky Wireless Interoperability Executive Committee.
- (10) The committee may establish additional working groups as determined by the committee.

Section 7. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

- 1. The Governor.
- 2. Lieutenant Governor.
- 3. Department of State.
 - (a) Secretary of State.
 - (b) Board of Elections.
 - (c) Registry of Election Finance.
- 4. Department of Law.
 - (a) Attorney General.
- 5. Department of the Treasury.
 - (a) Treasurer.
- 6. Department of Agriculture.
 - (a) Commissioner of Agriculture.
 - (b) Kentucky Council on Agriculture.
- 7. Auditor of Public Accounts.

II. Program cabinets headed by appointed officers:

- 1. Justice and Public Safety Cabinet:
 - (a) Department of Kentucky State Police.
 - (b) Department of Criminal Justice Training.
 - (c) Department of Corrections.
 - (d) Department of Juvenile Justice.
 - (e) Office of the Secretary.
 - (f) Office of Drug Control Policy~~{Offices of the Deputy Secretaries}~~.
 - (g) Office of Legal Services~~{General Counsel}~~.
 - (h) Office of the~~Division of~~ Kentucky State Medical Examiner~~{Examiners Office}~~.
 - (i) Parole Board.
 - (j) Kentucky State Corrections Commission.
 - (k) Office of Legislative and Intergovernmental Services~~{Commission on Correction and Community Service}~~.

(l) Office of Management and Administrative Services.

(m) Office of Public Safety Training.

(n) Office of Investigations.

(o) Department of Kentucky Vehicle Enforcement.

(p) Department for Public Advocacy.

2. Education Cabinet:

- (a) Office of the Secretary.
- (b) Office of Legal Services.
 - 1. Client Assistance Program.
- (c) Office of Communication.
- (d) Office of Legislative and Intergovernmental Affairs.
- (e) Office of Budget and Administration.
 - 1. Division of Human Resources.
 - 2. Division of Administrative Services.
 - 3. Division of Technology Services.
- (f) Board of Directors for the Center for School Safety.
- (g) Council on Postsecondary Education.
 - 1. Foundation for Adult Education.
- (h) Department of Education.
 - 1. Kentucky Board of Education.
- (i) Department for Libraries and Archives.
- (j) Department of Workforce Investment.
 - 1. Office for the Blind.
 - 2. Office of Vocational Rehabilitation.
 - 3. Office of Career and Technical Education.
 - 4. Office of Employment and Training.
- (k) Foundation for Workforce Development.
- (l) Kentucky Office for the Blind State Rehabilitation Council.
- (m) Kentucky Technical Education Personnel Board.
- (n) Kentucky Workforce Investment Board.
- (o) Statewide Council for Vocational Rehabilitation.
- (p) Statewide Independent Living Council.
- (q) Unemployment Insurance Commission.
- (r) Education Professional Standards Board.
 - 1. Division of Educator Preparation.
 - 2. Division of Certification.
 - 3. Division of Professional Learning and Assessment.
 - 4. Division of Legal Services.
- (s) Kentucky Commission on the Deaf and Hard of Hearing.
- (t) Kentucky Educational Television.
- (u) Kentucky Environmental Education Council.

3. Environmental and Public Protection Cabinet:

- (a) Office of the Secretary.
 - 1. Office of Legislative and Intergovernmental Affairs.
 - 2. Office of Communications and Public Outreach.
 - 3. Office of Regulatory Affairs.
 - 4. Office of Legal Services.
 - 5. Office of Administrative and Information Services.
 - 6. Office of Administrative Hearings.

7. Office of Inspector General.
 8. Mine Safety Review Commission.
 9. Workers' Compensation Board.
 10. Kentucky State Nature Preserves Commission.
 11. Kentucky Environmental Quality Commission.
 12. Kentucky Occupational Safety and Health Review Commission.
- (b) Department for Environmental Protection.
1. Office of the Commissioner.
 2. Division of Air Quality.
 3. Division of Water.
 4. Division of Environmental Services.
 5. Division of Waste Management.
 6. Division of Enforcement.
 7. Division of Compliance Assistance.
- (c) Department for Natural Resources.
1. Office of the Commissioner.
 2. Office of Technical and Administrative Support.
 3. Division of Mine Permits.
 4. Division of Mine Reclamation and Enforcement.
 5. Division of Abandoned Mine Lands.
 6. Division of Oil and Gas Conservation.
 7. Office of Mine Safety and Licensing.
 8. Division of Forestry.
 9. Division of Conservation.
- (d) Department of Public Protection.
1. Office of the Commissioner.
 2. Division of Administrative Services.
 3. Crime Victims Compensation Board.
 4. Board of Claims.
 5. Board of Tax Appeals.
 6. Kentucky Boxing and Wrestling Authority.
 7. Kentucky Horse Racing Authority.
 8. Kentucky Public Service Commission.
 9. Office of Alcoholic Beverage Control.
 10. Office of Charitable Gaming.
 11. Office of Financial Institutions.
 12. Office of Housing, Buildings and Construction.
 13. Office of Insurance.
- (e) Department of Labor.
1. Office of the Commissioner.
 2. Office of Occupational Safety and Health.
 3. Office of Labor Management Relations and Mediation.
 4. Office of Workplace Standards.
 5. Office of Workers' Claims.
 6. Workers' Compensation Funding Commission.
 7. Kentucky Labor Management Advisory Council.
 8. Occupational Safety and Health Standards Board.
 9. Prevailing Wage Review Board.

10. Kentucky Employees Insurance Association.
 11. Apprenticeship and Training Council.
 12. State Labor Relations Board.
 13. Workers' Compensation Advisory Council.
 14. Workers' Compensation Nominating Commission.
 15. Employers' Mutual Insurance Authority.
 16. Division of Administrative Services.
4. Transportation Cabinet:
- (a) Department of Highways.
 1. Office of Program Planning and Management.
 2. Office of Project Development.
 3. Office of Construction and Operations.
 4. Office of Intermodal Programs.
 5. Highway District Offices One through Twelve.
 - (b) Department of Vehicle Regulation.
 - (c) Department of Administrative Services.
 - (d) Department of Aviation.
 - (e) Department of Intergovernmental Programs.
 1. Office of Transportation Enhancement Programs.
 2. Office of Rural and Secondary Roads.
 - (f) Office of the Secretary.
 1. Office of Legislative and Intergovernmental Affairs.
 2. Office of Public Affairs.
 3. Office of Transportation Delivery.
 4. Office for Business and Occupational Development.
 5. Office of Budget and Fiscal Management.
 6. Office of Legal Services.
 7. Office of Inspector General.
 8. Office of the Transportation Operations Center.
 9. Office of Personnel Management.
5. Cabinet for Economic Development:
- (a) Office of Administration and Support.
 - (b) Department for New Business Development.
 - (c) Department of Financial Incentives.
 - (d) Department for Existing Business Development.
 - (e) Tobacco Research Board.
 - (f) Kentucky Economic Development Finance Authority.
 - (g) Office of Research and Information Technology.
 - (h) Department of Commercialization and Innovation.
 - (i) Office of Legal Services.
 - (j) Commission on Small Business Advocacy.
6. Cabinet for Health and Family Services:
- (a) Department for Public Health.
 - (b) Department for Medicaid Services.
 - (c) Department for Mental Health and Mental Retardation Services.
 - (d) Kentucky Commission for Children with Special Health Care Needs.
 - (e) Office of Health Policy.
 - (f) Office of the Secretary.

- (g) Office of Legal Services.
 - (h) Office of Inspector General.
 - (i) Office of Legislative and Public Affairs.
 - (j) Department for Community Based Services.
 - (k) Department for Disability Determination Services.
 - (l) Office of the Ombudsman.
 - (m) Department for Human Support Services.
 - (n) Kentucky Commission on Community Volunteerism and Service.
 - (o) Office of Fiscal Services.
 - (p) Office of Human Resource Management.
 - (q) Office of Technology.
 - (r) Office of Contract Oversight.
 - (s) Governor's Office of Wellness and Physical Activity.
7. Finance and Administration Cabinet:
- (a) Office of General Counsel.
 - (b) Office of the Controller.
 - (c) Office of Administrative Services.
 - (d) Office of Public Information.
 - (e) Department for Facilities and Support Services.
 - (f) Department of Revenue.
 - (g) Commonwealth Office of Technology.
 - (h) State Property and Buildings Commission.
 - (i) Kentucky Savings Bond Authority.
 - (j) Office of Equal Employment Opportunity and Contract Compliance.
 - (k) County Officials Compensation Board.
 - (l) Kentucky Employees Retirement Systems.
 - (m) Commonwealth Credit Union.
 - (n) State Investment Commission.
 - (o) Kentucky Housing Corporation.
 - (p) Kentucky Local Correctional Facilities Construction Authority.
 - (q) Kentucky Turnpike Authority.
 - (r) Historic Properties Advisory Commission.
 - (s) Kentucky Tobacco Settlement Trust Corporation.
 - (t) State Board for Proprietary Education.
 - (u) Kentucky Higher Education Assistance Authority.
 - (v) Kentucky River Authority.
 - (w) Kentucky Teachers' Retirement System Board of Trustees.
8. Commerce Cabinet:
- (a) Department of Tourism.
 - (1) Division of Tourism Services.
 - (2) Division of Marketing and Advertising.
 - (3) Division of Parks Marketing.
 - (b) Kentucky Department of Parks.
 - (1) Division of Information Technology.
 - (2) Division of Personnel and Payroll.
 - (3) Division of Financial Operations.
 - (4) Division of Facilities Management.
 - (5) Division of Project Administration.

- (6) Division of Customer Services.
- (7) Division of Recreation.
- (8) Division of Golf Courses.
- (9) Division of Food Services.
- (10) Division of Rangers.
- (11) Division of Eastern Parks.
- (12) Division of Southern Parks.
- (13) Division of Western Parks.
- (c) Department of Fish and Wildlife Resources.
 - (1) Division of Law Enforcement.
 - (2) Division of Administrative Services.
 - (3) Division of Engineering.
 - (4) Division of Fisheries.
 - (5) Division of Information and Education.
 - (6) Division of Wildlife.
 - (7) Division of Public Affairs.
- (d) Kentucky Horse Park.
 - (1) Division of Support Services.
 - (2) Division of Buildings and Grounds.
 - (3) Division of Operational Services.
- (e) Kentucky State Fair Board.
 - (1) Division of Expositions and Admission.
 - (2) Division of Kentucky Fair and Exposition Center Operations.
 - (3) Division of Commonwealth Convention Center.
 - (4) Division of Public Relations and Media.
 - (5) Division of Administrative Services.
 - (6) Division of Personnel Management and Staff Development.
 - (7) Division of Sales.
 - (8) Division of Security and Traffic Control.
- (f) Office of the Secretary.
- (g) Office of Finance and Administration.
- (h) Office of Legal Affairs.
- (i) Office of Intergovernmental Affairs.
- (j) Office of Human Resources.
- (k) Office of Public Affairs and Constituent Services.
- (l) Office of Information Technology.
- (m) Office of the Kentucky Sports Authority.
 - (1) Kentucky Sports Authority Board.
- (n) Office of Creative Services.
- (o) Office of Capital Plaza Operations.
- (p) Office of Energy Policy.
 - (1) Energy Policy Advisory Council.
- (q) Office of Arts and Cultural Heritage.
- (r) Kentucky African-American Heritage Commission.
- (s) Kentucky Foundation for the Arts.
- (t) Kentucky Humanities Council.
- (u) Kentucky Heritage Council.
- (v) Kentucky Arts Council.

- (w) Kentucky Historical Society.
 - (1) Division of Museums.
 - (2) Division of Oral History and Educational Outreach.
 - (3) Division of Research and Publications.
 - (4) Division of Administration.
 - (x) Kentucky Center for the Arts.
 - (1) Division of Governor's School for the Arts.
 - (y) Kentucky Artisans Center at Berea.
 - (z) Martin Luther King Commission.
 - (aa) Northern Kentucky Convention Center.
 - (ab) Eastern Kentucky Exposition Center.
9. Personnel Cabinet:
- (a) Office of the Secretary.
 - (b) Department for Personnel Administration.
 - (c) Office for Employee Relations.
 - (d) Kentucky Public Employees Deferred Compensation Authority.
 - (e) Office of Administrative Services.
 - (f) Office of Legal Services.
 - (g) Office of Government Training.
 - (h) Department for Employee Insurance.

III. Other departments headed by appointed officers:

- 1. Department of Military Affairs.
- 2. Department for Local Government.
- 3. Kentucky Commission on Human Rights.
- 4. Kentucky Commission on Women.
- 5. Department of Veterans' Affairs.
- 6. Kentucky Commission on Military Affairs.
- 7. Office of Minority Empowerment.
- 8. Governor's Council on Wellness and Physical Activity.

Section 8. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

- (1) Department of Military Affairs;
- (2) Department for Local Government;
- (3) Kentucky Commission on Human Rights;
- (4) Kentucky Commission on Women;
- (5) Kentucky Commission on Military Affairs;
- (6) Governor's Scholars Program;
- (7) Agricultural Development Board;
- (8) ~~Kentucky Agency for Substance Abuse Policy;~~
- (9) Kentucky Agricultural Finance Corporation;
- ~~(9)~~~~(10)}~~ Office of Minority Empowerment;
- ~~(10)~~~~(11)}~~ Office of Homeland Security; and
- ~~(11)~~~~(12)}~~ Governor's Council on Wellness and Physical Activity.

Section 9. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

- (1) Justice *and Public Safety* Cabinet.
- (2) Education Cabinet.
- (3) Environmental and Public Protection Cabinet.

- (4) Transportation Cabinet.
- (5) Cabinet for Economic Development.
- (6) Cabinet for Health and Family Services.
- (7) Finance and Administration Cabinet.
- (8) Commerce Cabinet.
- (9) Personnel Cabinet.

Section 10. KRS 12.330 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:

- (1) As used in Sections 10, 11, and 12 of this Act [KRS 12.330 to 12.334], "KY-ASAP" means the Kentucky Agency for Substance Abuse Policy.
- (2) ~~The Office of Drug Control Policy [Kentucky Agency for Substance Abuse Policy] is created and attached for administrative purposes to the Office of the Governor. KY-ASAP shall be headed by an executive director with experience in overseeing programs involving tobacco and substance abuse and shall have other staff as necessary to conduct its affairs.~~
- (3) ~~KY-ASAP~~ shall administer an endowment from interest generated through funds appropriated or gifts, donations, or funds received from any source. The Office of Drug Control Policy [KY-ASAP] may expend endowment principal, if necessary in its discretion, to carry out the purposes of Sections 10, 11, and 12 of this Act [KRS 12.330 to 12.334]. These expenditures from the endowment principal are hereby appropriated for this purpose.
- (3)(4) (a) The Office of Drug Control Policy shall oversee the activities specified in Sections 10, 11, and 12 of this Act and provide administrative support to the seventeen (17) member KY-ASAP Board, which is created to oversee the activities of KY-ASAP. Membership of the board shall be appointed by the Governor and shall consist of the following:
 - 1. One (1) member representing the Kentucky Family Resource Youth Services Coalition, or a designee;
 - 2. One (1) member representing the Kentucky Health Department Association, or a designee;
 - 3. The secretary of the Cabinet for Health and Family Services, or designee;
 - 4. The secretary of the Justice and Public Safety Cabinet, or a designee;
 - 5. One (1) member representing the Division of Mental Health and Substance Abuse Services within the Department for Mental Health and Mental Retardation Services, Cabinet for Health and Family Services, or a designee;
 - 6. The commissioner of the Department for Public Health, Cabinet for Health and Family Services, or a designee;
 - 7. The executive director of the Office of Alcoholic Beverage Control, or a designee;
 - 8. The commissioner of the Department of Education;
 - 9. The director of the Administrative Office of the Courts, or a designee;
 - 10. One (1) member representing the Kentucky Association of Regional Programs, or a designee;
 - 11. One (1) member representing the Kentucky Heart Association, or a designee;
 - 12. One (1) member representing the Kentucky Lung Association, or a designee;
 - 13. One (1) member representing the Kentucky Cancer Society, or a designee;
 - 14. Two (2) members representing local tobacco addiction and substance abuse advisory and coordination boards; and
 - 15. Two (2) members representing private community-based organizations, whether for-profit or nonprofit, with experience in programs involving smoking cessation or prevention or alcohol or substance abuse prevention and treatment.
- (b) Members shall serve for a term of four (4) years, may be reappointed, and may serve no more than two (2) consecutive terms. Members shall not be compensated but shall receive reimbursement for expenses incurred while performing board business.
- (c) The board shall meet at least quarterly. A quorum of nine (9) members shall be required for the transaction of business. Meetings shall be held at the call of the chair, or upon the written request of two (2) members to the chair.
- (d) The board shall:
 - 1. Oversee deposits and expenditures from the endowment;
 - 2. Request, in its discretion, an audit relating to the expenditure of endowment funds;
 - 3. Receive quarterly reports from the executive director regarding KY-ASAP's activities;
 - 4. Progress toward development and implementation of the strategic plan;
 - 5. Recommend to KY-ASAP the most efficient means for using public funds to coordinate, supplement, and

support high quality and ongoing programs of all public agencies and private service providers related to smoking cessation and prevention and alcohol and substance abuse prevention and treatment;

6. Recommend matters for review and analysis by KY-ASAP; and
7. Perform other duties as necessary for the oversight of KY-ASAP.

~~(4)(5)}~~ ***The Office of Drug Control Policy*** and KY-ASAP shall promote the implementation of research-based strategies that target Kentucky's youth and adult populations.

~~(5)(6)}~~ ***The Office of Drug Control Policy*** and KY-ASAP shall vigorously pursue the philosophy that tobacco in the hands of Kentucky's youth is a drug abuse problem because of the addictive qualities of nicotine, and because tobacco is the most prevalent gateway drug that leads to later and escalated drug and alcohol abuse.

Section 11. KRS 12.332 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:

The Office of Drug Control Policy shall be responsible for all matters relating to the research, coordination, and execution of drug control policy and for the management of state and federal grants including but not limited to the prevention and treatment related to substance abuse. By December 31 of each year, the Office of Drug Control Policy shall review, approve, and coordinate all current projects of any substance abuse program which is conducted by or receives funding through agencies of the executive branch. This oversight shall extend to all substance abuse programs which are principally related to the prevention or treatment, or otherwise targeted at the reduction, of substance abuse in the Commonwealth. The Office of Drug Control Policy shall promulgate administrative regulations consistent with enforcing this oversight authority. In addition, the Office of Drug Control Policy and KY-ASAP shall:

- (1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol abuse among both the youth and adult populations in Kentucky;
- (2) Monitor the data and issues related to youth alcohol and tobacco access, smoking cessation and prevention, and substance abuse policies, their impact on state and local programs, and their flexibility to adapt to the needs of local communities and service providers;
- (3) Make policy recommendations to be followed to the extent permitted by budgetary restrictions and federal law, by executive branch agencies that work with smoking cessation and prevention and alcohol and substance abuse issues to ensure the greatest efficiency in agencies and to ensure that a consistency in philosophy will be applied to all efforts undertaken by the administration in initiatives related to smoking cessation and prevention and alcohol and substance abuse;
- (4) Identify existing resources in each community that advocate or implement programs for smoking cessation or prevention, or drug and alcohol abuse prevention, education, or treatment;
- (5) Encourage coordination among public and private, state and local, agencies, organizations, and service providers, and monitor related programs;
- (6) Act as the referral source of information, utilizing existing information clearinghouse resources within the Department for Public Health and CHAMPIONS for a Drug Free Kentucky Office, relating to youth tobacco access, smoking cessation and prevention, and substance abuse prevention, cessation, and treatment programs. ***The Office of Drug Control Policy and KY-ASAP shall identify gaps in information referral sources;***
- (7) Search for grant opportunities for existing programs within the Commonwealth;
- (8) Make recommendations to state and local agencies and local tobacco addiction and substance abuse advisory and coordination boards;
- (9) Observe programs from other states;
- (10) Coordinate services among local and state agencies, including but not limited to the Justice ***and Public Safety*** Cabinet, the Cabinet for Health and Family Services, the Department of Agriculture, the Environmental and Public Protection Cabinet, the Administrative Office of the Courts, and the Education Cabinet;
- (11) Assure the availability of training, technical assistance, and consultation to local service providers for programs funded by the Commonwealth that provide services related to tobacco addiction, smoking cessation or prevention, or alcohol or substance abuse;
- (12) Review existing research on programs related to smoking cessation and prevention and substance abuse prevention and treatment;
- (13) Comply with any federal mandate regarding smoking cessation and prevention and substance abuse, to the extent authorized by state statute;
- (14) Establish a mechanism to coordinate the distribution of funds to support any local prevention, treatment, and education program based on the strategic plan developed in subsection (1) of this section that could encourage smoking cessation and prevention through efficient, effective, and research-based strategies;
- (15) Oversee a school-based initiative that links schools with community-based agencies and health departments to implement School Programs to Prevent Tobacco Use, based upon the model recommended by the Centers for Disease Control and Prevention. To the extent permitted by resources, the initiative shall involve input by and services from each of the family

2007 Regular Session

resource and youth services centers, regional prevention centers, and existing school-based antidrug programs;

- (16) Work with community-based organizations to encourage them to work together to establish comprehensive tobacco addiction and substance abuse prevention education programs and carry out the strategic plan developed in this section. These organizations shall be encouraged to partner with district and local health departments and community mental health centers to plan and implement interventions to reach youths before tobacco addiction and substance abuse become a problem in their lives;
- (17) Coordinate media campaigns designed to demonstrate the negative impact of smoking and the increased risk of tobacco addiction, substance abuse, and the development of other disease in children, young people, and adults. To accomplish this objective, KY-ASAP shall work with local media to reach all segments of the community quickly and efficiently;
- (18) Certify to the Governor, the secretary of the Justice and Public Safety Cabinet, and the General Assembly during the budget request process established under KRS Chapter 48 the extent to which each entity receiving state funds has cooperated with the Office of Drug Control Policy and KY-ASAP, coordinated with community resources, and vigorously pursued the philosophy of the Office of Drug Control Policy and KY-ASAP;
- (19) Promulgate, with the approval of the secretary of the Justice and Public Safety Cabinet, any administrative regulations necessary to implement Sections 10, 11, and 12 of this Act ~~[KRS 12.330 to 12.334]~~; and
- (20) Report annually to the Legislative Research Commission and Governor ~~[by October 1, 2000]~~ regarding the proper organization of state government agencies that will provide the greatest coordination of services, and report semiannually to the Legislative Research Commission and Governor on the status of the Office of Drug Control Policy and KY-ASAP programs, ~~[proper organization structure, devising and implementing an accountability system to be designed to ensure efficiency and efficacy of]~~ services, and grants, and on other matters as requested by the Legislative Research Commission and Governor.

Section 12. KRS 12.334 is repealed and reenacted as a new section of KRS Chapter 15A:

- (1) KY-ASAP shall establish in each county a local tobacco addiction and alcohol and substance abuse advisory and coordination board to assist in planning, overseeing, and coordinating the implementation of local programs related to smoking cessation and prevention and alcohol and substance abuse prevention, cessation, and treatment, although a single board may be established for multiple counties to ensure a comprehensive range of services. The board shall assist with the coordination of programs provided by public and private entities. If the existing programs of private service providers are of high quality, KY-ASAP shall concentrate on providing missing elements and support for those providers. The Cabinet for Health and Family Services shall support the communities' efforts.
- (2) KY-ASAP shall consult with community leaders to solicit the names of residents from the community to serve on each advisory and coordination board. KY-ASAP shall request from each board the submission of reasonable reports on the effectiveness, efficiency, and efforts of each local program, including recommendations for increased or decreased funding, and KY-ASAP shall supply information as necessary to the advisory and coordination board to enable it to carry out its functions.
- (3) KY-ASAP shall provide incentives to encourage multicounty advisory and coordination board requests and shall establish a single board to represent all counties making the request. Priority in establishing a board shall be given to existing regional prevention centers or coalitions, community organizations, or local Kentucky Incentives for Prevention (KIP) project coalitions. Membership shall consist of residents from each of the counties.
- (4) Each advisory and coordination board shall develop a long-term community strategy that is designed to reduce the incidence of youth and young adult smoking and tobacco addiction, promote resistance to smoking, reduce the incidence of substance abuse, and promote effective treatment of substance abuse. All county resources, both private and public, for-profit and nonprofit, shall be considered in developing this strategy.
 - (a) Employers, local leaders, schools, family resource and youth services centers, health care providers and institutions, economic developers, and other relevant local and regional entities shall be consulted in the development of the strategy.
 - (b) An assessment of needs and available services shall be included in the strategy.

Section 13. KRS 13B.020 is amended to read as follows:

- (1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.
- (2) The provisions of this chapter shall not apply to:
 - (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
 - (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;
 - (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the

primary purpose of which is to seek public input on public policy making;

- (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
- (e) Administrative hearings conducted by the legislative and judicial branches of state government;
- (f) Administrative hearings conducted by any city, county, urban-county, charter county, or special district contained in KRS Chapters 65 to 109, or any other unit of local government operating strictly in a local jurisdictional capacity;
- (g) Informal hearings which are part of a multilevel hearing process that affords an administrative hearing at some point in the hearing process if the procedures for informal hearings are approved and promulgated in accordance with subsections (4) and (5) of this section;
- (h) Limited exemptions granted for specific hearing provisions and denoted by reference in the text of the applicable statutes or administrative regulations;
- (i) Administrative hearings exempted pursuant to subsection (3) of this section;
- (j) Administrative hearings exempted, in whole or in part, pursuant to subsections (4) and (5) of this section; and
- (k) Any administrative hearing which was commenced but not completed prior to July 15, 1996.

(3) The following administrative hearings are exempt from application of this chapter in compliance with 1994 Ky. Acts ch. 382, sec. 19:

(a) Finance and Administration Cabinet

1. Higher Education Assistance Authority

- a. Wage garnishment hearings conducted under authority of 20 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
- b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A and sec. 3716, and 34 C.F.R. sec. 30.33

2. Department of Revenue

- a. Any licensing and bond revocation hearings conducted under the authority of KRS 138.210 to 138.448 and 234.310 to 234.440
- b. Any license revocation hearings under KRS 131.630 and 138.130 to 138.205

(b) Cabinet for Health and Family Services

1. Office of Health Policy

- a. Certificate-of-need hearings and licensure conducted under authority of KRS Chapter 216B
- b. Licensure revocation hearings conducted under authority of KRS Chapter 216B

2. Department for Community Based Services

- a. Supervised placement revocation hearings conducted under authority of KRS Chapter 630

3. Department for Disability Determination Services

- a. Disability determination hearings conducted under authority of 20 C.F.R. sec. 404

(c) Justice and Public Safety Cabinet

1. Department of Kentucky State Police

- a. Kentucky State Police Trial Board disciplinary hearings conducted under authority of KRS Chapter 16

2. Department of Corrections

- a. Parole Board hearings conducted under authority of KRS Chapter 439
- b. Prison adjustment committee hearings conducted under authority of KRS Chapter 197
- c. Prison grievance committee hearings conducted under authority of KRS Chapters 196 and 197

3. Department of Juvenile Justice

- a. Supervised placement revocation hearings conducted under KRS Chapter 635

(d) Environmental and Public Protection Cabinet

1. Department for Natural Resources

- a. Surface mining hearings conducted under authority of KRS Chapter 350

2. Department for Environmental Protection

- a. Wild River hearings conducted under authority of KRS Chapter 146
- b. Water resources hearings conducted under authority of KRS Chapter 151
- c. Water plant operator and water well driller hearings conducted under authority of KRS Chapter 223

2007 Regular Session

- d. Environmental protection hearings conducted under authority of KRS Chapter 224
 - e. Petroleum Storage Tank Environmental Assurance Fund hearings under authority of KRS Chapter 224
 - 3. Office of Workers' Claims
 - a. Workers' compensation hearings conducted under authority of KRS Chapter 342
 - 4. Kentucky Occupational Safety and Health Review Commission
 - a. Occupational safety and health hearings conducted under authority of KRS Chapter 338
 - 5. Department of Public Protection
 - a. Board of Claims
 - i. Liability hearings conducted under authority of KRS Chapter 44
 - b. Public Service Commission
 - i. Utility hearings conducted under authority of KRS Chapters 74, 278, and 279
 - (e) Education Cabinet
 - 1. Unemployment Insurance hearings conducted under authority of KRS Chapter 341
 - (f) Secretary of State
 - 1. Registry of Election Finance
 - a. Campaign finance hearings conducted under authority of KRS Chapter 121
 - (g) State universities and colleges
 - 1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
 - 2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
 - 3. Campus residency hearings conducted under authority of KRS Chapter 164
 - 4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
 - 5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.
 - (4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:
 - (a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;
 - (b) Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or
 - (c) The hearing procedures represent informal proceedings which are the preliminary stages or the review stages of a multilevel hearing process, if the provisions of this chapter or the provisions of a substantially equivalent hearing procedure exempted under subsection (3) of this section are applied at some level within the multilevel process.
 - (5) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures by administrative regulation which, insofar as practical, shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.
 - (6) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.
- Section 14. KRS 15.243 is amended to read as follows:
- (1) In addition to the other duties and powers of the Attorney General, he shall enforce all of the state's election laws by civil or criminal processes.
 - (2) The Attorney General shall:
 - (a) Devise and administer programs to observe the conduct of elections;
 - (b) Hold public hearings;
 - (c) Establish a toll-free telephone service for the purpose of receiving reports of election law violations. The service shall be operated during regular business hours throughout the year and during the hours which any poll in the state is open on the day of any primary, special election or regular election;

- (d) Initiate investigations or investigate alleged violations of election laws at the request of a registered voter or on his own motion;
 - (e) Issue subpoenas for the production of any books, papers, correspondence, memoranda or other records, and compel the attendance of witnesses that he deems relevant to the purposes of any investigation;
 - (f) Present evidence of alleged violations to a grand jury; and
 - (g) File appropriate complaints in any court of competent jurisdiction.
- (3) (a) The Attorney General shall be required to begin an independent inquiry for any potential irregularities that may have occurred in each election in not fewer than five percent (5%) of Kentucky's counties, to be selected at random in a public process, within twenty (20) days following each primary or regular election. No county shall be subject to inquiry under this subsection in two (2) consecutive elections.
- (b) The Attorney General shall report his findings to the grand jury of each county involved and to the chief circuit judge for the circuit in which the county is located.
- (4) When the Registry of Election Finance concludes there is probable cause to believe a violation of election laws has occurred, it shall forward the matter to the Attorney General for prosecution. In the event the Attorney General or local prosecutor fails to prosecute the matter in a timely fashion, the registry's attorney may petition the Circuit Court to be appointed as a special prosecutor. Upon such motion timely filed, for good cause shown, the court shall enter an order to that effect.
- (5) When requested by the Attorney General, all state and local agencies and officials, including the Auditor of Public Accounts, Commonwealth's attorneys, county attorneys, Registry of Election Finance, Department of Kentucky State Police, sheriffs' departments and local police shall give all possible assistance to the Attorney General in the performance of his duties.

Section 15. KRS 15.247 is amended to read as follows:

- (1) The Attorney General shall develop and administer a program for the protection of crime victims and witnesses and their immediate families.
- (2) Within the limits of the administrative regulations, guidelines, and appropriations for this purpose, the program shall provide funding to the Department of Kentucky State Police or to a sheriff's office or city or county police department agreeing to provide protection to crime victims and witnesses and their families.
- (3) Any Commonwealth's attorney or county attorney may apply to the Attorney General for funding for protection of crime victims, witnesses, and their families.
- (4) No protective service shall be rendered to the same person for more than six (6) months.
- (5) Protective services funded by this program shall be limited to:
 - (a) Physical protection of the person;
 - (b) Physical security measures for the person's residence, vehicle, workplace, or combination thereof; or
 - (c) Short-term relocation.
- (6) The Attorney General shall promulgate administrative regulations under KRS Chapter 13A for the operation of the program.
- (7) Nothing in this statute shall be construed to create a cause of action for money damages against the state, a county, a municipality, or any of their agencies, public officials, or employees.
- (8) No court shall order a law enforcement agency to protect crime victim witnesses or their immediate families.
- (9) No record that may lead to the identity of a person seeking or given protection under this section shall be an open record. This protection shall extend even to the question of whether such a record exists.

Section 16. KRS 15.280 is amended to read as follows:

- (1) A Criminal Justice Statistical Analysis Center is hereby created as part of the Kentucky Justice and Public Safety Cabinet.
- (2) The Criminal Justice Statistical Analysis Center shall provide its reports and recommendations to the Governor and the General Assembly through the Kentucky Criminal Justice Council.
- (3) The Criminal Justice Statistical Analysis Center shall:
 - (a) Improve the quality and usefulness of criminal justice statistics and research results that are disseminated to citizens, public agencies, and private agencies in Kentucky; ~~by:~~
 - 1. ~~Conducting periodic needs assessments of criminal justice agencies;~~
 - 2. ~~Analyzing offender-based tracking data;~~
 - 3. ~~Conducting specialized studies that use statistical data which are presently maintained by state and local agencies in Kentucky; and~~
 - 4. ~~Supporting the implementation of a statewide Unified Criminal Justice Information System through the Unified Criminal Justice Information System Committee of the Kentucky Criminal Justice Council.]~~

2007 Regular Session

- (b) ~~1. Publishing~~ Publish ~~research results and statistical data that are requested by criminal justice agencies; and~~ Increase the ability of statistical users to translate data and research results into practice by:
 - 1. ~~Conducting conferences and workshops on the use of statistical information;~~
- (c) Improve the relationship between citizens and criminal justice agencies of Kentucky by conducting citizen surveys of the needs, attitudes, and behavior relating to crime and justice; and
- (d) Strengthen the relationship between ~~the~~ Kentucky criminal justice agencies and the ~~National~~ Bureau of Justice Statistics, United States Department of Justice, by:
 - 1. Providing justice statistics to the Bureau of Justice Statistics as required; and
 - 2. Serving as a clearinghouse for Bureau of Justice Statistics materials.
- (4) The Kentucky Justice and Public Safety Cabinet may expend any federal grants or federal funds provided for carrying out the functions and authority as assigned in this section. Further, the Kentucky Justice and Public Safety Cabinet ~~through the Kentucky Criminal Justice Council~~ may employ such employees as may be necessary to fulfill the duties, responsibilities, and functions assigned by this section.

Section 17. KRS 15.310 is amended to read as follows:

As used in KRS 15.315 to 15.510, 15.990, and 15.992, unless the context otherwise requires:

- (1) "Basic training course" means the peace officer basic training course provided by the Department of Criminal Justice Training or a course approved and recognized by the Kentucky Law Enforcement Council;
- (2) "Certified peace officer" means a peace officer who is certified under KRS 15.380 to 15.402;
- (3) "Certification" means the act by the council of issuing certification to a peace officer who successfully completes the training requirements pursuant to KRS 15.404 and the requirements set forth within this chapter;
- (4) "Council" means the Kentucky Law Enforcement Council established by KRS 15.315 to 15.510, 15.990, and 15.992;
- (5) "Department" means the Department of Criminal Justice Training of the Justice and Public Safety Cabinet;
- (6) "Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus security officers, law enforcement support personnel, public airport authority security officers, other public and federal peace officers responsible for law enforcement, and special local peace officers licensed pursuant to KRS 61.360;
- (7) "Peace officer" means a person defined in KRS 446.010;
- (8) "Secretary" means the secretary of the Justice and Public Safety Cabinet; and
- (9) "Validated job task analysis" means the minimum entry level qualifications and training requirements for peace officers in the Commonwealth based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

Section 18. KRS 15.315 is amended to read as follows:

The Kentucky Law Enforcement Council is hereby established as an independent administrative body of state government to be made up as follows:

- (1) The Attorney General of Kentucky, the commissioner of the Department of Kentucky State Police, directors of the Southern Police Institute of the University of Louisville, the dean of the College of Justice and Safety ~~Law Enforcement~~ of Eastern Kentucky University, the president of the Kentucky Peace Officers Association, the president of the Kentucky Association of Chiefs of Police, the Kentucky president of the Fraternal Order of Police, and the president of the Kentucky Sheriffs' Association shall be ex officio members of the council, as full voting members of the council by reason of their office. The United States attorneys for the Eastern and Western Districts of Kentucky may confer and designate a local law enforcement liaison who ~~Kentucky special agent in charge of the Federal Bureau of Investigation~~ shall serve on the council in an advisory capacity only without voting privileges. Each ex officio member may designate in writing a person to represent him or her and to vote on his or her behalf.
- (2) Twelve (12) ~~Eleven (11)~~ members shall be appointed by the Governor for terms of four (4) years from the following classifications: a city manager or mayor, a county judge/executive, three (3) Kentucky sheriffs, a member of the Kentucky State Bar Association, five (5) chiefs of police, and a citizen of Kentucky not coming within the foregoing classifications. No person shall serve beyond the time he or she holds the office or employment by reason of which he or she was initially eligible for appointment. Vacancies shall be filled in the same manner as the original appointment and the successor shall be appointed for the unexpired term. Any member may be appointed for additional terms.
- (3) No member may serve on the council with the dual membership as the representative of more than one (1) of the aforementioned groups or the holder of more than one (1) of the aforementioned positions. In the event that an existing member of the council assumes a position entitling him to serve on the council in another capacity, the Governor shall appoint an additional member from the group concerned to prevent dual membership.
- (4) Membership on the council does not constitute a public office, and no member shall be disqualified from holding public

office by reason of his membership.

Section 19. KRS 15.330 is amended to read as follows:

- (1) The council is vested with the following functions and powers:
 - (a) To prescribe standards for the approval and continuation of approval of schools at which law enforcement and telecommunications training courses required under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992 shall be conducted, including but not limited to minimum standards for facilities, faculty, curriculum, and hours of attendance related thereto;
 - (b) To prescribe minimum qualifications for instructors at such schools, except that institutions of higher education shall be exempt from council requirements;
 - (c) To prescribe qualifications for attendance and conditions for expulsion from such schools;
 - (d) To prescribe minimum standards and qualifications for voluntary career development programs for certified peace officers and telecommunicators, including minimum standards for experience, education, and training, and to issue certificates to those meeting the minimum standards;
 - (e) To approve, to issue, and to revoke for cause certificates to schools and instructors as having met requirements under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992;
 - (f) To approve law enforcement officers, telecommunicators, and other persons as having met requirements under KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992;
 - (g) To inspect and evaluate schools at any time and to require of schools, instructors, and persons approved or to be approved under the provisions of KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992, any information or documents;
 - (h) To promulgate reasonable rules and administrative regulations in accordance with KRS Chapter 13A to accomplish the purposes of KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992;
 - (i) To monitor the Law Enforcement Foundation Program as prescribed in KRS 15.410 to 15.510;
 - (j) To adopt bylaws for the conduct of its business not otherwise provided for; and
 - (k) The council shall have the authority to certify police officers as set out in this chapter.
- (2) The provisions of KRS 15.310 to 15.510, 15.530 to 15.590, and 15.990 to 15.992 do not apply to the Department of Kentucky State Police except for the certification requirement established by this chapter.

Section 20. KRS 15.380 is amended to read as follows:

- (1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
 - (a) Department of Kentucky State Police officers, but for the commissioner of the Department of Kentucky State Police;
 - (b) City, county, and urban-county police officers;
 - (c) Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
 - (d) State or public university safety and security officers appointed pursuant to KRS 164.950;
 - (e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;
 - (f) Airport safety and security officers appointed under KRS 183.880;
 - (g) Office of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090;
 - (h) Division of Insurance Fraud Investigation investigators appointed under KRS 304.47-040; and
 - (i) County detectives appointed in a county containing a consolidated local government with the power of arrest in the county and the right to execute process statewide in accordance with KRS 69.360.
- (2) The requirements of KRS 15.380 to 15.404 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Personnel Cabinet for job specifications.
- (3) Additional training in excess of the standards set forth in KRS 15.380 to 15.404 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.
- (4) The following officers may, upon request of the employing agency, be certified by the council:
 - (a) Deputy coroners;
 - (b) Deputy constables;
 - (c) Deputy jailers;
 - (d) Deputy sheriffs under KRS 70.045 and 70.263(3);
 - (e) Officers appointed under KRS 61.360;

2007 Regular Session

- (f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;
 - (g) Private security officers;
 - (h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080; and
 - (i) Investigators employed by the Office of Charitable Gaming in accordance with KRS 238.510.
- (5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:
- (a) Sheriffs;
 - (b) Coroners;
 - (c) Constables;
 - (d) Jailers;
 - (e) Kentucky Horse Racing Authority security officers employed under KRS 230.240; and
 - (f) Commissioner of the Department of Kentucky State Police.
- (6) Federal peace officers cannot be certified under KRS 15.380 to 15.404.

Section 21. KRS 15.398 is amended to read as follows:

The following Kentucky Revised Statutes and any administrative regulations promulgated thereunder affecting those peace officers required to be certified pursuant to KRS 15.380 to 15.404 shall not be superseded by the provisions of KRS 15.380 to 15.404, and in all instances the provisions of all statutes specified below shall prevail:

- (1) KRS Chapter 16, relating to Department of Kentucky State Police Officers;
- (2) KRS Chapter 70, relating to sheriffs, and deputy sheriffs;
- (3) KRS Chapter 78, relating to county police;
- (4) KRS Chapters 15 and 95, except for KRS 95.955, relating to city and urban-county police;
- (5) KRS Chapter 183, relating to airport safety and security officers;
- (6) KRS Chapter 164, relating to State Universities and Colleges; Regional Education and Archaeology officers;
- (7) KRS Chapter 18A, relating to all state peace officers;
- (8) KRS 241.090, relating to Office of Alcoholic Beverage Control field representatives and investigators;
- (9) KRS 304.47-040, relating to Division of Insurance Fraud Investigators; and
- (10) Any other statutes affecting peace officers not specifically cited herein.

Section 22. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

- (1) "Local unit of government" means any city or county, combination of cities and counties, state or public university, or county sheriff's office of the Commonwealth.
- (2) "Police officer" means a full-time member of a lawfully organized police department of county, urban-county or city government, a sheriff or full-time deputy sheriff, including any providing court security or appointed under KRS 70.030, or a state or public university police officer who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Department of Kentucky State Police, any sheriff who earns the maximum constitutional salary for this office, any special deputy sheriff appointed under KRS 70.045, any constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.
- (3) "Council" means the Kentucky Law Enforcement Council.
- (4) "Validated job task analysis" means the core job description which describes the minimum entry level requirements, qualifications, and training requirements for peace officers in the Commonwealth which is based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

Section 23. KRS 15.440 is amended to read as follows:

- (1) Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:
 - (a) Employs one (1) or more police officers;
 - (b) Pays every police officer at least the minimum federal wage;
 - (c) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972, and for all sheriffs

appointed or elected on or after July 15, 1998, and all deputy sheriffs, and state or public university police officers employed after July 15, 1998; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection, and that all sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to July 15, 1998 shall be deemed to have met the requirements of this subsection;

- (d) Requires all police officers employed on or after July 1, 1972, and all sheriffs appointed or elected on or after July 15, 1998, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998, to successfully complete a basic training course of at least six hundred forty (640) hours' duration within one (1) year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council. All sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998, shall be deemed to have met the requirements of this subsection. The council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, set the number of hours for basic training at a number higher than six hundred forty (640) hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis;
- (e) Requires all police officers, whether originally employed before or after July 1, 1972, and all sheriffs appointed or elected before, on, or after July 15, 1998, and all deputy sheriffs and state or public police officers employed before, on, or after July 15, 1998, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council. This requirement shall be waived for the period of time that a peace officer is serving on active duty in the United States Armed Forces. This waiver shall be retroactive for peace officers from the date of September 11, 2001;
- (f) Requires compliance with all provisions of law applicable to local police, state or public university police, or sheriffs and their deputies, including transmission of data to the centralized criminal history record information system as required by KRS 17.150; ~~and~~
- (g) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, state or public university police department, or sheriff's office, issued by the Justice and Public Safety Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510; and
- (h) Possesses a written policy and procedures manual related to domestic violence for law enforcement agencies that meets the standards set forth by, and has been approved by, the Justice and Public Safety Cabinet. The policy shall comply with the provisions of KRS 403.715 to 403.785. The policy shall include purpose statements; definitions; supervisory responsibilities; procedures for twenty-four (24) hour access to protective orders; procedures for enforcement of court orders or relief when protective orders are violated; procedures for timely and contemporaneous reporting of adult abuse and domestic violence to the Cabinet for Families and Children, Department for Community Based Services; victim rights, assistance and service responsibilities; and duties related to timely completion of records.

- (2) No local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department, state or public university police department, or sheriff's office actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department, state or public university police department, or sheriff's office has substantially complied with subsection (1)(f) and (g) of this section.

- (3) A sheriff's office shall not lose eligibility to share in the distribution of funds from the Law Enforcement Foundation Program fund if the sheriff does not participate in the Law Enforcement Foundation Program fund.

Section 24. KRS 15.450 is amended to read as follows:

- (1) The secretary or his or her designated representative shall administer the Law Enforcement Foundation Program fund pursuant to the provisions of KRS 15.410 to 15.510 and may promulgate any administrative regulations as, in his or her judgment, are necessary to carry out his responsibilities under KRS 15.410 to 15.510. Administrative hearings promulgated by administrative regulation under authority of this section shall be conducted in accordance with KRS Chapter 13B.
- (2) The secretary or his designated representative shall determine which local units of government are eligible to share in the Law Enforcement Foundation Program fund and may withhold or terminate payments to any local unit that does not comply with the requirements of KRS 15.410 to 15.510 or the administrative regulations issued by the Justice and Public Safety Cabinet under KRS 15.410 to 15.510.
- (3) The Justice and Public Safety Cabinet shall, from moneys appropriated and accruing to the fund as provided under KRS 15.430, receive reimbursement for the salaries and other costs of administering the fund, including, but not limited to, council operations and expenses. The amount to be reimbursed for any given year shall be determined by the council and shall not exceed five percent (5%) of the total amount of funds for that year.
- (4) The Justice and Public Safety Cabinet shall furnish periodically to the council any reports as may be deemed reasonably

necessary.

Section 25. KRS 15.470 is amended to read as follows:

Law Enforcement Foundation Program funds made available to local units shall be received, held, and expended in accordance with the provisions of KRS 15.410 to 15.510, including the ~~administrative~~~~rules and~~ regulations ~~promulgated~~~~issued~~ by the Justice and Public Safety Cabinet, and the following specific restrictions:

- (1) Funds provided shall be used only as a cash salary supplement to police officers, for payments to the defined benefit pension plan to which the officer belongs to cover employer retirement costs on the cash salary supplement, and for administrative costs as provided in KRS 15.450;
- (2) Funds provided shall be used only to compensate police officers who have complied with KRS 15.440(1)(c), (d), and (e).
- (3) Each police officer shall be entitled to receive the state supplement which his qualifications brought to the local unit;
- (4) Funds provided shall not be used to supplant existing salaries or as a substitute for normal salary increases periodically due to police officers.

Section 26. KRS 15.480 is amended to read as follows:

The Finance and Administration Cabinet, on the certification of the Justice and Public Safety Cabinet, shall draw warrants as specified hereinafter on the State Treasurer for the amount of the Law Enforcement Foundation Program fund due each participating local unit. Checks shall be issued by the State Treasurer and transmitted to the Justice and Public Safety Cabinet for distribution to the proper officials of participating local units which have complied with the provisions of KRS 15.410 to 15.510 and the ~~administrative~~~~rules and~~ regulations of the Justice and Public Safety Cabinet. Beginning July 1, 1972, and on the first day of each month thereafter, the share of each eligible and participating local unit of government shall be distributed from the Law Enforcement Foundation Program fund.

Section 27. KRS 15.490 is amended to read as follows:

- (1) Each participating local unit of government shall submit reports to the Justice and Public Safety Cabinet on March 31, June 30, September 30 and December 31 of each year containing information relative to number, rank, education, training, and compensation of police officers employed by it and the disposition made of any state or other funds received pursuant to KRS 15.410 to 15.510. Nothing in this section shall prohibit the Justice and Public Safety Cabinet from requiring additional information or reports from participating local units of government;
- (2) Local units of government shall include the additional compensation paid to each police officer from the Law Enforcement Foundation Program fund as a part of the officer's salary in determining all payroll deductions.

Section 28. KRS 15.500 is amended to read as follows:

- (1) If funds appropriated by the General Assembly and otherwise made available to the Law Enforcement Foundation Program fund are insufficient to provide the amount of money required by KRS 15.460, the Justice and Public Safety Cabinet shall establish the rate of assistance to be paid to eligible local units of governments.
- (2) Funds unexpended by the Justice and Public Safety Cabinet at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund pursuant to KRS 15.430, 42.190 and 136.392, shall not lapse as provided by KRS 45.229, but shall be carried forward into the following fiscal year, and shall be used solely for the purposes specified in KRS 15.410 to 15.500.

Section 29. KRS 15.510 is amended to read as follows:

An appeal may be taken from any decision of the Justice and Public Safety Cabinet to withhold or terminate payment from the Law Enforcement Foundation Program fund to any local unit of government. Appeals shall be taken to the Circuit Court of the county where the controversy originates.

Section 30. KRS 15.540 is amended to read as follows:

- (1) An agency hiring a telecommunicator after July 15, 2006, shall certify to the Department of Criminal Justice Training before admission to the telecommunicator training program that the telecommunicator:
 - (a) Is a citizen of the United States and has reached the age of majority;
 - (b) Is a high school graduate or has received a general equivalency diploma (GED);
 - (c) Has not been convicted of a felony or other crimes involving moral turpitude as determined by submission of each applicant's fingerprints to the information systems section of the Department of Kentucky State Police and to the Federal Bureau of Investigation identification division, and by such other investigations as required by the hiring agency;
 - (d) Has taken a psychological suitability screening administered or approved by the Kentucky Law Enforcement Council to determine his or her suitability to perform the duties of a telecommunicator. Any agency that administers its own suitability screening shall certify the results to the department;
 - (e) Has taken a polygraph examination administered or approved by the Kentucky Law Enforcement Council to determine his or her suitability to perform the duties of a telecommunicator. Any agency that administers its own polygraph examination shall certify the results to the department; and

- (f) Has passed a drug screening administered or approved by the Kentucky Law Enforcement Council. A person shall be deemed to have passed a drug screening if the results are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own screening shall certify passing results to the department.
- (2) Provisions of the Open Records Act, KRS 61.870 to 61.884, to the contrary notwithstanding, the applicant's home address, telephone number, date of birth, Social Security number, and results of any background investigation, psychological suitability screening, and polygraph examination conducted under this section shall not be subject to disclosure.

Section 31. KRS 15.565 is amended to read as follows:

- (1) No person shall receive an official appointment on a permanent basis as a CJIS telecommunicator unless that person has previously been awarded a certificate by the Kentucky Law Enforcement Council attesting to that person's satisfactory completion of the CJIS telecommunications academy. Every person who is employed after July 15, 2006, as a CJIS telecommunicator shall forfeit his or her position as such unless, within six (6) months from the date of employment, that person satisfactorily completes the CJIS telecommunications academy and is awarded a certificate attesting thereto. The council shall waive the training requirements listed in this section and award a CJIS telecommunicator certificate for all CJIS telecommunicators who are serving on July 15, 2006, and have successfully completed the CJIS-full access course.
- (2) A non-CJIS telecommunicator who gains employment as a CJIS telecommunicator shall successfully complete the CJIS-full access course within six (6) months from the date of his or her employment. A non-CJIS telecommunicator whose employing agency initiates the use of CJIS shall successfully complete the CJIS-full access course within six (6) months from the date that the agency initiates the use of CJIS.
- (3) All CJIS telecommunicators, whether originally employed before or after July 15, 2006, shall successfully complete each calendar year an in-service training course, appropriate to their job assignment and responsibility, of at least eight (8) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council.
- (4) All CJIS telecommunicators, whether originally employed before or after July 15, 2006, shall successfully complete eight (8) hours of CJIS in-service training every two (2) years at a school certified or recognized by the Kentucky Law Enforcement Council.
- (5) Extensions of time in which to complete the training specified in this section may be granted by the commissioner of the Department of Kentucky State Police or the commissioner's designee.
- (6) A CJIS telecommunicator who fails to complete the training within a period of six (6) months and any extension of time granted under this section shall be terminated by the employing agency and shall not be permitted to serve as a telecommunicator with any governmental agency in the Commonwealth for a period of one (1) year.

Section 32. KRS 15.570 is amended to read as follows:

The secretary of justice and public safety shall with the approval of the Kentucky Law Enforcement Council waive the basic telecommunicator training program and certify applicants who furnish evidence of satisfactory completion of a basic law enforcement telecommunicator training program which, in the council's opinion, is comparable to that of the training program.

Section 33. KRS 15.706 is amended to read as follows:

- (1) The Prosecutors Advisory Council shall collect statistical data regarding the investigation, prosecution, dismissal, conviction, or acquittal of any person charged with committing, attempting to commit, or complicity to a sexual offense defined by KRS Chapter 510 involving a minor, incest involving a minor, use of a minor in a sexual performance, or unlawful transaction with a minor.
- (2) Each Commonwealth's attorney, each county attorney, the secretary of the Cabinet for Health and Family Services, the commissioner of the Department of Kentucky State Police, each Circuit Court clerk, and the Administrative Office of the Courts shall provide any data requested by the council for this purpose, on a form prescribed by the council, at intervals as the council may direct.
- (3) The council may contract with any other public agency to collect the data in lieu of collecting the data itself.
- (4) The Prosecutors Advisory Council may promulgate administrative regulations to specify information to be reported.
- (5) The information required to be reported by this section shall be provided by each Commonwealth's attorney and county attorney at the end of each quarter of the calendar year or as otherwise directed by the Prosecutors Advisory Council.
- (6) The Prosecutors Advisory Council and the Office of the Attorney General shall compile the information by county and issue a public report at least annually.
- (7) The public report shall not contain the name or identifying information of a victim or person not formally charged with the commission of child sexual abuse. Information collected by the Commonwealth's attorney or county attorney or by the Prosecutors Advisory Council containing data which cannot be published shall be excluded from inspection, unless by court order, from the Open Records Law.
- (8) Any Commonwealth's attorney or any county attorney who fails to report information as defined by this section or administrative regulation shall be subject to salary reduction as authorized by KRS 61.120.

Section 34. KRS 15.910 is amended to read as follows:

- (1) The state board shall be composed of the following members:
 - (a) The secretary of the Cabinet for Health and Family Services, the secretary of the Finance and Administration Cabinet, the chief state school officer, the commissioner of the Department of Kentucky State Police, and the Attorney General, or designees authorized to speak on their behalf; and
 - (b) Ten (10) public members appointed by the Governor. It is recommended that, as a group, the public members shall demonstrate knowledge in the area of child sexual abuse and exploitation prevention; shall be representative of the demographic composition of this state; and, to the extent practicable, shall be representative of all the following categories: parents, school administrators, law enforcement, the religious community, the legal community, the medical community, professional providers of child sexual abuse and exploitation prevention services, and volunteers in child sexual abuse and exploitation prevention services.
- (2) The term of each public member shall be three (3) years, except that of the public members first appointed, three (3) shall serve for three (3) years, three (3) for two (2) years, and four (4) for one (1) year. A public member shall not serve more than two (2) consecutive terms whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.
- (3) The Attorney General shall serve as chairman or designate a chairperson of the state board in which case the chairperson shall serve in that position at the pleasure of the Attorney General. The state board may elect other officers and committees as it considers appropriate.
- (4) There shall be no per diem compensation; however, the schedule for reimbursement of expenses for the public members of the state board shall be the same as for state employees. The reimbursement, executive director and staff salaries, and all actual and necessary operating expenses of the state board shall be paid from the trust fund, pursuant to an authorization as provided in KRS 15.935.

Section 35. KRS 15.942 is amended to read as follows:

The Justice and Public Safety Cabinet, the Attorney General, the Administrative Office of the Courts, and the Cabinet for Health and Family Services shall develop a training plan for investigation of child sexual abuse cases and protection of child sexual abuse victims within the Commonwealth. They may seek assistance from any educational, legal, and mental and physical health-care professionals needed for implementation of training programs.

Section 36. KRS 15.990 is amended to read as follows:

Any person who knowingly or willfully makes any false or fraudulent statement or representation in any record, report, or application to the council, department, or other agency of the Justice and Public Safety Cabinet under KRS 15.410 to 15.510 shall be fined not less than one hundred dollars (\$100) nor more than five hundred dollars (\$500), or imprisoned for not less than thirty (30) days nor more than ninety (90) days, or both.

SECTION 37. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

- (1) The Criminal Justice Council is hereby created within the Justice and Public Safety Cabinet.
- (2) The membership of the council shall consist of:
 - (a) The secretary of the Justice and Public Safety Cabinet, who shall serve as the chair;
 - (b) The Attorney General or his or her designee;
 - (c) The chair of the Judiciary Committee of the House of Representatives or his or her designee;
 - (d) The chair of the Judiciary Committee of the Senate or his or her designee;
 - (e) The executive director of the Administrative Office of the Courts or his or her designee;
 - (f) The president of the Kentucky Association of Criminal Defense Lawyers or his or her designee;
 - (g) The deputy secretary of the Justice and Public Safety Cabinet, who shall serve as the deputy chair;
 - (h) The commissioner of the Department of Kentucky State Police or his or her designee;
 - (i) The commissioner of the Department of Criminal Justice Training or his or her designee;
 - (j) The commissioner of the Department of Corrections or his or her designee;
 - (k) The commissioner of the Department of Juvenile Justice or his or her designee;
 - (l) The commissioner of the Department of Kentucky Vehicle Enforcement or his or her designee;
 - (m) A representative of the County Attorneys Association;
 - (n) The Public Advocate of Kentucky or his or her designee; and
 - (o) A representative of the Commonwealth's Attorneys Association.
- (3) The council shall undertake such research and other activities as may be authorized or directed by:
 - (a) The secretary of the Justice and Public Safety Cabinet; or
 - (b) The General Assembly.
- (4) Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and necessarily incurred in the performance of their duties. The council

shall meet on the call of its chair.

- (5) A simple majority of the members of the council shall constitute a quorum for the conduct of business at a meeting.
- (6) The council is authorized to establish committees and appoint additional persons who may not be members of the council, as necessary to effectuate its purposes.
- (7) The council's administrative functions shall be performed by the executive director of the Office of Legislative and Intergovernmental Services, appointed by the secretary of the Justice and Public Safety Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities.

Section 38. KRS 15A.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "~~Cabinet~~~~Secretary~~" means the ~~secretary of the~~ Justice and Public Safety Cabinet;
- (2) "Commissioner" means the commissioner of the Department of Juvenile Justice;
- (3) "Department" means the Department of Juvenile Justice;
- (4) "Facility" means any facility operating under the authority or control of the Department of Juvenile Justice; and
- (5) "~~Secretary~~~~Cabinet~~" means the secretary of the Justice and Public Safety Cabinet.

Section 39. KRS 15A.015 is amended to read as follows:

Deputy secretaries of justice and public safety shall be appointed by and directly responsible to the secretary and shall be the principal assistants and advisors to the secretary for all policies, programs and operations of the cabinet.

Section 40. KRS 15A.020 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall have the following departments:
 - (a) Department of Corrections;
 - (b) Department of Criminal Justice Training, which shall have the following divisions:
 - 1. Training Operations Division;
 - 2. Administrative Division; and
 - 3. Training Support Division;
 - (c) Department of Juvenile Justice, which shall have the following divisions:
 - 1. Division of Medical Services;
 - 2. Division of Western Region;
 - 3. Division of Central Region;
 - 4. Division of Eastern Region;
 - 5. Division of Southeastern Region;
 - 6. Division of Northern Region;
 - 7. Division of Administrative Services;
 - 8. Division of Program Services;
 - 9. Division of Placement Services;
 - 10. Professional Development Division;
 - 11. Mental Health Services Division; and
 - 12. Community Services Division.
 - (d) Department of Kentucky Vehicle Enforcement, headed by a commissioner appointed pursuant to KRS 12.040, which shall perform functions required by KRS Chapter 281 and other state and federal laws and administrative regulations relating to commercial vehicles and vehicles for hire and which shall perform such other functions as may be assigned by the secretary. The Department of Kentucky Vehicle Enforcement shall have the following divisions:
 - 1. Division of Field Operations East;
 - 2. Division of Field Operations West;
 - 3. Division of Special Operations; and,
 - 4. Division of Administrative Services.
 - (e) Department of Kentucky State Police, which shall have the following divisions:
 - 1. Administrative Division;
 - 2. Operations Division; and
 - 3. Technical Services Division; and

(f) Department for Public Advocacy, which shall have the following divisions:

1. Protection and Advocacy Division;
2. Division of Law Operations;
3. Division of Trial Services; and
4. Division of Post-Trial Services.

(2) Each department, except for the Department of Public Advocacy, shall be headed by a commissioner who shall be appointed by the secretary of justice and public safety with the approval of the Governor as required by KRS 12.040. Each commissioner shall be directly responsible to the secretary and shall have such functions, powers, and duties as provided by law and as the secretary may prescribe. The Department for Public Advocacy shall be headed by the public advocate, appointed as required by KRS 31.020, who shall be directly responsible to the Public Advocacy Commission. The Department of Public Advocacy is an independent state agency which shall be attached to the Justice and Public Safety Cabinet for administrative purposes only. The Justice and Public Safety Cabinet shall not have control over the Department of Public Advocacy's information technology equipment and use unless granted access by court order.

(3) The Justice and Public Safety Cabinet shall have the following offices:

- (a) Office of the Secretary, which shall be headed by a deputy secretary appointed pursuant to KRS 12.050 and responsible for the direct administrative support for the secretary and other duties as assigned by the secretary, and which, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
- (b) Office of Management and Administrative Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 and who shall be responsible to and report to the secretary and be responsible for all matters relating to human resources, state and federal grants management, including but not limited to the administration of KRS 15A.060, fiscal functions, management and daily operations of the information processing activities for the cabinet, and management and daily administrative services for the cabinet; and who, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
- (c) Office of Legal Services, which shall be headed by an executive director appointed pursuant to KRS 12.050 and KRS 12.210 to provide legal representation and services for the cabinet. The executive director shall be directly responsible to and report to the secretary and, with the approval of the secretary, may employ such attorneys appointed pursuant to KRS 12.210 and other staff as necessary to perform the duties, functions, and responsibilities of the office;
- (d) Office of Legislative and Intergovernmental Services, which shall be headed by an executive director appointed pursuant to KRS 12.050, and who shall be responsible for all matters relating to the provision of support to the Criminal Justice Council, legislative liaison services, and functions and duties vested in the Criminal Justice Council as described in Section 41 of this Act. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
- (e) Office of the Kentucky State Medical Examiner, which shall be headed by a chief medical examiner appointed pursuant to KRS 72.240 and who shall be responsible for all matters relating to forensic pathology and forensic toxicology and other duties as assigned by the secretary. The executive director, appointed pursuant to KRS 12.050, shall be responsible for all matters related to the administrative support of the Office of the State Medical Examiner. The executive director shall report directly to the secretary and with the approval of the secretary may employ such administrative support staff as necessary to perform the administrative duties, functions, and responsibilities of the office. The chief medical examiner shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the forensic duties, functions, and responsibilities of the office;
- (f) Office of Drug Control Policy, which shall be headed by an executive director appointed pursuant to KRS 12.050 and who shall be responsible for all matters relating to the research, coordination, and execution of drug control policy and for the management of state and federal grants including but not limited to the prevention and treatment related to substance abuse. By December 31 of each year, the Office of Drug Control Policy shall review, approve, and coordinate all current projects of any substance abuse program which is conducted by or receives funding through agencies of the executive branch. This oversight shall extend to all substance abuse programs which are principally related to the prevention or treatment, or otherwise targeted at the reduction, of substance abuse in the Commonwealth. The Office of Drug Control Policy shall promulgate administrative regulations consistent with enforcing this oversight authority. The executive director shall be directly responsible to and report to the secretary and may employ such staff as necessary to perform the duties, functions, and responsibilities of the office;
- (g) Office of Public Safety Training, which shall be headed by an executive director appointed pursuant to KRS 12.050 and who shall be responsible for all matters relating to the construction and operation of joint usage training facilities at the Public Safety Training Center for the cabinet. The Department of Criminal Justice

Training shall provide all administrative and logistical support for this office. The executive director shall be responsible to and report to the secretary for all matters relating to the construction and operation of joint usage training facilities at the Public Safety Training Center, and management, scheduling, maintenance, and daily operations of the Public Safety Training Center. The executive director, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office; and

- (h) Office of Investigations, which shall be headed by an executive director appointed pursuant to KRS 12.050 and who shall be responsible for investigating all complaints regarding the facilities, staff, treatment of juveniles, and other matters relating to the operation of the Justice and Public Safety Cabinet. If it appears that there is a violation of statutes, administrative regulations, policies, court decisions, the rights of juveniles who are subject to the orders of the department, or any other matter relating to the Justice and Public Safety Cabinet, the office shall report to the secretary of the Justice and Public Safety Cabinet who shall, if required, refer the matter to a law enforcement agency, Commonwealth's attorney, county attorney, the Attorney General, or federal agencies, as appropriate. The executive director shall be directly responsible to and report to the secretary and, with the approval of the secretary, may employ such staff as necessary to perform the duties, functions, and responsibilities of the office. The Office of Investigations may be used to investigate matters in which there is a suspicion of violation of written policy, administrative regulation, or statutory law within the Department of Public Advocacy only when such investigation will have no prejudicial impact upon a person who has an existing attorney-client relationship with the Department of Public Advocacy. Notwithstanding the provisions of this paragraph, investigation and discipline of KRS Chapter 16 personnel shall continue to be conducted by the Department of Kentucky State Police pursuant to KRS Chapter 16. The Office of Investigations shall conduct no other investigations [There is established within the cabinet a Department of State Police, a Department of Corrections, a Department of Juvenile Justice, and a Department of Criminal Justice Training. Each department shall be headed by a commissioner appointed by the secretary with the approval of the Governor as required by KRS 12.050. The commissioners shall be directly responsible to the secretary and shall perform such functions, powers, and duties as provided by law and as the secretary may prescribe].

Section 41. KRS 15A.030 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet, in addition to the departments, divisions, offices, and branches set forth in Section 40 of this Act [KRS 15A.020], shall consist of the following organizational units [which are hereby created or reestablished]:
- (a) Kentucky State Corrections Commission, supported by the Department of Corrections;
 - (b) Criminal Justice Council, supported by the Office of Legislative and Intergovernmental Services;
 - (c) Kentucky Law Enforcement Council, supported by the Department of Criminal Justice Training; and
 - (d) Kentucky Parole Board, supported by the cabinet.
- (2) Except for the Kentucky Parole Board, which shall be attached to the cabinet for administrative and support services only, each agency specified in this section shall:
- (a) Perform its duties as specified by law;
 - (b) Except as otherwise provided by law, be under the general direction and control of the secretary;
 - (c) Perform such other duties as may be assigned to the secretary; and
 - (d) Report to the secretary [(1) Office of the Secretary of Justice comprised of the secretary of justice, the Commission on Correction and Community Service, the Kentucky State Corrections Commission, the Office of the Criminal Justice Council, and the Criminal Justice Council. The Parole Board shall be attached to the Office of the Secretary for administrative and support purposes only.

(2) — Offices of Deputy Secretaries of Justice.

(3) — Office of the General Counsel.

(4) — Division of Kentucky State Medical Examiners Office.

(5) — Office of Management, Administrative, and Legal Services, which shall be responsible for providing information systems management, investigative services, and legal services to the Office of the Secretary. The office shall be headed by an executive director appointed by the secretary in accordance with KRS 12.050].

Section 42. KRS 15A.040 is amended to read as follows:

[(1) —] The Office of the Secretary of the Justice and Public Safety Cabinet [Criminal Justice Council] shall advise and recommend to the secretary of the Justice and Public Safety Cabinet, the Governor, and the General Assembly policies and direction for long-range planning regarding all elements of the criminal justice system. The office [council] shall also [review and make written recommendations on subjects including but not limited to administration of the criminal justice system, the rights of crime victims, sentencing issues, capital litigation, a comprehensive strategy to address gangs and gang problems, and the Penal Code. Recommendations for these and all other issues shall be submitted to the Governor and the Legislative Research Commission at least six (6) months prior to every regular session of the Kentucky General Assembly. The council shall]:

- (1) [(a) —] Make recommendations to the justice secretary with respect to the [Award [of] state and federal grants and ensure

that the grants are consistent with the priorities adopted by the Governor, the General Assembly, and the council;

(b) ~~Conduct comprehensive planning to promote the maximum benefits of grants;~~

(c) ~~Develop model criminal justice programs;~~

~~(2)(d)~~ Disseminate information on criminal justice issues and crime trends; and

~~((e) Work with community leaders to assess the influence of gangs and the problems that gangs cause for local communities, assist local communities in mobilizing community resources to address their problems, sponsor multidisciplinary training to help communities focus on proven strategies to address gang problems, and conduct an ongoing assessment of gang problems in local communities;~~

~~(f) Recommend any modifications of law necessary to insure that the laws adequately address problems identified in local communities relating to gangs;~~

~~(3)(g)~~ Provide technical assistance to all criminal justice agencies;

~~(h) Review and evaluate proposed legislation affecting criminal justice; and~~

~~(i) All reports and proposed legislation shall be presented to the Interim Joint Committee on Judiciary not later than July 1 of the year prior to the beginning of each regular session of the General Assembly.~~

~~(2) Membership of the Criminal Justice Council shall consist of the following:~~

~~(a) The secretary of the Justice Cabinet or his designee;~~

~~(b) The director of the Administrative Office of the Courts or his designee;~~

~~(c) The Attorney General or his designee;~~

~~(d) Two (2) members of the House of Representatives as designated by the Speaker of the House;~~

~~(e) Two (2) members of the Senate as designated by the President of the Senate;~~

~~(f) A crime victim, as defined in KRS Chapter 346, to be selected and appointed by the Governor;~~

~~(g) A victim advocate, as defined in KRS 421.570, to be selected and appointed by the Governor;~~

~~(h) A Kentucky college or university professor specializing in criminology, corrections, or a similar discipline to be selected and appointed by the Governor;~~

~~(i) The public advocate or his designee;~~

~~(j) The president of the Kentucky Sheriffs' Association;~~

~~(k) The commissioner of state police or his designee;~~

~~(l) A person selected by the Kentucky State Lodge of the Fraternal Order of Police;~~

~~(m) The president of the Kentucky Association of Chiefs of Police;~~

~~(n) A member of the Prosecutors Advisory Council as chosen by the council;~~

~~(o) The Chief Justice or a justice or judge designated by him;~~

~~(p) One (1) member of the Kentucky Association of Criminal Defense Lawyers, appointed by the president of the organization;~~

~~(q) One (1) member of the Kentucky Jailers' Association appointed by the president of the organization;~~

~~(r) One (1) member of the Circuit Clerks' Association;~~

~~(s) Three (3) criminal law professors, one each from the University of Kentucky College of Law, the Louis D. Brandeis School of Law at the University of Louisville, and the Salmon P. Chase College of Law at Northern Kentucky University, to be selected and appointed by the Governor;~~

~~(t) One (1) District Judge, designated by the Chief Justice;~~

~~(u) One (1) Circuit Judge, designated by the Chief Justice;~~

~~(v) One (1) Court of Appeals Judge, designated by the Chief Justice;~~

~~(w) One (1) representative from an organization dedicated to restorative principles of justice involving victims, the community, and offenders;~~

~~(x) One (1) individual with a demonstrated commitment to youth advocacy, to be selected and appointed by the Governor;~~

~~(y) The commissioner of the Department of Juvenile Justice or his designee;~~

~~(z) The commissioner of the Department of Corrections, or his designee;~~

~~(aa) The commissioner of the Department of Criminal Justice Training or his designee; and~~

~~(ab) The executive director of the Commonwealth Office of Technology.~~

~~(3) The secretary of justice shall serve ex officio as chairman of the council. Each member of the council shall have one (1) vote. Members of the council shall serve without compensation but shall be reimbursed for their expenses actually and~~

~~necessarily incurred in the performance of their duties.~~

~~(4) The council shall meet at least once every three (3) months.~~

~~(5) The council may hold additional meetings:~~

~~(a) On the call of the chairman;~~

~~(b) At the request of the Governor to the chairman; or~~

~~(c) At the written request of the members to the chairman, signed by a majority of the members.~~

~~(6) Two thirds (2/3) members of the council shall constitute a quorum for the conduct of business at a meeting.~~

~~(7) Failure of any member to attend two (2) meetings within a six (6) month period shall be deemed a resignation from the council and a new member shall be named by the appointing authority.~~

~~(8) The council is authorized to establish committees and appoint additional persons who may not be members of the council as necessary to effectuate its purposes, including but not limited to:~~

~~(a) Uniform Criminal Justice Information System committee;~~

~~(b) Committee on sentencing; and~~

~~(c) Penal Code committee.~~

~~(9) The council's administrative functions shall be performed by a full-time executive director, who shall also serve as the executive director of the office of the Criminal Justice Council, appointed by the secretary of the Justice Cabinet and supported by the administrative, clerical, and other staff as allowed by budgetary limitations and as needed to fulfill the council's role and mission and to coordinate its activities}.~~

Section 43. KRS 15A.060 is amended to read as follows:

The Office of Secretary of Justice and Public Safety shall serve as the state planning agency for purposes of compliance with the Federal Crime Control and Safe Streets Act of 1968, as amended, or subsequently adopted federal criminal justice legislation, ~~and provide staff services to the Criminal Justice Council relating to the administration of these federally supported programs}.~~

Section 44. KRS 15A.065 is amended to read as follows:

(1) The Department of Juvenile Justice shall be headed by a commissioner and shall develop and administer programs for:

(a) Prevention of juvenile crime;

(b) Identification of juveniles at risk of becoming status or public offenders and development of early intervention strategies for these children, and, except for adjudicated youth, participation in prevention programs shall be voluntary;

(c) Providing educational information to law enforcement, prosecution, victims, defense attorneys, the courts, the educational community, and the public concerning juvenile crime, its prevention, detection, trial, punishment, and rehabilitation;

(d) The operation of or contracting for the operation of postadjudication treatment facilities and services for children adjudicated delinquent or found guilty of public offenses or as youthful offenders;

(e) The operation or contracting for the operation, and the encouragement of operation by others, including local governments, volunteer organizations, and the private sector, of programs to serve predelinquent and delinquent youth;

(f) Utilizing outcome-based planning and evaluation of programs to ascertain which programs are most appropriate and effective in promoting the goals of this section;

(g) Conducting research and comparative experiments to find the most effective means of:

1. Preventing delinquent behavior;

2. Identifying predelinquent youth;

3. Preventing predelinquent youth from becoming delinquent;

4. Assessing the needs of predelinquent and delinquent youth;

5. Providing an effective and efficient program designed to treat and correct the behavior of delinquent youth and youthful offenders;

6. Assessing the success of all programs of the department and those operated on behalf of the department and making recommendations for new programs, improvements in existing programs, or the modification, combination, or elimination of programs as indicated by the assessment and the research; and

(h) Seeking funding from public and private sources for demonstration projects, normal operation of programs, and alterations of programs.

(2) The Department of Juvenile Justice may contract, with or without reimbursement, with a city, county, or urban-county government, for the provision of probation, diversion, and related services by employees of the contracting local government.

- (3) The Department of Juvenile Justice may contract for the provision of services, treatment, or facilities which the department finds in the best interest of any child, or for which a similar service, treatment, or facility is either not provided by the department or not available because the service or facilities of the department are at their operating capacity and unable to accept new commitments. The department shall, after consultation with the Finance and Administration Cabinet, promulgate administrative regulations to govern at least the following aspects of this subsection:
- (a) Bidding process; and
 - (b) Emergency acquisition process.
- (4) The Department of Juvenile Justice shall develop programs to:
- (a) Ensure that youth in state-operated or contracted residential treatment programs have access to an ombudsman to whom they may report program problems or concerns;
 - (b) Review all treatment programs, state-operated or contracted, for their quality and effectiveness; and
 - (c) Provide mental health services to committed youth according to their needs.
- (5) (a) The Department of Juvenile Justice shall have an advisory board appointed by the Governor, which shall serve as the advisory group under the Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415, as amended, and which shall provide a formulation of and recommendations for meeting the requirements of this section not less than annually to the Governor, the Justice and Public Safety Cabinet, the Department of Juvenile Justice, the Cabinet for Health and Family Services, the Interim Joint Committees on Judiciary and on Appropriations and Revenue of the Legislative Research Commission when the General Assembly is not in session, and the Judiciary and the Appropriations and Revenue Committees of the House of Representatives and the Senate when the General Assembly is in session. The advisory board shall develop program criteria for early juvenile intervention, diversion, and prevention projects, develop statewide priorities for funding, and make recommendations for allocation of funds to the Commissioner of the Department of Juvenile Justice. The advisory board shall review grant applications from local juvenile delinquency prevention councils and include in its annual report the activities of the councils. The advisory board shall meet not less than quarterly.
- (b) The advisory board shall be chaired by a private citizen member appointed by the Governor and shall serve a term of two (2) years and thereafter be elected by the board. The members of the board shall be appointed to staggered terms and thereafter to four (4) year terms. The membership of the advisory board shall consist of no fewer than fifteen (15) persons and no more than thirty-three (33) persons who have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice. A majority of the members shall not be full-time employees of any federal, state, or local government, and at least one-fifth (1/5) of the members shall be under the age of twenty-four (24) years at the time of appointment. On July 15, 2002, any pre-existing appointment of a member to the Juvenile Justice Advisory Board and the Juvenile Justice Advisory Committee shall be terminated unless that member has been re-appointed subsequent to January 1, 2002, in which case that member's appointment shall continue without interruption. The membership of the board shall include the following:
- 1. Three (3) current or former participants in the juvenile justice system;
 - 2. An employee of the Department of Juvenile Justice;
 - 3. An employee of the Cabinet for Health and Family Services;
 - 4. A person operating alternative detention programs;
 - 5. An employee of the Department of Education;
 - 6. An employee of the Department of Public Advocacy;
 - 7. An employee of the Administrative Office of the Courts;
 - 8. A representative from a private nonprofit organization with an interest in youth services;
 - 9. A representative from a local juvenile delinquency prevention council;
 - 10. A member of the Circuit Judges Association;
 - 11. A member of the District Judges Association;
 - 12. A member of the County Attorneys Association;
 - 13. A member of the County Judge/Executives Association;
 - 14. A person from the business community not associated with any other group listed in this paragraph;
 - 15. A parent not associated with any other group listed in this paragraph;
 - 16. A youth advocate not associated with any other group listed in this paragraph;
 - 17. A victim of a crime committed by a person under the age of eighteen (18) not associated with any other group listed in this paragraph;
 - 18. A local school district special education administrator not associated with any other group listed in this paragraph;

- 19. A peace officer not associated with any other group listed in this paragraph; and
- 20. A college or university professor specializing in law, criminology, corrections, psychology, or similar discipline with an interest in juvenile corrections programs.
- (c) Failure of any member to attend three (3) meetings within a calendar year shall be deemed a resignation from the board. The board chair shall notify the Governor of any vacancy and submit recommendations for appointment.
- (6) The Department of Juvenile Justice shall, in cooperation with the Department of Public Advocacy, develop a program of legal services for juveniles committed to the department who are placed in state-operated residential treatment facilities and juveniles in the physical custody of the department who are detained in a state-operated detention facility, who have legal claims related to the conditions of their confinement involving violations of federal or state statutory or constitutional rights. This system may utilize technology to supplement personal contact. The Department of Juvenile Justice shall promulgate an administrative regulation to govern at least the following aspects of this subsection:
 - (a) Facility access;
 - (b) Scheduling; and
 - (c) Access to residents' records.
- (7) The Department of Juvenile Justice may, if space is available and conditioned upon the department's ability to regain that space as needed, contract with another state or federal agency to provide services to youth of that agency.

Section 45. KRS 15A.090 is amended to read as follows:

The secretary shall establish the internal organization of the cabinet not *otherwise* established *by the Governor or the General Assembly* ~~[in 1974 Acts, Chapter 74]~~ and shall organize the cabinet into such organizational units as the secretary deems necessary to perform the functions, powers and duties of the cabinet, subject to the provisions of KRS Chapter 12.

Section 46. KRS 15A.160 is amended to read as follows:

The secretary may promulgate administrative regulations in accordance with KRS Chapter 13A *and direct proceedings and actions for the administration of all laws and functions which are vested in the cabinet except laws and functions vested in the Department of Public Advocacy.*

Section 47. KRS 15A.190 is amended to read as follows:

- (1) The Justice *and Public Safety* Cabinet in consultation with the Cabinet for Health and Family Services, the Kentucky Commission on Women, and any other agency concerned with particular acts of criminal activity, shall design, print, and distribute to all law enforcement agencies in the Commonwealth, a uniform reporting form which provides statistical information relating to the crimes involving domestic violence, child abuse, victimization of the elderly, including but not limited to elder abuse, neglect, and exploitation and other crimes against the elderly, or any other particular area of criminal activity deemed by the secretary of justice *and public safety* to require research as to its frequency.
- (2) The provision of subsection (1) of this section concerning the distribution of forms shall become effective on January 1, 2006.

Section 48. KRS 15A.195 is amended to read as follows:

- (1) No state law enforcement agency or official shall stop, detain, or search any person when such action is solely motivated by consideration of race, color, or ethnicity, and the action would constitute a violation of the civil rights of the person.
- (2) The secretary of the Justice *and Public Safety* Cabinet, in consultation with the Kentucky Law Enforcement Council, the Attorney General, the ~~Department~~*Office* of Criminal Justice Training, the secretary of the Transportation Cabinet, the *Department of* Kentucky State Police, the secretary of the Environmental and Public Protection Cabinet, and the commissioner of the Department of Public Protection, shall design and implement a model policy to prohibit racial profiling by state law enforcement agencies and officials.
- (3) The Kentucky Law Enforcement Council shall disseminate the established model policy against racial profiling to all sheriffs and local law enforcement officials, including local police departments, city councils, and fiscal courts. All local law enforcement agencies and sheriffs' departments are urged to implement a written policy against racial profiling or adopt the model policy against racial profiling as established by the secretary of the Justice *and Public Safety* Cabinet within one hundred eighty (180) days of dissemination of the model policy. A copy of any implemented or adopted policy against racial profiling shall be filed with the Kentucky Law Enforcement Council and the Kentucky Law Enforcement Foundation Program Fund.
- (4) (a) Each local law enforcement agency that participates in the Kentucky Law Enforcement Foundation Program fund under KRS 15.420 in the Commonwealth shall implement a policy, banning the practice of racial profiling, that meets or exceeds the requirements of the model policy disseminated under subsection (3) of this section. The local law enforcement agency's policy shall be submitted by the local law enforcement agency to the secretary of the Justice *and Public Safety* Cabinet within one hundred eighty (180) days of dissemination of the model policy by the Kentucky Law Enforcement Council under subsection (3) of this section. If the local law enforcement agency fails to submit its policy within one hundred eighty (180) days of dissemination of the model policy, or the secretary rejects a policy submitted within the one hundred and eighty (180) days, that agency shall not receive Kentucky Law Enforcement Foundation Program funding until the secretary approves a policy submitted by the

agency.

- (b) If the secretary of the Justice and Public Safety Cabinet approves a local law enforcement agency's policy, the agency shall not change its policy without obtaining approval of the new policy from the secretary of the Justice and Public Safety Cabinet. If the agency changes its policy without obtaining the secretary's approval, the agency shall not receive Kentucky Law Enforcement Foundation Program funding until the secretary approves a policy submitted by the agency.
- (5) Each local law enforcement agency shall adopt an administrative action for officers found not in compliance with the agency's policy. The administrative action shall be in accordance with other penalties enforced by the agency's administration for similar officer misconduct.

Section 49. KRS 15A.197 is amended to read as follows:

The Justice and Public Safety Cabinet and its agencies may provide state personnel, state property, and other state resources to Trooper Island Incorporated.

Section 50. KRS 15A.310 is amended to read as follows:

- (1) The Department of Juvenile Justice, the Cabinet for Health and Family Services, the Department of Corrections, the Administrative Office of the Courts, and the Department of Kentucky State Police shall be responsible for the recording of those data elements for juveniles that are needed for the development of the centralized criminal history record information system.
- (2) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440.
- (3) The Department of Juvenile Justice shall provide access to Commonwealth's attorneys, county attorneys, law enforcement agencies, the Department of Kentucky State Police, the Department of Corrections, the Cabinet for Health and Family Services, and the Administrative Office of the Courts to its database.

Section 51. KRS 15A.350 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall establish a motorcycle safety education program. The program shall provide for instructor training courses, instructor approval, and rider training courses for novice riders that shall be held at locations throughout the state. The program may provide for the following:
 - (a) Rider training courses for experienced riders;
 - (b) Activities to increase the awareness of a motorcyclist's knowledge of the effects of alcohol and drug use;
 - (c) Driver improvement efforts;
 - (d) Licensing improvement efforts;
 - (e) Program promotion activities;
 - (f) Enhancement of the public's awareness of motorcycles; and
 - (g) Enhancement of motorcycle safety through education.
- (2) The Justice and Public Safety Cabinet shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the development of standards for, and the administration of, a motorcycle safety education program. Standards for the motorcycle rider training courses shall include standards for course content, delivery, curriculum, materials, student evaluation, and the training and approval of instructors. Standards shall meet or exceed established national standards for motorcycle rider training courses prescribed by the Motorcycle Safety Foundation.

Section 52. KRS 15A.358 is amended to read as follows:

- (1) The motorcycle safety education program fund is established as a restricted fund in the State Treasury. Moneys in the fund are hereby appropriated for the purposes set forth in KRS 15A.350 to 15A.366. Moneys in the fund shall be utilized to provide motorcycle training courses as established in KRS 15A.352 and for implementation of the program, including reimbursement of entities that offer approved motorcycle rider education courses. The Justice and Public Safety Cabinet shall not deduct administrative costs from the motorcycle safety education program fund.
- (2) If at the end of each fiscal year money remains in the fund, it shall be retained in the fund. The interest and income earned on money in the fund, after deducting any applicable charges, shall be credited to the motorcycle safety education program fund.
- (3) The following revenue shall be credited to the fund:
 - (a) Four dollars (\$4) of the annual registration fee for each registered motorcycle as provided in KRS 186.050;
 - (b) Four dollars (\$4) of the application fee for a motorcycle instruction permit as provided in KRS 186.531;
 - (c) Four dollars (\$4) of the fee for each original or renewal motorcycle driver's license or endorsement as provided in KRS 186.531; and
 - (d) Any federal or state motorcycle safety funds granted to the program.

Section 53. KRS 15A.360 is amended to read as follows:

The Justice and Public Safety Cabinet shall report monthly to the Interim Joint Committee on Appropriations and Revenue on the

revenues deposited into the motorcycle safety education program fund, the expenditures incurred, and the available balance in the fund. In addition, the ~~Justice~~ cabinet shall identify the safety programs provided, the cost of the programs, location, and number of attendees. To facilitate the timely reporting of data under this section, the cabinet shall enter into agreements with entities that provide the training to require monthly billing and attendance records.

Section 54. KRS 15A.362 is amended to read as follows:

- (1) The Motorcycle Safety Education Commission is established as an independent body to help foster the growth and development of the motorcycle safety education program established under KRS 15A.350.
- (2) The Motorcycle Safety Education Commission shall be comprised of seven (7) members, appointed as follows:
 - (a) One (1) representative of the Department of Kentucky State Police, appointed by the Governor;
 - (b) One (1) representative of the Transportation Cabinet's Division of Driver Licensing, appointed by the Governor;
 - (c) One (1) instructor in the motorcycle safety education program, appointed by the Governor;
 - (d) Two (2) members of the Kentucky Motorcycle Association, to be appointed by the Governor from a list of five (5) nominees selected by the association;
 - (e) One (1) member appointed by the Governor from a list of three (3) nominees selected by the President of the Senate; and
 - (f) One (1) member appointed by the Governor from a list of three (3) nominees selected by the Speaker of the House of Representatives.
- (3) Members of the Motorcycle Safety Education Commission shall serve a term of four (4) years. Sitting members shall be eligible to succeed themselves.
- (4) Commission members shall receive no compensation for their services, and shall not be compensated for expenses incurred from travel or in connection with the performance of their duties as commission members.
- (5) The commission shall elect its chair and vice chair from its membership.
- (6) The commission shall meet quarterly or upon the call of the chair or the request of the secretary of the Justice and Public Safety Cabinet.
- (7) The commission may take action only at meetings where a quorum is present.
- (8) The commission shall keep a record of its meetings and recommendations.

Section 55. KRS 15A.364 is amended to read as follows:

The Motorcycle Safety Education Commission shall have the following responsibilities:

- (1) Approve any administrative regulation relating to the motorcycle safety education program promulgated by the cabinet prior to the administrative regulation being filed with the Legislative Research Commission pursuant to KRS Chapter 13A;
- (2) Approve any proposal by the cabinet to contract for services pursuant to KRS Chapter 45A or any interagency agreement for services relating to the motorcycle safety education program prior to the issuance of the contract or the agreement;
- (3) Approve all expenditures of money relating to the motorcycle safety education program which has not been specifically authorized in the biennial budget;
- (4) Establish for the ~~Justice~~ cabinet the short-range and long-range goals to promote the continued growth and expansion of the motorcycle safety education program;
- (5) Make recommendations regarding the administration of the motorcycle safety education program;
- (6) Ensure that the ~~Justice~~ cabinet and the motorcycle safety education program is informed on the views and philosophies of interested parties; and
- (7) Act as a communication channel between the relevant state agencies and motorcyclists and the general public.

Section 56. KRS 16.010 is amended to read as follows:

As used in KRS 16.030 to 16.170, unless the context requires otherwise:

- (1) "Cabinet" means the Justice and Public Safety Cabinet;
- (2) "Secretary" means the secretary of justice and public safety;
- (3) "Commissioner" means the commissioner of the Department of Kentucky State Police;
- (4) "Officer" means any member of the Department of Kentucky State Police who possesses the powers of a peace officer;
- (5) "Civilian" means such experts, statisticians, clerks, and other assistants who do not possess the powers of a peace officer;
- (6) "Board" means the Department of Kentucky State Police Personnel Board; and
- (7) "Department" means the Department of Kentucky State Police.
- (8) "Continuous service" for participation in and eligibility for the promotional process for each rank means:
 - (a) For sergeant, service as a commissioned Kentucky State Police officer that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, or termination;

2007 Regular Session

- (b) For lieutenant, service in grade as a sergeant that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, termination, or by demotion in accordance with KRS 16.140;
- (c) For captain, service in grade as lieutenant that has not been interrupted by actual separation from the department, whether in the form of resignation, retirement, termination, or by demotion in accordance with KRS 16.140.

Section 57. KRS 16.050 is amended to read as follows:

- (1) The commissioner shall appoint or promote to the ranks and grades and positions of the department such officers as are considered by him or her to be necessary for the efficient administration of the department. Notwithstanding the provisions of KRS 64.640, the commissioner of the Department of Kentucky State Police and the secretary of the Personnel Cabinet shall biennially conduct a salary survey, by rank, of State Police/highway patrol officers in those states adjoining Kentucky. The salaries of such officers of equal rank in those states surveyed shall be averaged, and such averages where the average for that rank exceeds the salary paid to Kentucky officers of that rank in the preceding biennium, shall be included in the department's budget request submitted to the Kentucky General Assembly.
- (2) All initial appointments of officers to the department shall be made for merit and fitness after a competitive examination.
- (3) There is created a Department of Kentucky State Police Personnel Board consisting of the commissioner and four (4) other members to be appointed by the Governor, two (2) to be appointed from each of the two (2) major political parties.
- (4) The initial appointment of members of the board shall be for terms of one (1), two (2), three (3), and four (4) years. Thereafter each appointment shall be for a term of four (4) years, except that a person appointed to fill a vacancy occurring prior to the expiration of a term shall be appointed for the remainder of that term.
- (5) Members of the board may be removed by the Governor only for cause, after being given a copy of charges against them and an opportunity to be heard publicly on such charges before the Governor.
- (6) The board shall elect one (1) of its members chairman. It shall meet at such time and place as shall be specified by call of the commissioner. Three (3) members shall constitute a quorum for the transaction of business. Members of the board other than the commissioner shall receive compensation of fifty dollars (\$50) and reimbursement of travel expenses for each meeting of the board which they attend.
- (7) The board shall promulgate~~make~~ administrative regulations to carry out the purposes herein, which shall include provisions for:
 - (a) Open competitive examination as to fitness of applicants for employment as officers; and
 - (b) Establishment of eligible lists as a result of such competitive examinations, from which lists vacancies shall be filled.
- (8) The board shall hear appeals from applicants for employment for which examinations are being given or have been conducted and from eligibles on examination registers subject to the procedural rules which the board may adopt pursuant to the provisions of this section.

Section 58. KRS 16.055 is amended to read as follows:

- (1) Promotions to sergeant within the department shall be on the following terms and conditions:
 - (a) The applicant must have served six (6) years of continuous service as a commissioned State Police officer to be eligible for promotion to sergeant;
 - (b) Promotions shall be based on cumulative scores computed from twenty percent (20%) on personnel performance evaluation, forty percent (40%) on job simulation examination, and forty percent (40%) on a written examination;
 - (c) The promotional list shall continue in existence for one (1) year, shall consist of the numerical scores and rankings of each applicant, and promotions shall be made in consecutive order beginning with the highest numerical ranking to fill an interim vacancy. When two (2) or more applicants receive the same numerical score, the order of placement on the list shall be determined by seniority of service. Upon the determination of a new numerical ranking following a new examination, all previous rankings shall be null and void;
 - (d) The written examination shall be prepared and administered by an individual designated by the commissioner. The materials and textbooks will be selected by the commissioner and his or her staff. The commissioner will inform all applicants at least three (3) months prior to the examination date of the exact material from which test questions will be taken;
 - (e) The written test shall be administered to all applicants at the same time. Immediately upon completion of the written test the applicant will receive his or her numerical score. Such numerical score shall remain valid for a period of two (2) years following the date of examination unless the source material upon which the test is based is changed by more than thirty percent (30%);
 - (f) The job simulation examination shall be evaluated by boards designated by the commissioner consisting of the commissioner or his or her designated appointee not lower than rank of captain, an officer from another police agency of the rank equal to the position for which the applicant is competing, an instructor from an accredited law enforcement education program, a personnel director from private industry, and an officer from the Kentucky State Police of the rank equal to the position for which the applicant is competing;

- (g) The designated job simulation examination boards will perform all evaluations under guidelines developed and approved by the commissioner; and
 - (h) Personnel evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the commissioner.
- (2) Promotions from sergeant to lieutenant within the department shall be on the same terms and conditions as promotions to sergeant. In addition, any applicant for lieutenant must have completed at least one (1) year of continuous service in grade as sergeant.
 - (3) Promotions from lieutenant to captain within the department shall be on the same terms and conditions as promotions to lieutenant. In addition, any applicant for captain must have completed at least one (1) year of continuous service in grade as lieutenant.
 - (4) The department will develop and administer only one (1) test for each of the above ranks. All eligible applicants will be permitted to participate in the promotional process to the next highest position of responsibility wherever a vacancy exists.
 - (5) Officers promoted to rank of sergeant, lieutenant, or captain shall serve a probationary period for one (1) year of continuous service from the effective date of their promotions, and may be reverted to their previous rank with or without cause at any time during this period.
 - (6) The provisions of KRS 16.140 to the contrary notwithstanding, all ranks above the grade of captain are temporary and shall not be subject to the provisions for selection and promotion as required herein. All officers in such temporary positions shall serve at the pleasure of the commissioner and shall revert to their previous permanent rank upon the termination of their temporary appointment.
 - (7) The total number of supervisory officers of all classifications shall be limited to a ratio not to exceed one (1) supervisor for every five (5) nonsupervisory officers.
 - (8) No officer of the department, other than temporary positions above the rank of captain, shall be promoted to the next highest rank without competing with other officers as prescribed by this promotional procedure.
 - (9) There shall be no discrimination based on race, sex, age, national origin, color, religion, creed, or political affiliation with respect to the department promotional system. All personnel actions are to be based solely on merit.

Section 59. KRS 16.065 is amended to read as follows:

In addition to the performance of all duties relating to the Department of Kentucky State Police, the department~~[of State Police]~~ shall perform the following functions:

- (1) Security of state facilities located in Frankfort;
- (2) Highway enforcement; and
- (3) Water safety enforcement as provided in KRS Chapter 235.

Section 60. KRS 16.070 is amended to read as follows:

- (1) The commissioner is the head and chief executive officer of the department. He or she shall provide for himself or herself and each officer of the department, under the provisions of KRS 45A.045 to 45A.650, such uniforms, equipment, and facilities, including motor vehicles, necessary to the performance off~~his or~~ their respective duties, but all uniforms, equipment, and facilities, including motor vehicles, shall remain the property of the Commonwealth. The commissioner may sell through the Finance and Administration Cabinet, under the provisions of KRS 45A.045 to 45A.650, such uniforms, equipment, and facilities, including motor vehicles, as become unfit for use, and all moneys received therefrom shall be paid into the State Treasury and credited to a revolving fund to be used by the department.
- (2) The commissioner shall keep an inventory and shall charge against each officer the value of all property of the department issued to him or her, and if it is determined by the commissioner that any loss or destruction of property was due to the carelessness or neglect of an officer, then the value of the property shall be deducted from the pay of the officer.
- (3) By agreement with the commissioner of highways of the Commonwealth, the commissioner of the Department of Kentucky State Police may provide for the leasing of motor vehicles and accessories thereto, radio facilities and equipment, office equipment and other property or facilities, upon such terms and conditions and for such compensation as said agreement may provide. The commissioner of highways and the commissioner of Department of Kentucky State Police may further provide, by agreement, for the service and repair at any state garage of motor vehicles or accessories thereto which are owned, operated, or rented by the department, upon such terms and conditions and for such compensation as said agreement may provide. Subject to KRS Chapter 42, the department is authorized, by lease or purchase, to acquire, maintain, and operate motor vehicles, and the officers of said department, including the commissioner, are authorized and empowered to operate such motor vehicles in the course of their duties, and in carrying out the purposes, responsibilities, and functions provided for in KRS 16.010 to 16.170.
- (4) The commissioner shall establish local headquarters so as to best distribute the officers and employees of the department throughout the various sections of the Commonwealth where they will be most efficient in carrying out the provisions of KRS 16.010 to 16.170.

Section 61. KRS 16.075 is amended to read as follows:

2007 Regular Session

- (1) The Department of Kentucky State Police may secure such automobile liability insurance as will reasonably protect the interest of members of the State Police when in the conduct of official business.
- (2) Policies authorized by this section shall be purchased only in accordance with regulations prescribed by the executive director of insurance and the secretary of the Finance and Administration Cabinet.

Section 62. KRS 16.080 is amended to read as follows:

- (1) The commissioner shall promulgate administrative~~adopt, formulate, alter, and repeal rules and~~ regulations for the enlistment, training, discipline, and conduct of officers of the department and he or she may promulgate administrative~~make any other rules and~~ regulations for the governing and operation of the department as appear to him or her reasonably necessary to carry out the provisions of KRS 16.010 to 16.170.
- (2) The commissioner may require any officer or civilian who receives or disburses public funds in the course of his or her duties to file a bond, conditioned that he or she will honestly, correctly, and according to law, receive, disburse, and account for all public moneys coming into his or her hands. The commissioner and each officer shall execute a bond to the Commonwealth of Kentucky in the sum of not less than two thousand dollars (\$2,000), conditioned upon the faithful discharge of his or her duties. The premium on the bonds shall be paid by the department. The commissioner and each officer of the department shall, before entering upon the discharge of their official duties, take the constitutional oath of office.
- (3) Subject to the provisions of KRS 56.440 to 56.550, the commissioner, with the approval of the Governor and the secretary of the Finance and Administration Cabinet, may acquire real estate or interests therein, by purchase, lease, or otherwise, necessary for the purposes of the department, and, with like approval, provide for the acquisition or construction of necessary buildings and other permanent structures and facilities. Title to any real estate acquired shall be taken in the name of the Commonwealth.

Section 63. KRS 16.090 is amended to read as follows:

The commissioner is authorized to organize and maintain a training school or schools for officers of the department, and in connection therewith to provide by administrative regulation the course and conduct of such training and the period of time for which any officer, or any applicant therefor, shall attend such school. The commissioner, under such administrative regulations as he or she may promulgate~~adopt~~, is further authorized, but shall not be required, to make such training facilities available to any local governing unit within this Commonwealth.

Section 64. KRS 16.095 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall require all officers employed by them to complete an educational course approved by the Cabinet for Health and Family Services on human immunodeficiency virus infection and acquired immunodeficiency syndrome. The Justice and Public Safety Cabinet shall develop literature on the human immunodeficiency virus infection and acquired immunodeficiency syndrome and a training curriculum of not more than four (4) hours for the instruction of officers. The literature and training curriculum shall include information of known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change. This training may be part of any other training required and for which law enforcement officers receive an allowance to attend. However, nonreceipt of allowance does not exclude a law enforcement officer from the training required in this section.
- (2) All officers shall successfully complete the training required. Any person holding the position of officer shall not exercise that position for more than one (1) year without successfully completing the required training. If an officer does not successfully complete the required training within the time specified, he or she shall be suspended from further service as an officer until he or she successfully completes the required training.

Section 65. KRS 16.165 is amended to read as follows:

Any Department of Kentucky State Police officer (as defined in KRS 16.010) who becomes disabled after July 1, 1977, as a direct result of an injury or disease arising out of the performance of a hazardous duty in the course of employment with the department may elect to be retained on the regular payroll of the department~~of State Police~~ subject to the following:

- (1) Compensation paid to the officer by the department shall be adjusted and maintained at the officer's regular rate of pay based upon the officer's rank and tenure with the department, and shall include annual increments, salary adjustments, and other benefits of employment, provided, however, such compensation paid to the officer by the department shall be reduced by the amount of payments received by the officer from workers' compensation insurance, Social Security benefits and other federal or state financed disability programs designed to supplement the officer's income for which the officer is qualified and elects participation. Final compensation shall not be reduced by payments for medical care. The disabled officer's regular rate of pay, without the reductions required by this subsection, shall be his creditable compensation for purposes of KRS 16.510 to 16.652.
- (2) Such officer shall be assigned by the commissioner of the Department of Kentucky State Police to a position in the department for which the officer~~he~~ is qualified, if the commissioner determines, based upon medical reports and recommendations submitted for that purpose, that the officer is able to perform limited duties. If it is determined that the officer is able to perform limited duties and refuses to accept an assignment from the commissioner, the officer shall not be eligible for the payment of compensation authorized by this section. If the commissioner determines that the officer is

unable to perform limited duties, the officer shall be eligible for the payment of compensation authorized by this section without the performance of limited duties. Any officer adversely affected or aggrieved by a final determination of the commissioner pursuant to this section may appeal within thirty (30) days to the local Circuit Court.

- (3) Payments made pursuant to this section shall continue until the officer is eligible for normal retirement allowances pursuant to KRS 16.576 or until the officer elects early retirement allowances pursuant to KRS 16.577 or disability retirement allowances pursuant to KRS 16.582. If the officer receives preretirement payments under this section or KRS 16.167 and subsequently elects disability retirement, the effective date of his disability retirement shall be the first month following the month in which the officer last receives preretirement payments under this section or KRS 16.167, KRS 16.505(16) to the contrary notwithstanding.
- (4) Any Department of Kentucky State Police officer, disabled prior to July 1, 1977, as a result of severe physical injuries arising out of the performance of duty, who is unable to maintain gainful employment as a result of such injuries, but who was ineligible for retention on the regular payroll because of the date of his injury, shall, if his or her time in active service plus his or her time on disability retirement allowance equal the time necessary for normal retirement pursuant to KRS 16.505(15), have his or her retirement allowance increased to the amount he or she would receive, had he or she been retained on the regular payroll of the department pursuant to this section and had he or she subsequently elected normal retirement pursuant to KRS 16.576 when first eligible, but any survivor option which he or she chose at the time of disability retirement shall not be changed.

Section 66. KRS 16.167 is amended to read as follows:

Prior to his or her retirement under KRS 16.510 to 16.652, any Department of Kentucky State Police officer (as defined in KRS 16.010) who became disabled on or before July 1, 1977, as a result of an injury or disease arising out of the performance of a hazardous duty in the course of his or her employment with the department may elect benefits under KRS 16.165, if he or she qualifies therefor, or he or she may elect to continue receiving preretirement benefits otherwise available to him or her due to the disability.

Section 67. KRS 16.175 is amended to read as follows:

- (1) The Department of Kentucky State Police, in cooperation with the Transportation Cabinet, the Division of Emergency Management, the Kentucky Broadcasters Association, and the Kentucky Press Association, shall operate a system to notify the public when a child has been abducted and the department~~[of State Police]~~ determines that public notification might aid in the recovery of the child. The system shall be known as the Kentucky Amber alert system.
- (2) The system shall utilize existing resources, including but not limited to electronic highway signs, the emergency broadcast system, law enforcement communications systems, and local, regional, and statewide media providers.
- (3) No public alert using the system shall be issued unless the department~~[of State Police]~~, in consultation with the law enforcement agency in the jurisdiction in which the abduction of a minor occurred, have determined:
 - (a) That the minor has actually been abducted or that all available evidence strongly indicates that the minor has been abducted;
 - (b) That public notification is the most appropriate method of recovering the child in a safe and efficient manner; and
 - (c) The geographic area in which the notification shall be made.
- (4) If it is determined by the department~~[of State Police]~~ that public notification shall be initiated, the department~~[of State Police]~~ shall notify the public and private agencies and organizations which will actually provide the notification and shall provide those organizations and agencies with the information which the department~~[of State Police]~~ deems necessary.
- (5) All law enforcement agencies in the Commonwealth shall cooperate with the department~~[of State Police]~~ in the provision and dissemination of information regarding any abducted minor.
- (6) No law enforcement agency, other than the department~~[of State Police]~~, shall activate the notification system specified in this section without the authority of the department~~[of State Police]~~.
- (7) The system shall be operated by all agencies of the Commonwealth within existing budgetary appropriations.

Section 68. KRS 16.185 is amended to read as follows:

- (1) Any officer who is sued for any act or omission in the line of duty and who has a judgment for monetary damages rendered against him or her in his or her individual capacity, and who personally suffers actual financial loss, unreimbursed from any source, by the enforcement and satisfaction of the judgment, including any costs or attorney fees awarded pursuant thereto, shall be indemnified by the Commonwealth, from funds appropriated to the Finance and Administration Cabinet for the payment of judgments, to the extent of his or her actual financial loss.
- (2) The indemnification shall be contingent upon an express determination by the commissioner that the act or omission which resulted in liability was within the scope and course of the officer's employment and occurred during the performance of duty and was committed or omitted in the good faith belief that the act or omission was lawful and proper.
- (3) If the officer seeking indemnification is the commissioner, the determination referred to in subsection (2) of this section shall be made by the Governor.
- (4) The indemnification shall not be construed to abrogate or limit any privilege, immunity, or matter of defense otherwise

2007 Regular Session

available to the officer and shall not constitute a waiver of any privilege, immunity, or matter of defense, including the sovereign immunity of the Commonwealth.

- (5) The indemnification shall not be the subject of comment, directly or indirectly, before any jury hearing any cause of action in which an officer is a party, and any comment before the jury shall result in an immediate mistrial.

Section 69. KRS 16.200 is amended to read as follows:

- (1) The Department of Kentucky State Police shall administer a program for the investigation of applications filed pursuant to KRS 514.130 and the disposition of property pursuant to KRS 500.090.
- (2) Upon a finding by the ~~department~~Department of Kentucky State Police or a local law enforcement agency assigned by the ~~department~~Department of Kentucky State Police to investigate an application filed pursuant to KRS 514.120 that the property is lawfully owned by the applicant, the ~~department~~Department of Kentucky State Police shall issue, or cause to be issued, in consultation with any state or federal regulatory agency, a suitable identification number to be affixed to the property together with a document stating the number so issued.
- (3) Upon a finding by the ~~department~~Department of Kentucky State Police or a local law enforcement agency assigned by the ~~department~~Department of Kentucky State Police to investigate an application filed pursuant to KRS 514.120 that the property is not lawfully owned by the applicant, the ~~department~~Department of Kentucky State Police shall seize the property or cause it to be seized by the local agency and held for disposition by a court of competent jurisdiction.
- (4) The ~~department~~Department of Kentucky State Police shall ~~promulgate~~issue such administrative regulations as are reasonably necessary to enforce the provisions of this section and KRS 500.090 and 514.130.

Section 70. KRS 16.210 is amended to read as follows:

- (1) Property taken by the Department of Kentucky State Police shall be placed with the property officer of the post to which the officer is assigned.
- (2) Property which is forfeited may be disposed of as provided by KRS 500.090; however, the proceeds of any sale shall go to the state or be distributed as otherwise provided by law.
- (3) All other property may be disposed of as provided in KRS 67.592 and 67.594 except that all proceeds from any sale shall go to the state.

Section 71. KRS 16.220 is amended to read as follows:

- (1) Subject to the duty to return confiscated firearms to innocent owners pursuant to KRS 500.090, all firearms confiscated by the Department of Kentucky State Police and not retained for official use pursuant to KRS 500.090 shall be sold at public auction to federally licensed firearms dealers holding a license appropriate for the type of firearm sold. The Department of Kentucky State Police shall transfer firearms that are to be sold to the Department for Facilities and Support Services, Division of Surplus Properties, for sale. Proceeds of the sale shall be transferred to the account of the Department for Local Government for use as provided in subsection (3) of this section. Prior to the sale of any firearm, the Department of Kentucky State Police shall make an attempt to determine if the firearm to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law.
- (2) The Department of Kentucky State Police shall receive firearms and ammunition confiscated by or abandoned to every law enforcement agency in Kentucky. The ~~department~~Department of Kentucky State Police shall dispose of the firearms received in the manner specified in subsection (1) of this section. However, firearms which are not retained for official use, returned to an innocent lawful owner, or transferred to another government agency or public museum shall be sold as provided in subsections (1) and (3) of this section.
- (3) The proceeds of firearms sales shall be utilized by the Department for Local Government to provide grants to city, county, charter county, and urban-county police departments, university safety and security departments organized pursuant to KRS 164.950 and sheriff's departments for the purchase of body armor for sworn peace officers of those departments and service animals, as defined in KRS 525.010, of those departments or for the purchase of firearms or ammunition. Body armor purchased by the department receiving grant funds shall meet or exceed the standards issued by the National Institute of Justice for body armor. No police or sheriff's department shall apply for a grant to replace existing body armor unless that body armor has been in actual use for a period of five (5) years or longer.
- (4) The Department of Kentucky State Police may transfer a machine gun, short-barreled shotgun, short-barreled rifle, silencer, pistol with a shoulder stock, any other weapon, or destructive device as defined by the National Firearms Act which is subject to registration under the National Firearms Act, and is not properly registered in the national firearms transfer records for those types of weapons, to the Bureau of Alcohol, Tobacco, and Firearms of the United States Department of the Treasury, after a reasonable attempt has been made to transfer the firearm to an eligible state or local law enforcement agency or to an eligible museum and no eligible recipient will take the firearm or weapon. National Firearms Act firearms and weapons which are properly registered and not returned to an innocent lawful owner or retained for official use as provided in this section shall be sold to properly licensed dealers under subsection (3) of this section.

Section 72. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

- (1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;
- (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- (3) "Employer" or "State Police" means the Department of Kentucky State Police, or its successor;
- (4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;
- (5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;
- (6) "Service" means the total of current service and prior service;
- (7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;
- (8) "Creditable compensation" means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);
- (9) "Final compensation" at any time means the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;
- (10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;
- (11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (12) "Retirement allowance" means the retirement payments to which a retired member is entitled;
- (13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;
- (14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of Kentucky State Police;
- (15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959;
- (16) "Disability retirement date" means the first day of the month following the last day of paid employment;
- (17) "Dependent child" means a child in the womb and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);
- (18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;
- (19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;

2007 Regular Session

- (20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;
- (21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;
- (22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;
- (23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;
- (27) "Person" means a natural person;
- (28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;
- (30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;
- (33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543; and
- (34) "Month" means a calendar month.

Section 73. KRS 16.520 is amended to read as follows:

- (1) Membership in the system shall consist of all regular full-time officers of the Department of Kentucky State Police appointed pursuant to KRS 16.050 who are entitled to exercise the powers of peace officers except those who do not choose to participate pursuant to KRS 61.545(3).
- (2) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

Section 74. KRS 16.543 is amended to read as follows:

- (1) Employee contributions shall be deducted from the creditable compensation of each member of the retirement system in the active employment of the Department of Kentucky State Police of the Justice and Public Safety Cabinet as an officer as defined in KRS 16.520. After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 16.545(4). Service credit shall be allowed for each month such member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he or she receives creditable compensation for one hundred (100) hours of work.
- (2) Contributions shall not be made and no service will be earned while on authorized leave except:
 - (a) A member shall be entitled to service credit in accordance with KRS 61.555; and
 - (b) A member on educational leave, approved by the Personnel Cabinet, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions or such contributions shall be

picked up in accordance with KRS 16.545 and his *or her* employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

- (3) The retirement office, upon detection, shall refund any erroneous employer and employee contributions made to the retirement system and any interest credited in accordance with KRS 16.560.

Section 75. KRS 17.110 is amended to read as follows:

- (1) All city and county law enforcement agencies shall cause a photograph, a set of fingerprints, and a general description report of all persons arrested on a felony charge to be made and two (2) copies of each item forwarded within thirty (30) days after the arrest to the Department of Kentucky State Police of the Justice and Public Safety Cabinet, in accordance with administrative regulations of the ~~Justice~~ cabinet. Unless the charges are dismissed or withdrawn at that appearance, the judge shall require any adult person appearing before any Circuit Court in the Commonwealth on a felony charge, who has not been arrested, to, if this has not already been done in the case before the court, be photographed and fingerprinted, and have a general description made following his arraignment. Agencies specified above shall furnish any other information involving offenses or in their possession relative to law enforcement upon request by the ~~Justice~~ cabinet.
- (2) Each city and county law enforcement agency shall advise the Department of Kentucky State Police of the disposition made of all cases wherein a person has been charged with an offense.

Section 76. KRS 17.115 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall:
- (a) Receive and file fingerprints, photographs, and other records pertaining to the investigation of crime and the apprehension of criminals; and
 - (b) Cooperate with the state, county, and city law enforcing agencies of other states and of the United States in order to develop and carry on an interstate and national system of criminal identification.
- (2) Persons in charge of any penal or correctional institution in the state, and all state law enforcement and peace officers operating identification facilities shall cooperate in providing the cabinet with fingerprints and descriptions of all persons lawfully committed to their custody or detained by them in cases where fingerprints and descriptions are taken, together with a report of the disposition of all cases of such persons.

Section 77. KRS 17.120 is amended to read as follows:

The Justice and Public Safety Cabinet shall forward one (1) copy of each photograph, set of fingerprints and general description report received by it in a criminal case to the Federal Bureau of Investigation.

Section 78. KRS 17.125 is amended to read as follows:

- (1) The following agencies shall, subject to restrictions imposed by state or federal law, disclose and share with each other all information they maintain on a juvenile in a facility or program or informal adjustment authorized by law:
- (a) All sheriff's offices, police departments, and any other law enforcement agency;
 - (b) All Commonwealth's attorneys and county attorneys;
 - (c) The Attorney General;
 - (d) All jails and juvenile detention facilities, public and private;
 - (e) All courts and clerks of courts;
 - (f) The Administrative Office of the Courts;
 - (g) All departments within the Justice and Public Safety Cabinet; and
 - (h) All departments within the Cabinet for Health and Family Services.
- (2) Except as provided in this section, all information shared by agencies specified above shall be subject to applicable confidentiality disclosure, redisclosure, and access restrictions imposed by federal or state law.
- (3) All public or private elementary or secondary schools, vocational or business schools, or institutions of higher education shall provide all records specifically requested in writing, and pertaining to status offenders, public offenders, youthful offenders, juveniles remanded to detention, and any juvenile convicted by a court, to any of the agencies listed in subsection (1) of this section. The records or information provided pursuant to this subsection shall be subject to:
- (a) Access or other restrictions imposed by federal or state law;
 - (b) All confidentiality restrictions imposed by federal or state law; and
 - (c) All disclosure and redisclosure restrictions imposed by federal or state law.
- (4) Any request for records, the provision of records, the sharing of records, the disclosure of records, or the redisclosure of records shall be done for official purposes only, on a bona fide need to know basis, and only in connection with a legitimate investigation, prosecution, treatment program, or educational program.
- (5) Information and records relating to pending litigation in Circuit Court, District Court, or a federal court and information and records relating to an ongoing investigation are not subject to disclosure or sharing under this section.

- (6) Obtaining or attempting to obtain a record relating to a minor or by sharing or attempting to share a record relating to a minor with an unauthorized person is a violation of this section.

Section 79. KRS 17.131 is amended to read as follows:

- (1) There is hereby established the Kentucky Unified Criminal Justice Information System, referred to in this chapter as the "system." The system shall be a joint effort of the criminal justice agencies, the Courts of Justice, and the Office of Homeland Security ~~and the courts~~. Notwithstanding any statutes, administrative regulations, and policies to the contrary, if standards and technologies other than those set by the Commonwealth Office of Technology are required, the executive director of the Commonwealth Office of Technology shall review, expedite, and grant appropriate exemptions to effectuate the purposes of the unified criminal justice information system. Nothing in this section shall be construed to hamper any public officer or official, agency, or organization of state or local government from furnishing information or data that they are required or requested to furnish and which they are allowed to procure by law, to the General Assembly, the Legislative Research Commission, or a committee of either. For the purposes of this section, "criminal justice agencies" include all departments of the Justice and Public Safety Cabinet except the Department of Public Advocacy, the Unified Prosecutorial System, Commonwealth's attorneys, county attorneys, the Transportation Cabinet, the Cabinet for Health and Family Services, and any agency with the authority to issue a citation or make an arrest.
- (2) The program to design, implement, and maintain the system shall be under the supervision of the executive director of the Office of Homeland Security in consultation with the executive director of the Commonwealth Office of Technology and the Administrative Office of the Courts ~~Uniform Criminal Justice Information System Committee of the Criminal Justice Council. The membership of this committee shall be determined by the council, upon the recommendation of the executive director of the Commonwealth Office of Technology, who shall chair the committee.~~
- (3) The executive director of the Office of Homeland Security, the executive director of the Commonwealth Office of Technology, and a representative of the Administrative Office of the Courts, or their respective designees ~~committee~~ shall be responsible for recommending standards, policies, and other matters to the secretary of justice and public safety for promulgation of administrative regulations in accordance with KRS Chapter 13A to implement the policies, standards, and other matters relating to the system and its operation.
- (4) ~~The committee shall submit recommendations to the Criminal Justice Council and the secretary of justice for administrative regulations to implement the uniform policy required to operate the system. The committee shall implement the uniform policy.~~
- (5) ~~The uniform policy shall include a system to enable the criminal justice agencies and the courts to share data stored in each other's information systems. Initially, the uniform policy shall maximize the use of existing databases and platforms through the use of a virtual database created by network linking of existing databases and platforms among the various departments. The uniform policy shall also develop plans for the new open system platforms before the existing platforms become obsolete.~~
- (6) ~~The committee shall be responsible for recommending to the Criminal Justice Council and the secretary of justice any necessary changes in administrative regulations necessary to implement the system. The committee shall also recommend to the Criminal Justice Council, the Chief Justice, and the secretary of justice recommendations for statutory additions or changes necessary to implement and maintain the system. The secretary shall be responsible for reporting approved statutory recommendations to the Governor, the Chief Justice, the Legislative Research Commission, and appropriate committees of the General Assembly.~~
- (7) ~~The chair of the committee shall report annually to the Criminal Justice Council on the status of the system.~~
- (5)(8) All criminal justice and participating public safety agencies shall follow the policies established by administrative regulation for the exchange of data and connection to the system.
- (6)(9) The executive director of the Commonwealth Office of Technology ~~committee~~ shall review how changes to existing criminal justice agency applications impact the new integrated network. Changes to criminal justice agency applications that have an impact on the integrated network shall be coordinated through and approved by the executive director of the Office of Homeland Security, in consultation with the Commonwealth Office of Technology ~~committee~~.
- (7)(10) Any future state-funded expenditures by a criminal justice agency for computer platforms in support of criminal justice applications shall be reviewed by the Office of Homeland Security and the Commonwealth Office of Technology ~~committee~~.
- (8) As part of the unified criminal justice information system, the executive director of the Office of Homeland Security, in consultation with the secretary of the Justice and Public Safety Cabinet, the executive director of the Commonwealth Office of Technology, and the Administrative Office of the Courts, shall design and implement an automated warrant system. The automated warrant system shall be compatible with any similar system required by the federal government for inclusion of state information in federal criminal justice databases.
- (9)(11) Any criminal justice and public safety agency ~~or officer~~ that does not participate in the ~~criminal justice information~~ system may be denied access to state and federal grant funds.
- Section 80. KRS 17.140 is amended to read as follows:
- (1) A centralized criminal history record information system shall be established in the Justice and Public Safety Cabinet

under the direction, control and supervision of the commissioner of the Department of Kentucky State Police.

- (2) A centralized criminal history records information system means the system including equipment, facilities, procedures, and agreements for the collection, processing, preservation or dissemination of criminal history records maintained by the Justice and Public Safety Cabinet.

Section 81. KRS 17.147 is amended to read as follows:

The Department of Kentucky State Police shall:

- (1) Collect data necessary for the operation of the centralized criminal history record information system from all persons and agencies mentioned in KRS 17.150.
- (2) Prepare and distribute to all such persons and agencies forms to be used in reporting data to the centralized criminal history record information system. The forms shall provide for items of information needed by federal bureaus or departments engaged in the administration of criminal justice programs.
- (3) Prescribe the forms and content of records to be kept by such persons and agencies to insure reporting of data to the centralized criminal history record information system.
- (4) Instruct such persons and agencies in the installation, maintenance, and use of such records and in the manner of reporting to the centralized criminal history record information system.
- (5) Tabulate, analyze, and interpret the data collected.
- (6) Supply data, at their request, to participating federal bureaus, departments, or criminal justice agencies engaged in the administration of criminal justice programs.
- (7) Annually present to the Governor, on or before July 1, concerning the criminal statistics of the preceding calendar year, and present at such other times as the commissioner may deem wise, or the Governor may request, reports on special aspects of criminal statistics. A sufficient number of copies of all reports shall be printed for general distribution in the interest of public enlightenment.

Section 82. KRS 17.148 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet, Department of Kentucky State Police, shall:
 - (a) Coordinate all efforts of the state's various departments and agencies to promote traffic safety and make recommendations regarding the prevention of unnecessary duplications of these efforts; and
 - (b) Cooperate with all organizations, public or private, in the encouragement and promotion of traffic safety education in all forms; and
 - (c) Receive, control and expend, in accordance with the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies, grants and funds from either public or private sources.
- (2) There are hereby transferred to and vested in the Department of Kentucky State Police all functions, powers, duties, funds, personnel, equipment and supplies relating to the administration of the National Highway Safety Act of 1966 in Kentucky, which responsibility and authority have been conferred upon the Transportation Cabinet.

Section 83. KRS 17.150 is amended to read as follows:

- (1) Every sheriff, chief of police, coroner, jailer, prosecuting attorney, probation officer, parole officer, warden or superintendent of a prison, reformatory, correctional school, mental hospital, or institution for the retarded; Department of Kentucky State Police, state fire marshal, Board of Alcoholic Beverage Control; Cabinet for Health and Family Services; Transportation Cabinet; Department of Corrections; Department of Juvenile Justice; and every other person or criminal justice agency, except the Court of Justice and the Department of Public Advocacy, public or private, dealing with crimes or criminals or with delinquency or delinquents, when requested by the cabinet, shall:
 - (a) Install and maintain records needed for reporting data required by the cabinet;
 - (b) Report to the cabinet as and when the cabinet requests all data demanded by it, except that the reports concerning a juvenile delinquent shall not reveal the juvenile's or the juvenile's parents' identity;
 - (c) Give the cabinet or its accredited agent access for purpose of inspection; and
 - (d) Cooperate with the cabinet to the end that its duties may be properly performed.
- (2) Intelligence and investigative reports maintained by criminal justice agencies are subject to public inspection if prosecution is completed or a determination not to prosecute has been made. However, portions of the records may be withheld from inspection if the inspection would disclose:
 - (a) The name or identity of any confidential informant or information which may lead to the identity of any confidential informant;
 - (b) Information of a personal nature, the disclosure of which will not tend to advance a wholesome public interest or a legitimate private interest;
 - (c) Information which may endanger the life or physical safety of law enforcement personnel; or
 - (d) Information contained in the records to be used in a prospective law enforcement action.

- (3) When a demand for the inspection of the records is refused by the custodian of the record, the burden shall be upon the custodian to justify the refusal of inspection with specificity. Exemptions provided by this section shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this section.
- (4) Centralized criminal history records are not subject to public inspection. Centralized history records mean information on individuals collected and compiled by the Justice and Public Safety Cabinet from criminal justice agencies and maintained in a central location consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges and any disposition arising therefrom, including sentencing, correctional supervision, and release. The information shall be restricted to that recorded as the result of the initiation of criminal proceedings or any proceeding related thereto. Nothing in this subsection shall apply to documents maintained by criminal justice agencies which are the source of information collected by the Justice and Public Safety Cabinet. Criminal justice agencies shall retain the documents and no official thereof shall willfully conceal or destroy any record with intent to violate the provisions of this section.
- (5) The provisions of KRS Chapter 61 dealing with administrative and judicial remedies for inspection of public records and penalties for violations thereof shall be applicable to this section.
- (6) The secretary of justice and public safety shall adopt the administrative regulations necessary to carry out the provisions of the criminal history record information system and to insure the accuracy of the information based upon recommendations submitted by the commissioner, Department of Kentucky State Police.
- (7) The Administrative Office of the Courts may, upon suitable agreement between the Chief Justice and the secretary of justice and public safety, supply criminal justice information and data to the cabinet. No information, other than that required by KRS 27A.350 to 27A.420 and 27A.440, shall be solicited from a circuit clerk, justice or judge, court, or agency of the Court of Justice unless the solicitation or request for information is made pursuant to an agreement which may have been reached between the Chief Justice and the secretary of justice and public safety.

Section 84. KRS 17.151 is amended to read as follows:

The Department of Kentucky State Police shall, in cooperation with the Administrative Office of the Courts, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Department of Corrections, be responsible for the recording of those data elements that are needed for development of the centralized criminal history record information system:

- (1) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440;
- (2) The Department of Kentucky State Police shall provide access to the Administrative Office of the Courts, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Department of Corrections to its database; and
- (3) The Department of Kentucky State Police, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Department of Corrections shall assign the same identification number or other variable to each person whose name appears in the database.

Section 85. KRS 17.152 is amended to read as follows:

All data supplied to the centralized criminal history record information system by the Department of Kentucky State Police, Administrative Office of the Courts, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Department of Corrections shall be compatible with the system and shall contain both citation and personal identification numbers.

Section 86. KRS 17.1522 is amended to read as follows:

The Department of Kentucky State Police shall update the centralized criminal history record information system within thirty (30) days of receipt of information. The update shall include information from the:

- (1) Offender level;
- (2) Arrest level; and
- (3) Informational and evaluational level.

Section 87. KRS 17.1523 is amended to read as follows:

- (1) The uniform offense report shall contain provisions for obtaining information as to whether or not specific crimes appear from their facts and circumstances to be caused as a result of or reasonably related to race, color, religion, sex, or national origin.
- (2) All law enforcement officers, when completing a uniform offense report, shall note thereon whether or not the offense appears to be caused as a result of or reasonably related to race, color, religion, sex, or national origin or attempts to victimize or intimidate another due to any of the foregoing causes.
- (3) The Justice and Public Safety Cabinet shall, annually, as a part of the crime reports report on crimes which appear to have been caused by the factors cited in subsections (1) and (2) of this section.

Section 88. KRS 17.160 is amended to read as follows:

- (1) Notwithstanding any other provision of law, an employer may request from the Justice and Public Safety Cabinet or the Administrative Office of the Courts, or both, records of all available convictions involving any felony offense, any misdemeanor offense in KRS Chapter 531 or KRS Chapter 510, any misdemeanor offense under KRS Chapter 218A

committed within the five (5) years immediately preceding the application, or any conviction for violating KRS Chapter 189A committed within the five (5) years immediately preceding the application of a person who applies for employment or volunteers for a position in which he or she would have supervisory or disciplinary power over a minor. The cabinet or the Administrative Office of the Courts, as appropriate, shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

- (2) Any request for records under subsection (1) of this section shall be on a form approved by the cabinet and the Administrative Office of the Courts. No fee shall be charged to the employer or to the person whose records were requested if funding for the record checks provided for in this section is provided through some other mechanism; otherwise the cabinet or the Administrative Office of the Courts may charge a fee to be paid by the organization making the request, not to exceed the actual cost of processing the request.
- (3) The cabinet and the Administrative Office of the Courts shall promulgate~~[adopt]~~ administrative regulations to implement the provisions of this section. No administrative regulation shall be adopted requiring or authorizing the fingerprinting of applicants.
- (4) As used in this section "employer" means any organization chartered by the Congress of the United States or specified by the Attorney General which employs or uses the services of volunteers or paid employees in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children. An organization which has an administrative office with paid personnel which has jurisdiction over suborganizations in one (1) or more counties shall make application for record checks through the administrative office of the organization and not through each individual suborganization.
- (5) Offenses which may be searched for under this section are ones involving any conviction, plea of guilty, or Alford plea, to any offense specified in subsection (1) of this section or the attempted violation of any offense specified in subsection (1) of this section. Conviction for a violation or attempted violation of an offense committed outside the Commonwealth of Kentucky is a crime if such offense would have been a crime in Kentucky under subsection (1) of this section if committed in Kentucky.

Section 89. KRS 17.165 is amended to read as follows:

- (1) As used in this section, "sex crime" means a conviction or a plea of guilty to a sex crime specified in KRS 17.500.
- (2) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.
- (3) As used in this section, "violent crime" shall mean a conviction of or a plea of guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.
- (4) No child-care center as defined in KRS 199.894 shall employ, in a position which involves supervisory or disciplinary power over a minor, or direct contact with a minor, any person who is a violent offender or has been convicted of a sex crime. Each child-care center shall request all conviction information for any applicant for employment from the Justice and Public Safety Cabinet or the Administrative Office of the Courts prior to employing the applicant.
- (5) No child-care provider that is required to be certified under KRS 199.8982 or that receives a public child-care subsidy administered by the cabinet or an adult who resides on the premises of the child-care provider and has direct contact with a minor shall have been convicted of a violent crime, or a sex crime, or have been found by the Cabinet for Health and Family Services or a court to have abused or neglected a child.
- (6) Each application form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."
- (7) Any request for records under subsection (4) of this section shall be on a form approved by the Justice and Public Safety Cabinet or the Administrative Office of the Courts, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.
- (8) The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988.

Section 90. KRS 17.167 is amended to read as follows:

- (1) As used in this section, "felony offender" means any person who has been convicted of, entered an Alford plea to, or pleaded guilty to the commission of a capital offense or a felony.
- (2) Any paid or volunteer fire department certified by the Commission on Fire Protection Personnel Standards and Education, ambulance service licensed by the Commonwealth of Kentucky, or rescue squad officially affiliated with a local disaster and emergency services organization or with the Division of Emergency Management may apply to the Justice and Public Safety Cabinet or the Administrative Office of the Courts for a felony offender record check on applicants for employment or membership with the fire department, ambulance service, or rescue squad.
- (3) Each application form, provided by a fire department, ambulance service, or rescue squad to an applicant for employment

or membership, shall conspicuously state the following: "FOR EMPLOYMENT WITH OR MEMBERSHIP WITH A FIRE DEPARTMENT, AMBULANCE SERVICE, OR RESCUE SQUAD, STATE LAW PERMITS A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT OR MEMBERSHIP."

- (4) Any request for records under this section shall be on a form approved by the Justice and Public Safety Cabinet or the Administrative Office of the Courts. The Justice and Public Safety Cabinet and the Administrative Office of the Courts shall not charge a fee for making record checks.

Section 91. KRS 17.170 is amended to read as follows:

- (1) Any person, including a youthful offender as defined in KRS 600.020, detained in the custody of the Department of Juvenile Justice who is convicted of a felony offense under KRS Chapter 510 or KRS 530.020, shall, or who is in the custody of the Department of Corrections on July 14, 1992, under KRS Chapter 510 or KRS 530.020 may, have a sample of blood, an oral swab, or sample obtained through a noninvasive procedure taken by the Department of Corrections or the Department of Juvenile Justice, when appropriate, for DNA (deoxyribonucleic acid) law enforcement identification purposes and inclusion in law enforcement identification databases.
- (2) The samples shall be obtained in a medically approved manner by a physician, registered nurse, phlebotomist, medical technician, or medical technologist, and packaged and submitted in containers provided by the Department of Kentucky State Police forensic laboratory in accordance with administrative regulations promulgated by the Department of Kentucky State Police forensic laboratory. No civil liability shall attach to any person authorized to obtain the DNA sample as provided by this section as a result of the act of obtaining the DNA sample from any person, provided the procedure was done according to generally accepted medical procedures.
- (3) The cost of testing shall be paid by the agency or individual making the request for testing.
- (4) Any person who tampers or attempts to tamper with any DNA sample collected under this section or its container without lawful authority shall be guilty of a Class D felony.

Section 92. KRS 17.175 is amended to read as follows:

- (1) A centralized database of DNA (deoxyribonucleic acid) identification records for convicted criminals, crime scene specimens, missing persons, and close biological relatives of missing persons shall be established in the Department of Kentucky State Police under the direction, control, and supervision of the Department of Kentucky State Police forensic laboratory. The established system shall be compatible with the procedures set forth in a national DNA identification index to ensure data exchange on a national level.
- (2) The purpose of the centralized DNA database is to assist federal, state, and local criminal justice and law enforcement agencies within and outside the Commonwealth in the identification, detection, or exclusion of individuals who are subjects of the investigation or prosecution of sex-related crimes, violent crimes, or other crimes and the identification and location of missing and unidentified persons.
- (3) The Department of Kentucky State Police forensic laboratory shall receive, analyze, and classify samples of blood received from the Department of Corrections in compliance with KRS 17.170 and this section, and samples from other sources, and shall file the DNA results in the centralized databases for identification and statistical purposes.
- (4) Records produced from the samples shall be used only for law enforcement purposes and shall be exempt from the provisions of KRS Chapter 61.
- (5) A person whose DNA profile has been included in the data bank pursuant to this chapter may request expungement on the grounds that the felony conviction on which the authority for including the DNA profile was based, has been reversed and the case dismissed. The Department of Kentucky State Police shall expunge all identifiable information in the data bank pertaining to the person and destroy all samples from the person upon receipt of:
 - (a) A written request for expungement pursuant to this section; and
 - (b) A certified copy of the court order reversing and dismissing the conviction.
- (6) The Department of Kentucky State Police forensic laboratory shall promulgate administrative regulations necessary to carry out the provisions of the DNA database identification system to include procedures for collection of DNA samples and the database system usage and integrity.
- (7) Any person who disseminates, receives, or otherwise uses or attempts to use information in the database, knowing that such dissemination, receipt, or use is for a purpose other than authorized by law, shall be guilty of a Class A misdemeanor.

Section 93. KRS 17.176 is amended to read as follows:

- (1) In addition to the requirements specified in KRS 422.285, any evidence submitted for testing and analysis pursuant to KRS 422.285 or 422.287 shall be of probative value. When the motion is filed with the court requesting testing and analysis of evidence pursuant to this section, the applicant shall include sufficient information about the evidence, the necessity for its testing and analysis, and its applicability to the proceeding for a court to make a determination of the probative value of the evidence proposed to be tested and analyzed.
- (2) The prosecution, with a court order issued pursuant to this section, may submit not more than five (5) items of evidence for testing and analysis by the Department of Kentucky State Police forensic laboratory or another laboratory selected by the Department of Kentucky State Police forensic laboratory without charge. The cost of testing and analysis of any items of

evidence in excess of the five (5) initial items to be tested and analyzed shall be borne by the agency or person requesting the testing and analysis. Any additional item of evidence submitted for testing and analysis shall be accompanied by the court order specified in subsection (1) of this section.

- (3) The defense, with a court order issued pursuant to this section, may submit not more than five (5) items of evidence for testing and analysis by the Department of Kentucky State Police forensic laboratory or another laboratory selected by the Department of Kentucky State Police forensic laboratory without charge. The cost of testing and analysis of any item of evidence in excess of the five (5) initial items to be tested and analyzed shall be borne by the agency or person requesting the testing and analysis. Any additional item of evidence submitted for testing and analysis shall be accompanied by the court order specified in subsection (1) of this section.
- (4) Any other party in a criminal case, with permission of the court after a specific showing of necessity for testing and analysis, together with the items specified in subsection (1) of this section, may submit an item of evidence for testing and analysis by the Department of Kentucky State Police forensic laboratory or another laboratory selected by the Department of Kentucky State Police forensic laboratory for testing and analysis. The cost of testing and analysis of any item of evidence permitted to be submitted by the court shall be borne by the person or organization requesting the testing and analysis.
- (5) The Department of Kentucky State Police shall promulgate by administrative regulation a uniform schedule of fees to be charged for testing and analysis conducted pursuant to KRS 422.285 or 422.287.

Section 94. KRS 17.177 is amended to read as follows:

- (1) KRS 17.171, 17.172, 17.173, 17.174, 17.176, 422.285, 422.287, and 524.140, and the amendments to KRS 17.170 and 17.175 contained in 2002 Ky. Acts ch. 154, secs. 4 and 9, shall become effective on July 15, 2002.
- (2) Implementation of KRS 17.176, 422.285, 422.287, and 524.140, and of KRS 17.170 as amended by 2002 Ky. Acts ch. 154, sec. 4, shall occur on July 15, 2002; however, actual compliance with the provisions of KRS 17.171, 17.172, 17.173, and 17.174, and of KRS 17.175 as amended by 2002 Ky. Acts ch. 154, sec. 9, may be delayed until funding is available for their full implementation.
- (3) As funding becomes available, KRS 17.171, 17.172, 17.173, and 17.174, and KRS 17.175 as amended by 2002 Ky. Acts ch. 154, sec. 9, shall be implemented in their numerical order. As a section is implemented, the Reviser of Statutes shall be notified by the secretary of justice and public safety, in writing, as to the date of implementation. DNA sample collection and testing shall apply to any person meeting the criteria of KRS 17.171, 17.172, 17.173, or 17.174, or KRS 17.175 as amended by 2002 Ky. Acts ch. 154, sec. 9, as of July 15, 2002, and not the date of implementation of the testing.
- (4) Once implementation of a provision of KRS 17.171, 17.172, 17.173, or 17.174, or of KRS 17.175 as amended by 2002 Ky. Acts ch. 154, sec. 9, is begun it shall not be discontinued.

Section 95. KRS 17.180 is amended to read as follows:

- (1) The Department of Kentucky State Police shall design, implement, and maintain an automated fingerprint identification system.
- (2) The automated fingerprint identification system shall be compatible with any similar system required by the federal government for inclusion of state information in federal criminal justice databases.
- (3) The Commonwealth shall provide and maintain in every detention center the automated fingerprint identification system equipment and programs required by the Department of Kentucky State Police through administrative regulation.

Section 96. KRS 17.450 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet shall establish within the cabinet a "Kentucky Missing Child Information Center", which shall serve as a central repository of and clearinghouse for information about Kentucky children believed to be missing and children from other states believed to be missing in Kentucky.
- (2) The cabinet shall provide the Missing Child Information Center with computer equipment and a computer program which shall list and be capable of immediately retrieving the name and complete description of any missing Kentucky child referred to in subsection (1) of this section.
- (3) The cabinet shall design the computer program so as to accept and generate complete information on a missing child, which information shall be retrievable by the child's name and date of birth, social security number, fingerprint classification, any number of physical descriptions, including hair and eye color and body marks, and known associates and locations.
- (4) Only law enforcement agencies shall be authorized to order missing child information entered into or retrieved from the missing child information center computer, except that a parent or guardian may order from the Department of Kentucky State Police information on his or her child to be entered or retrieved when another law enforcement agency has refused to enter or retrieve such missing child information.
- (5) The cabinet, through the Kentucky Missing Child Information Center, shall regularly issue flyers containing physical and situational descriptions of missing children when requested by a law enforcement agency or when determined by the cabinet.
- (6) For purposes of this section, child shall mean any person under eighteen (18) years of age or any person certified or known

2007 Regular Session

to be mentally incompetent or disabled.

- (7) A complete written report shall be issued annually by the cabinet, which report shall include statistical information on the numbers of missing children entered on the computer and located and recommendations for more accurate and timely reports and better usage of the computer.
- (8) The cabinet may promulgate administrative~~issue~~ regulations in conformance with this section which provide for the orderly receipt of missing child information and requests for retrieval of missing child information.
- (9) The Department of Kentucky State Police and each city, county, and urban-county police department and each sheriff's office shall fingerprint children without charge on forms provided by the cabinet. The completed fingerprint forms shall be delivered to the child's parent or guardian and no copy of the fingerprint form shall be retained by the police department or sheriff's office.

Section 97. KRS 17.460 is amended to read as follows:

- (1) Upon notification by a parent, guardian, person exercising custodial control or supervision, or the authorized representative of the Department for Community Based Services of the Cabinet for Health and Family Services if the child is a ward of the state, that a child is missing, the law enforcement agency receiving notification shall immediately complete a missing person's report in a form prescribed by the Justice and Public Safety Cabinet which shall include information the Justice and Public Safety Cabinet deems necessary for the identification of the missing child, including the child's physical description, last known location, and known associates.
- (2) Within twenty-four (24) hours after completion of the missing person's report form, the law enforcement agency shall transmit the report for inclusion within the Kentucky Missing Child Information Center computer and shall cause the report to be entered into the National Crime Information Center computer.
- (3) Within twenty-four (24) hours thereafter, the law enforcement agency shall investigate the report, shall inform all appropriate law enforcement officers of the existence of the missing child report, and shall communicate the report to every other law enforcement agency having jurisdiction in the area.
- (4)
 - (a) Upon location of the missing child and verification of the National Crime Information Center entry, the law enforcement agency shall transport the child to the parent, guardian, or person exercising custodial control or supervision.
 - (b) If the child is a ward of the state, the law enforcement agency shall transport the child to the authorized representative of the Department for Community Based Services of the Cabinet for Health and Family Services in the jurisdiction of the law enforcement agency.
 - (c) If the law enforcement agency is unable to return the child to the appropriate caretaker pursuant to paragraph (a) of this subsection, the law enforcement agency shall contact the court-designated worker with jurisdiction for placement determination.
 - (d) If the child is in custody on a charge of committing an offense pursuant to KRS Chapters 600 to 645, the law enforcement agency shall proceed according to the provisions therein.
- (5) Within twenty-four (24) hours after a missing child is located and returned to the appropriate caretaker pursuant to subsection (4) of this section, the law enforcement agency which transported, found, or returned the missing child shall notify both the Missing Child Information Center and the National Crime Information Center of that fact.

Section 98. KRS 17.470 is amended to read as follows:

- (1) Upon receipt of a report of a missing child who was born in the Commonwealth, the Department of Kentucky State Police shall notify within forty-eight (48) hours the state registrar of vital statistics for the Commonwealth of the disappearance of such child and shall provide to the state registrar identifying information about the missing child. Upon learning of the recovery of a missing child, the Department of Kentucky State Police shall notify the state registrar.
- (2) The Department of Kentucky State Police shall provide the commissioner of education with a list of the names of all missing children and children who have been recovered along with, if available, the last known school of enrollment. The commissioner of education shall provide the information to schools as required in KRS 156.495.

Section 99. KRS 17.500 is amended to read as follows:

As used in KRS 17.500 to 17.580:

- (1) "Approved provider" means a mental health professional licensed or certified in Kentucky whose scope of practice includes providing mental health treatment services and who is approved by the Sex Offender Risk Assessment Advisory Board, under administrative regulations promulgated by the board, to provide comprehensive sex offender presentence evaluations or treatment to adults and youthful offenders, as defined in KRS 600.020;
- (2) "Cabinet" means the Justice and Public Safety Cabinet;
- (3)
 - (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:
 1. Kidnapping, as set forth in KRS 509.040, except by a parent;

2. Unlawful imprisonment, as set forth in KRS 509.020, except by a parent;
 3. Sex crime;
 4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;
 5. Promoting prostitution, as set forth in KRS 529.030, 529.040, and 529.050, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);
 6. Use of a minor in a sexual performance, as set forth in KRS 531.310;
 7. Sexual abuse, as set forth in KRS 510.120 and 510.130;
 8. Unlawful transaction with a minor in the first degree as set forth in KRS 530.064(1)(a);
 9. Any offense involving a minor or depictions of a minor as set forth in KRS Chapter 531;
 10. Any attempt to commit any of the offenses described in subparagraphs 1. to 9. of this paragraph; and
 11. Solicitation to commit any of the offenses described in subparagraphs 1. to 9. of this paragraph;
- (b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense;
- (4) "Law enforcement agency" means any lawfully organized investigative agency, sheriff's office, police unit, or police force of federal, state, county, urban-county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws;
- (5) "Registrant" means:
- (a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:
 1. A sex crime; or
 2. A criminal offense against a victim who is a minor; or
 - (b) Any person required to register under KRS 17.510; or
 - (c) Any sexually violent predator; or
 - (d) Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed;
- (6) "Registrant information" means the name, including any lawful name change together with the previous name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, a photograph, aliases used, residence, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants;
- (7) "Residence" means any place where a person sleeps. For the purposes of this statute, a registrant may have more than one (1) residence. A registrant is required to register each residence address;
- (8) "Sex crime" means:
- (a) A felony offense defined in KRS Chapter 510, or KRS 530.020, 530.064(1)(a), 531.310, or 531.320;
 - (b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or
 - (c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection;
- (9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in this section, as of the date the verdict is entered by the court;
- (10) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme;
- (11) "The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554; and
- (12) "Victim" has the same meaning as in KRS 421.500.

Section 100. KRS 17.510 is amended to read as follows:

- (1) The cabinet shall develop and implement a registration system for registrants which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.
- (2) A registrant shall, on or before the date of his or her release by the court, the parole board, the cabinet, or any detention facility, register with the appropriate local probation and parole office in the county in which he or she intends to reside. The person in charge of the release shall facilitate the registration process.
- (3) Any person required to register pursuant to subsection (2) of this section shall be informed of the duty to register by the court at the time of sentencing if the court grants probation or conditional discharge or does not impose a penalty of incarceration, or if incarcerated, by the official in charge of the place of confinement upon release. The court and the

official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register has been explained to the person. The court and the official in charge of the place of confinement shall require the releasee to complete the acknowledgment form and the court or the official shall retain the original completed form. The official shall then send the form to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601.

- (4) The court or the official shall order the person to register with the appropriate local probation and parole office which shall obtain the person's fingerprints and the person's photograph. Thereafter, the registrant shall return to the appropriate local probation and parole office not less than one (1) time every two (2) years in order for a new photograph to be obtained, and the registrant shall pay the cost of updating the photo for registration purposes. Failure to comply with this requirement shall be punished as set forth in subsection (11) of this section.
- (5)
 - (a) The appropriate probation and parole office shall send the registration form containing the registrant information, fingerprint card, and photograph, and any special conditions imposed by the court or the Parole Board, to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601.
 - (b) The Information Services Center, upon request by a state or local law enforcement agency, shall make available to that agency registrant information, including a person's fingerprints and photograph, where available, as well as any special conditions imposed by the court or the Parole Board.
 - (c) Any employee of the Justice Cabinet who disseminates, or does not disseminate, registrant information in good faith compliance with the requirements of this subsection shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (6) Any person who has been convicted in a court of any state or territory, a court of the United States, or a similar conviction from a court of competent jurisdiction in any other country, or a court martial of the United States Armed Forces of a sex crime or criminal offense against a victim who is a minor and who has been notified of the duty to register by that state, territory, or court, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws, or has a similar conviction from a court of competent jurisdiction in any other country, shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register with the appropriate local probation and parole office in the county of residence within five (5) working days of relocation. No additional notice of the duty to register shall be required of any official charged with a duty of enforcing the laws of this Commonwealth.
- (7) If a person is required to register under federal law or the laws of another state or territory, or if the person has been convicted of an offense under the laws of another state or territory that would require registration if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section, including the requirements of subsection (4) of this section, and shall register within five (5) working days with the appropriate local probation and parole office in the county of residence, employment, vocation, or schooling. A person required to register under federal law or the laws of another state or territory shall be presumed to know of the duty to register in the Commonwealth. As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.
- (8) The registration form shall be a written statement signed by the person which shall include registrant information, including an up-to-date photograph of the registrant for public dissemination.
- (9) For purposes of KRS 17.500 to 17.580 and 17.991, a post office box number shall not be considered an address.
- (10)
 - (a) If the residence address of any registrant changes, but the registrant remains in the same county, the person shall register, on or before the date of the change of address, with the appropriate local probation and parole office in the county in which he or she resides.
 - (b)
 - 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.
 - 2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) working days after the date of the change of address.
 - (c)
 - 1. As soon as a probation and parole office learns of the person's new address under paragraph (b)1. of this subsection, that probation and parole office shall notify the appropriate local probation and parole office in the county of the new address of the effective date of the new address.
 - 2. As soon as a probation and parole office learns of the person's new address under paragraph (b)2. of this subsection, that office shall forward this information as set forth under subsection (5) of this section.
- (11) Any person required to register under this section who knowingly violates any of the provisions of this section or prior law is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.

- (12) Any person required to register under this section or prior law who knowingly provides false, misleading, or incomplete information is guilty of a Class D felony for the first offense and a Class C felony for each subsequent offense.
- (13) (a) The ~~Justice~~ cabinet shall verify the addresses of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under KRS 17.520(2) and at least once every calendar year for a person required to register under KRS 17.520(3). If the ~~Justice~~ cabinet determines that a person has moved without providing his or her new address to the appropriate local probation and parole office or offices as required under subsection (10)(a) and (b) of this section, the ~~Justice~~ cabinet shall notify the appropriate local probation and parole office of the new address. The office shall then forward this information as set forth under subsection (5) of this section. The ~~Justice~~ cabinet shall also notify the appropriate court, Parole Board, and appropriate Commonwealth's attorney, sheriff's office, probation and parole office, corrections agency, and law enforcement agency responsible for the investigation of the report of noncompliance.
- (b) An agency that receives notice of the noncompliance from the cabinet under paragraph (a) of this subsection:
1. Shall consider revocation of the parole, probation, or conditional discharge of any person released under its authority; and
 2. Shall notify the appropriate county or Commonwealth's Attorney for prosecution.

Section 101. KRS 17.520 is amended to read as follows:

- (1) A registrant, upon his or her release by the court, the Parole Board, the cabinet, or any detention facility, shall be required to register for a period of time required under this section.
- (2) (a) Lifetime registration is required for:
1. Any person who has been convicted of kidnapping, as set forth in KRS 509.040, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;
 2. Any person who has been convicted of unlawful confinement, as set forth in KRS 509.020, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;
 3. Any person convicted of a sex crime:
 - a. Who has one (1) or more prior convictions of a felony criminal offense against a victim who is a minor; or
 - b. Who has one (1) or more prior sex crime convictions;
 4. Any person who has been convicted of two (2) or more felony criminal offenses against a victim who is a minor;
 5. Any person who has been convicted of:
 - a. Rape in the first degree under KRS 510.040; or
 - b. Sodomy in the first degree under KRS 510.070; and
 6. Any sexually violent predator.
- (3) All other registrants are required to register for twenty (20) years following discharge from confinement or twenty (20) years following the maximum discharge date on probation, shock probation, conditional discharge, parole, or other form of early release, whichever period is greater.
- (4) If a person required to register under this section is reincarcerated for another offense or as the result of having violated the terms of probation, parole, or conditional discharge, the registration requirements and the remaining period of time for which the registrant shall register are tolled during the reincarceration.
- (5) A person who has pled guilty, entered an Alford plea, or been convicted in a court of another state or territory, in a court of the United States, or in a court-martial of the United States Armed Forces who is required to register in Kentucky shall be subject to registration in Kentucky based on the conviction in the foreign jurisdiction. The Justice Cabinet shall promulgate administrative regulations to carry out the provisions of this subsection.
- (6) The court shall designate the registration period as mandated by this section in its judgment and shall cause a copy of its judgment to be mailed to the Information Services Center, Department of Kentucky State Police, Frankfort, Kentucky 40601.

Section 102. KRS 17.547 is amended to read as follows:

The following shall be immune from suit for good faith conduct under KRS 17.500 to 17.580 and 17.991:

- (1) Law enforcement agencies including the ~~Justice~~ cabinet;
- (2) Independent contractors acting under the direction of law enforcement agencies;
- (3) State and county officials;
- (4) Approved providers, as defined in KRS 17.500; and

- (5) Employees of any of the agencies, entities, and persons identified in subsections (1), (2), (3), and (4) of this section.
Section 103. KRS 17.580 is amended to read as follows:

- (1) The Department of Kentucky State Police shall establish a Web site available to the public. The Web site shall display:
- (a) The registrant information, except for information that identifies a victim, fingerprints, and Social Security numbers, obtained by the Information Services Center, Department of Kentucky State Police, under KRS 17.510;
 - (b) The sex offender information, except for information that identifies a victim, Social Security numbers, and vehicle registration data, obtained by the Information Services Center, Department of Kentucky State Police, under KRS 17.510 prior to April 11, 2000; and
 - (c) The registrant's conviction, the elements of the offense for which the registrant was convicted, whether the registrant is currently on probation or parole, and whether the registrant is compliant or noncompliant.
- The Web site shall be updated every day except for Saturdays, Sundays, and state holidays.
- (2) The information pertaining to an individual shall be maintained on the Web site so long as that individual is registered in accordance with KRS 17.500 to 17.580.
- (3) The following language shall be prominently displayed on the Web site: "UNDER KRS 525.070 AND 525.080, USE OF INFORMATION OBTAINED FROM THIS WEB SITE TO HARASS A PERSON IDENTIFIED ON THIS WEB SITE IS A CRIMINAL OFFENSE PUNISHABLE BY UP TO NINETY (90) DAYS IN THE COUNTY JAIL. MORE SEVERE CRIMINAL PENALTIES APPLY FOR MORE SEVERE CRIMES COMMITTED AGAINST A PERSON IDENTIFIED ON THIS WEB SITE."
- (4) (a) Any Department of Kentucky State Police employee who disseminates, or does not disseminate, registrant information or sex offender information in good faith compliance with the requirements of this section shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (b) Any person, including an employee of a sheriff's office, acting in good faith in disseminating, or not disseminating, information previously disseminated by the Department of Kentucky State Police shall be immune from criminal and civil liability for the dissemination or lack thereof.
- (5) The ~~Justice~~ cabinet shall establish a toll-free telephone number for a person to call to learn the identity of the Web site created in this section and the location of public access to the Web site in the county where the person resides.
- (6) In addition to the Web site, a local law enforcement agency may provide personal notification regarding the registrants located in its jurisdiction. Any notification shall contain the warning specified in subsection (3) of this section.

Section 104. KRS 18A.095 is amended to read as follows:

- (1) (a) The provisions of this section shall not apply to employees commissioned pursuant to the provisions of Section 281 of this Act ~~[KRS 281.770]~~.
- (b) Dismissals, demotions, suspensions, and other penalizations of these commissioned employees, and appeals relating thereto, shall be governed by the provisions of Sections 282 and 283 of this Act ~~[KRS 281.771 and 281.772]~~.
- (2) A classified employee with status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.
- (3) Prior to dismissal, a classified employee with status shall be notified in writing of the intent to dismiss him. The notice shall also state:
- (a) The specific reasons for dismissal including:
 - 1. The statutory or regulatory violation;
 - 2. The specific action or activity on which the intent to dismiss is based;
 - 3. The date, time, and place of such action or activity; and
 - 4. The name of the parties involved; and
 - (b) That the employee has the right to appear personally, or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.
- (4) The Personnel Cabinet shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the head of the cabinet or agency or his designee, to each appointing authority. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:
- (a) The right granted an employee under the provisions of this section relating to pretermination hearings; and
 - (b) The time limits and procedures to be followed by all parties in pretermination hearings.
- (5) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives the notice, the employee may request to appear, personally or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.
- (6) Unless waived by the employee, the appearance shall be scheduled within six (6) working days after receipt of an employee's request to appear before the head of the cabinet or agency or his designee, excluding the day his request is

received.

- (7) No later than five (5) working days after the employee appears before the head of the cabinet or agency or his designee, excluding the day of the appearance, the cabinet head or agency or his designee shall:
 - (a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and
 - (b) Notify the employee in writing of the decision.
- (8) If the cabinet or agency head or his designee determines that the employee shall be dismissed or otherwise penalized, the employee shall be notified in writing of:
 - (a) The effective date of his dismissal or other penalization;
 - (b) The specific reason for this action, including:
 - 1. The statutory or regulatory violation;
 - 2. The specific action or activity on which the dismissal or other penalization is based;
 - 3. The date, time, and place of the action or activity; and
 - 4. The name of the parties involved;
 - (c) That he may appeal the dismissal or other penalization to the board within sixty (60) days after receipt of this notification, excluding the day he receives notice.
- (9) A classified employee with status who is demoted, suspended, or otherwise penalized shall be notified in writing of:
 - (a) The demotion, suspension, or other penalization;
 - (b) The effective date of the demotion, suspension, or other penalization;
 - (c) The specific reason for the action including:
 - 1. The statutory or regulatory violation;
 - 2. The specific action or activity on which the demotion, suspension, or other penalization is based;
 - 3. The date, time, and place of the action or activity; and
 - 4. The name of the parties involved; and
 - (d) That he has the right to appeal to the board within sixty (60) days, excluding the day that he received notification.
- (10) Any unclassified employee who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after the dismissal, demotion, suspension, or other form of penalization, appeal to the board for review thereof.
- (11) (a) An employee whose position is reallocated shall be notified in writing by the appointing authority of:
 - 1. The reallocation; and
 - 2. His right to request reconsideration by the secretary within ten (10) working days of receipt of the notice, excluding the day he receives notification;
 - (b) He shall be provided with a form prescribed by the secretary on which to request reconsideration; and
 - (c) The employee shall file a written request for reconsideration of the reallocation of his position with the secretary in a manner and form prescribed by the secretary and shall be given a reasonable opportunity to be heard thereon by the secretary. The secretary shall make a determination within sixty (60) days after the request has been filed by an employee. After reconsideration of the request by the secretary, the employee may appeal to the board.
- (12) Any state employee, applicant for employment, or eligible on a register may appeal to the board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged, or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employee, applicant, or eligible, and whether his right to inspect or copy these records was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy these records has been denied, abridged, or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employee, an applicant for employment, and an eligible on a register shall not have the right to inspect or to copy any examination materials.
- (13) Any classified employee may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age forty (40) and above. Nothing in this section shall be construed to preclude any classified or unclassified employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.
- (14) When an eligible's name is removed from a register, the secretary shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the secretary or in accordance with the decision of the board.
- (15) (a) Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board;

- (b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of this rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the secretary pending reconsideration by the board;
 - (c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of the examination to assure that uniform rating procedures have been applied equally and fairly;
 - (d) An appeal to the board by applicants or eligibles under subsections (11) and (13) of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.
- (16) An evaluation may be appealed to the board if an employee has complied with the review procedure established in KRS 18A.110(7)(j).
- (17) (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The Personnel Cabinet shall be responsible for the distribution of these forms;
- (b) The appeal form shall be attached to any notice, or copy of any notice, of dismissal, demotion, suspension, fine, involuntary transfer, or other penalization, reallocation, or notice of any other action an employee may appeal under the provisions of this section. The appeal form shall instruct the employee to state whether he is a classified or unclassified employee, his full name, his appointing authority, work station address and telephone number, and, if he has retained counsel at the time he files an appeal, the name, address, and telephone number of his attorney;
- (c) The form shall also instruct a classified employee to state the action he is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employee to make a short, plain, concise statement of the reason for the appeal and the cause given for his dismissal; and
- (d) Upon receipt of the appeal by the board, the appointing authority and the Personnel Cabinet shall be notified and the board shall schedule a hearing.
- (18) All administrative hearings conducted by the board shall be conducted in accordance with KRS Chapter 13B.
- (19) (a) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the reasons for the appeal and the cause for which he has been dismissed. The board may deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 18A.100;
- (b) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing.
- (20) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:
- (a) Employ class action procedures; or
- (b) Conduct test representative cases.
- (21) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.
- (22) An appeal to the board may be heard by the full board or one (1) or more of the following: Its executive director, its general counsel, any nonelected member of the board, or any hearing officer secured by the board pursuant to KRS 13B.030.
- (23) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to, his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or disability, the appointing authority shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;
- (b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;
- (c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall direct the appointing authority to alter, modify, or rescind the disciplinary action;
- (d) In all other cases, the board shall direct the appointing authority to rescind the action taken or otherwise grant specific relief or dismiss the appeal.

- (24) If a final order of the board is appealed, a court shall award reasonable attorney fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. This award shall not include attorney fees attributable to the hearing before the board.
- (25) When any employee is dismissed and not ordered reinstated after the appeal, the board in its discretion may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he had been removed.
- (26) After a final decision has been rendered by the board or court, an employee who prevails in his appeal shall be credited with the amount of leave time used for time spent at his hearing before the board or court. Employees who had an insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.
- (27) If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employee shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.
- (28) For the purposes of subsections (3), (4), (5), (6), (7), and (8) of this section, the word "agency" means any agency not assigned to a cabinet for organizational purposes.
- (29) Notwithstanding any other prescribed limitation of action, an employee that has been penalized, but has not received a written notice of his or her right to appeal as provided in this section, shall file his or her appeal with the Personnel Board within one (1) year from the date of the penalization or from the date that the employee reasonably should have known of the penalization.

Section 105. KRS 18A.115 is amended to read as follows:

- (1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:
 - (a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;
 - (b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;
 - (c) Members of boards and commissions;
 - (d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the Secretary of the Governor's Cabinet, and the Office of Program Administration;
 - (e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television and the executive director and deputy executive director of the Education Professional Standards Board;
 - (f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;
 - (g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;
 - (h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;
 - (i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;
 - (j) Physicians employed as such;
 - (k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;
 - (l) The judicial department, referees, receivers, jurors, and notaries public;
 - (m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;
 - (n) Patients or inmates employed in state institutions;
 - (o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical,

scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

- (p) Interim employees;
 - (q) Officers and members of the state militia;
 - (r) Department of Kentucky State Police troopers ~~and sworn officers in the Department of State Police, Justice Cabinet~~;
 - (s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;
 - (t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);
 - (u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;
 - (v) County and Commonwealth's attorneys and their respective appointees;
 - (w) Chief district engineers and the state highway engineer;
 - (x) Veterinarians employed as such by the Kentucky Horse Racing Authority;
 - (y) Employees of the Kentucky Peace Corps;
 - (z) Employees of the Council on Postsecondary Education;
 - (aa) Executive director of the Commonwealth Office of Technology;
 - (ab) Employees of the Kentucky Commission on Community Volunteerism and Service;
 - (ac) Persons employed in certified teaching positions at the Kentucky School for the Blind and the Kentucky School for the Deaf; and
 - (ad) Federally funded time-limited employees as defined in KRS 18A.005.
- (2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.
 - (3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.
 - (4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.
 - (5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.
 - (6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.
 - (7) On August 15, 2000, all certified and equivalent personnel, all unclassified personnel, and all certified and equivalent and unclassified vacant positions in the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B personnel system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. The personnel officers who administer the personnel systems under KRS Chapter 151B and KRS Chapter 18A shall exercise the necessary administrative procedures to effect the change in personnel authority. No certified or equivalent employee in the Department for Adult Education and Literacy shall suffer any penalty in the transfer.
 - (8) On August 15, 2000, secretaries and assistants attached to policymaking positions in the Department for Technical Education and the Department for Adult Education and Literacy shall be transferred from the personnel system under KRS Chapter 151B to the personnel system under KRS Chapter 18A. The positions shall be deleted from the KRS Chapter 151B system. All records shall be transferred including accumulated annual leave, sick leave, compensatory time, and service credit for each affected employee. No employee shall suffer any penalty in the transfer.

Section 106. KRS 18A.450 is amended to read as follows:

Nothing in KRS 18A.400 to 18A.450 shall prohibit the commissioner of the Department of Workforce Investment or the commissioner of the Department of Kentucky State Police from developing pilot programs consistent with the provisions of KRS 18A.400 to 18A.450. To the extent that pilot programs are approved by these agencies, in no event shall the total number employees participating in these programs statewide exceed twenty percent (20%) of the permanent, full-time state employees employed on July 15, 1994.

Section 107. KRS 21A.090 is amended to read as follows:

- (1) At the request of the Chief Justice, the Governor may provide through the Department of Kentucky State Police such security personnel and services for the Supreme Court and Court of Appeals as shall be necessary.
- (2) When the Chief Justice, in his discretion, believes that local law enforcement personnel should be supplemented or superseded by the State Police, the Governor may provide through the Department of Kentucky State Police the necessary security personnel and services for any person or facility in the Court of Justice.
- (3) Department of Kentucky State Police officers serving the Court of Justice pursuant to subsection (1) or (2) of this section shall have statewide authority when performing any duty related to the Court of Justice.

Section 108. KRS 23A.206 is amended to read as follows:

- (1) For the purposes of this section:
 - (a) "Local government" means a city, county, charter county, urban-county, or consolidated local government; and
 - (b) "Police department" means a police department created by a local government which employs one or more officers certified pursuant to KRS 15.380 to 15.404.
- (2) In criminal cases a fee of twenty dollars (\$20) shall be added to the costs imposed by KRS 23A.205 that the defendant is required to pay.
- (3) The circuit clerk shall pay the funds from fees collected under this section to the Finance and Administration Cabinet pursuant to KRS 23A.215 for distribution as provided in subsection (5) of this section to local governments with police departments or local governments that contract for police services, and to counties with fiscal responsibilities for jails or the transporting of prisoners.
- (4) All funds distributed to local governments shall be used for payment of expenses for operation of the local government's police department or contracted police services. All funds distributed to counties with fiscal responsibilities for jails or the transporting of prisoners shall be used for the payment of costs associated with the housing or transporting of prisoners.
- (5) Payments shall be distributed quarterly by the Finance and Administration Cabinet beginning October 1, 2004, as follows:
 - (a) Thirty percent (30%) of the total shall be distributed equally to all local governments with police departments or that contract for police services;
 - (b) Fifty percent (50%) of the total shall be distributed to local governments with police departments or local governments that contract for police services on a per capita basis according to the number of certified police officers employed by the police department on July 1 of each year or providing services to the local government pursuant to a contract on July 1 of each year. For purposes of this subsection, each local government that contracts for police services shall be considered to employ one (1) police officer for each sixty thousand dollars (\$60,000) it expends during each fiscal year for police services under a written contract; and
 - (c) Twenty percent (20%) of the total shall be distributed equally to counties with fiscal responsibilities for jails or the transporting of prisoners.
- (6) On or before August 1 of each year, the Justice and Public Safety Cabinet shall certify to the Finance and Administration Cabinet the number of certified police officers employed by each local government.
- (7) On or before August 1 of each year, each local government contracting for police services shall certify to the Finance and Administration Cabinet the amount of money expended for police services under a written contract during the previous fiscal year.
- (8) The Finance and Administration Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A deemed necessary for the administration of this section.

Section 109. KRS 24A.176 is amended to read as follows:

- (1) For the purposes of this section:
 - (a) "Local government" means a city, county, charter county, urban-county, or consolidated local government; and
 - (b) "Police department" means a police department created by a local government which employs one (1) or more officers certified pursuant to KRS 15.380 to 15.404.
- (2) In criminal cases a fee of twenty dollars (\$20) shall be added to the costs imposed by KRS 24A.175 that the defendant is required to pay.
- (3) The circuit clerk shall pay the funds from fees collected under this section to the Finance and Administration Cabinet pursuant to KRS 24A.175 for distribution as provided in subsection (5) of this section to local governments with police departments or local governments that contract for police services, and to counties with fiscal responsibilities for jails or

the transporting of prisoners.

- (4) All funds distributed to local governments shall be used for payment of expenses for operation of the local government's police department or contracted police services. All funds distributed to counties with fiscal responsibilities for jails or the transporting of prisoners shall be used for the payment of costs associated with the housing or transporting of prisoners.
- (5) Payments shall be distributed quarterly by the Finance and Administration Cabinet beginning October 1, 2004, as follows:
 - (a) Thirty percent (30%) of the total shall be distributed equally to all local governments with police departments or local governments that contract for police services;
 - (b) Fifty percent (50%) of the total shall be distributed to local governments with police departments on a per capita basis according to the number of certified police officers employed by the police department on July 1 each year or providing services to the local government pursuant to a contract on July 1 of each year. For purposes of this subsection, each local government that contracts for police services shall be considered to employ one (1) police officer for each sixty thousand dollars (\$60,000) it expends during each fiscal year for police services under a written contract; and
 - (c) Twenty percent (20%) of the total shall be distributed equally to counties with fiscal responsibilities for jails or the transporting of prisoners.
- (6) On or before August 1 of each year, the Justice and Public Safety Cabinet shall certify to the Finance and Administration Cabinet the number of certified police officers employed by each local government.
- (7) On or before August 1 of each year, each local government contracting for police services shall certify to the Finance and Administration Cabinet the amount of money expended for police services under a written contract during the previous fiscal year.
- (8) The Finance and Administration Cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary for the administration of this section.

Section 110. KRS 27A.080 is amended to read as follows:

- (1) The Administrative Office of the Courts shall be the primary repository of court records of juveniles charged with, arrested for, and against whom complaints have been filed, involving status offenses, public offenses, and youthful offender proceedings, together with all court records of the handling and disposition of those cases, and shall keep and maintain these records.
- (2) The Administrative Office of the Courts shall make juvenile records available to the agencies and persons specified by law.
- (3) All courts, law enforcement agencies, prosecutors, the Department of Juvenile Justice, the Cabinet for Health and Family Services, the Justice and Public Safety Cabinet, except the Department of Public Advocacy, and other agencies holding records coming within the purview of subsection (1) of this section shall make them available to the Administrative Office of the Courts in the manner and at the times specified by the Administrative Office of the Courts.

Section 111. KRS 27A.090 is amended to read as follows:

- (1) In any instance that the Justice and Public Safety Cabinet is required by statute to conduct a criminal records or background check, the Justice Cabinet may contract with the Administrative Office of the Courts to perform that service.
- (2)
 - (a) Except as provided in paragraph (b) of this subsection, the Administrative Office of the Courts shall set a reasonable fee for a criminal records check conducted by the office in an amount no greater than the actual cost of conducting that criminal records check.
 - (b) When another statute sets the dollar amount of the fee charged for a criminal records check conducted by the Administrative Office of the Courts, the office shall charge that fee.
- (3) The Administrative Office of the Courts shall be required to accept a criminal records check request only when the request is made:
 - (a) By letter, electronic mail, or facsimile transmission; or
 - (b) In person.
- (4) The Administrative Office of the Courts may establish an escrow account for a person who frequently requests that the office conduct criminal records checks.

Section 112. KRS 27A.092 is amended to read as follows:

- (1) The Administrative Office of the Courts shall support the responsibilities of the Department of Kentucky State Police in the administration of KRS 237.110 by providing information:
 - (a) Possessed by the courts with regard to the suitability of an applicant for a license under KRS 237.110; and
 - (b) Possessed by the courts which may result in the revocation or suspension of a license issued pursuant to KRS 237.110.
- (2) The Administrative Office of the Courts shall transmit information regarding a licensee which may result in the revocation or suspension of a license issued pursuant to KRS 237.110 as soon as practicable.
- (3) The Administrative Office of the Courts shall not conduct a National Instant Criminal Background Check System (NICS)

check for the Department of Kentucky State Police.

- (4) For purposes of conducting the continual background check on licensees pursuant to KRS 237.110, the Department of Kentucky State Police may provide a list of licensees to the Administrative Office of the Courts. The list of persons holding a license pursuant to KRS 237.110 shall be held confidential by the Administrative Office of the Courts and shall be used only for purposes specified in this section and KRS 237.110. Information regarding licensees or applicants for a license shall be transmitted only to the Department of Kentucky State Police and shall not be distributed to any other person or organization within or without the Administrative Office of the Courts or the Court of Justice. The provisions of this section shall not be construed to prohibit or limit the distribution of information to or about any person which is authorized to be distributed by law, but the fact that the person is an applicant for or holds a license pursuant to KRS 237.110 shall not be distributed.

Section 113. KRS 27A.300 is amended to read as follows:

The Administrative Office of the Courts shall, in cooperation with the Department of Kentucky State Police, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Department of Corrections, be responsible for the recording of those data elements that are needed for development of the centralized criminal history record information system:

- (1) The database shall at a minimum contain the information contained in KRS 27A.310 to 27A.440;
- (2) The Administrative Office of the Courts shall provide access to the Department of Kentucky State Police, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Department of Corrections to its database; and
- (3) The Administrative Office of the Courts shall, where the number is known, assign the same identification number or other variable to each person whose name appears in the database.

Section 114. KRS 29A.180 is amended to read as follows:

- (1) The sheriff, city police, or city marshal, as appropriate, shall be responsible for meals, housing, and other incidental needs of grand jurors and petit jurors in Circuit Court and in District Court when the jurors are kept overnight or otherwise sequestered when ordered to do so by the judge of the court for which the jurors were summoned. The expenses for these services shall be borne by the Finance and Administration Cabinet and the officer shall be reimbursed in accordance with administrative regulations issued by the Finance and Administration Cabinet, pursuant to KRS Chapter 13A.
- (2) The sheriff, city police, or city marshal, as appropriate, shall be responsible for the transportation of jurors and other authorized persons to views of the scene or other locations authorized by the court pursuant to KRS 29A.310. In criminal cases the expenses for these services shall be borne by the Finance and Administration Cabinet and the sheriff shall be reimbursed in accordance with administrative regulations issued by the Finance and Administration Cabinet, pursuant to KRS Chapter 13A. Excepting views conducted under the Eminent Domain Act of Kentucky, in civil cases these expenses shall be paid by the party requesting the viewing.
- (3) The sheriff, city police, or city marshal, as appropriate, shall be responsible for providing any specialized security personnel, equipment, and services which the judge, with the consent of the Chief Justice, shall deem necessary for the conduct of a trial in which the judge believes that special security precautions are necessary or desirable. The expenses for these services shall be borne by the Finance and Administration Cabinet and the officer shall be reimbursed in accordance with administrative regulations issued by the Finance and Administration Cabinet, pursuant to KRS Chapter 13A. In such cases, the judge may also request the Chief Justice to provide the services of the Department of Kentucky State Police to ensure proper security precautions relating to the case.

Section 115. KRS 31.010 is amended to read as follows:

There is hereby established as an independent agency of state government, attached for administrative purposes to the Justice and Public Safety~~Environmental and Public Protection~~ Cabinet, the Department of Public Advocacy, in order to provide for the establishment, maintenance, and operation of a state sponsored and controlled system for:

- (1) The representation of indigent persons accused of crimes or mental states which may result in their incarceration or confinement; and
- (2) The pursuit of legal, administrative, and other appropriate remedies to insure the protection of the rights of persons with disabilities. For the purposes of this chapter, "persons with disabilities" shall refer to those persons eligible for protection and advocacy services under Public Laws 99-319, 102-569, 103-218, 106-170, and 106-402 as amended and any other federal enabling statute hereafter enacted that defines the eligible client base for protection and advocacy services.

Section 116. KRS 31.015 is amended to read as follows:

- (1) (a) The Public Advocacy Commission shall consist of the following members, none of whom shall be a prosecutor, law enforcement official, or judge, who shall serve terms of four (4) years, except the initial terms shall be established as hereafter provided:
 1. Two (2) members appointed by the Governor;
 2. One (1) member appointed by the Governor. This member shall be a child advocate or a person with substantial experience in the representation of children;
 3. One (1) member who is the executive director of the Office of Legislative and Intergovernmental Services~~Criminal Justice Council~~ of the Justice and Public Safety Cabinet;

2007 Regular Session

4. Two (2) members appointed by the Kentucky Supreme Court;
 5. Two (2) members, who are licensed to practice law in Kentucky and have substantial experience in the representation of persons accused of crime, appointed by the Governor from a list of three (3) persons submitted to him for each individual vacancy by the board of governors of the Kentucky Bar Association;
 6. The dean, ex officio, of each of the law schools in Kentucky or his designee; and
 7. One (1) member appointed by the Governor from a list of three (3) persons submitted to him or her by the joint advisory boards of the Protection and Advocacy Division of the Department of Public Advocacy.
- (b) Any member of the commission serving prior to July 15, 2002, shall serve until the expiration of his or her current term of office. Subsequent appointments shall be for a term of four (4) years from the date of expiration of the term for which his or her predecessor was appointed.
- (2) At the first meeting of the commission, a drawing by lot shall be conducted to determine the length of each original member's term. Initially there shall be four (4) two (2) year terms, four (4) three (3) year terms, and four (4) four (4) year terms. Vacancies in the membership of the commission shall be filled in the same manner as original appointments. Appointments to fill vacancies occurring before the expiration of a term shall be for the remainder of the unexpired term.
 - (3) The commission shall first meet at the call of the Governor and thereafter as the commission shall determine on a regular basis, but at least quarterly, and shall be presided over by a chairperson elected by its members for a one (1) year term. A majority of commission members shall constitute a quorum, and decisions shall require the majority vote of those present; except that a recommendation to the Governor pertaining to the appointment, renewal of the appointment, or removal of the public advocate shall require a majority vote of the commission. Each member of the commission shall have one (1) vote, and voting by proxy shall be prohibited.
 - (4) The public advocate shall, upon appointment or renewal, be an ex officio member of the commission without the power to vote, shall serve as secretary of the commission, and shall be entitled to attend and participate in all meetings of the commission except discussions relating to renewal of his term or his removal.
 - (5) Commission members shall be reimbursed for reasonable and necessary expenses incurred while engaged in carrying out the duties of the commission and shall receive one hundred dollars (\$100) per day for each meeting attended unless prohibited by law from receiving such compensation.
 - (6) The commission shall:
 - (a) Receive applications, interview, and recommend to the Governor three (3) attorneys as nominees for appointment as the public advocate;
 - (b) Assist the public advocate in drawing up procedures for the selection of his staff;
 - (c) Review the performance of the public advocacy system and provide general supervision of the public advocate;
 - (d) Assist the Department of Public Advocacy in ensuring its independence through public education regarding the purposes of the public advocacy system; and
 - (e) Review and adopt an annual budget prepared by the public advocate for the system and provide support for budgetary requests to the General Assembly.
 - (7) In no event shall the commission or its members interfere with the discretion, judgment, or advocacy of employees of the Department of Public Advocacy in their handling of individual cases.

Section 117. KRS 32.070 is amended to read as follows:

Beginning July 1, 1976, or at such earlier date as may be fixed as hereinafter provided, grand jurors, petit jurors and persons summoned for jury service in Circuit Court eligible for payment of the compensation designated in KRS 29A.170(1) shall be paid, in addition thereto, the sum of seven dollars and fifty cents (\$7.50) per day as reimbursement of expenses incurred, which sum is hereby determined to be the equivalent of the minimum daily expenses reasonably to be incurred by such juror or person. Payment of such reimbursement for expenses may be made beginning as of such date prior to July 1, 1976, but not prior to July 1, 1974, as may be fixed by the Governor upon recommendation of the secretary of justice and public safety if and to the extent that prior to July 1, 1976, the Commonwealth of Kentucky is awarded grant funds by the Law Enforcement Assistance Administration of the United States Department of Justice on a matching basis of not less than ninety percent (90%) federal funds and ten percent (10%) state funds which grant funds are sufficient to pay the full cost of the reimbursement of expenses, and of the administrative expenses related thereto, authorized by this section from the date so fixed through June 30, 1976. Eligible state funds appropriated for the 1974-1976 biennium may be used for matching purposes so long as such use does not reduce the level of services provided in the executive budget for that biennium.

Section 118. KRS 35.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "National Guard" means the Kentucky Army National Guard and the Kentucky Air National Guard;
- (2) "Active militia" means a volunteer defense unit other than the National Guard;
- (3) "Officer" means a commissioned officer, including a warrant officer;
- (4) "Superior commissioned officer" means a commissioned officer superior in rank or command;

- (5) "Enlisted person" means any person who is serving in an enlisted grade in any force of the National Guard or active militia;
- (6) "State active duty" means full-time military duty in the active service of the state under an order of the Governor, including travel to and from the duty;
- (7) "Military court" means a court-martial, a court of inquiry, a provost court, or a military commission;
- (8) "Military judge" means an official of general and special courts-martial detailed in accordance with KRS 35.125;
- (9) "Subject person" means person subject to this chapter;
- (10) "Code" means this chapter;
- (11) "Commissioned officer" includes a commissioned warrant officer;
- (12) "Commanding officer" includes only commissioned officers;
- (13) "Grade" means a step or degree in a graduated scale of office or military rank that is established by law or regulation;
- (14) "Rank" means order of precedence among members of the National Guard or active militia;
- (15) "Duty status" includes state active duty and any other type of state military duty, including travel to and from the duty;
- (16) "State judge advocate" means the commissioned officer responsible for supervising the administration of military justice in the National Guard or active militia;
- (17) "Accuser" means a person who signs and swears to charges, any person who directs that charges normally be signed and sworn to by another, and any person who has an interest other than an official interest in the prosecution of the accused;
- (18) "Military" refers to any or all of the Armed Forces;
- (19) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being or a successor in command; and
- (20) "Peace officer" as used in this chapter means any sheriff, deputy sheriff, constable, deputy constable, sworn police officer, sworn enforcement officer of the Department of Kentucky State Police or other duly authorized state law enforcement agency, and other persons with similar authority to make arrests under the provisions of the Kentucky Revised Statutes.

Section 119. KRS 36.255 is amended to read as follows:

- (1) The Kentucky Community Crisis Response Board is hereby created as a separate administrative body of state government within the meaning of KRS Chapter 12 and attached for administrative purposes to the Department of Military Affairs.
- (2) The membership of the board shall consist of the following:
 - (a) The commissioner of the Department for Mental Health and Mental Retardation Services, or the commissioner's designee;
 - (b) The commissioner of the Department for Public Health, or the commissioner's designee;
 - (c) The commissioner of the Department of Education, or the commissioner's designee;
 - (d) The commissioner of the Department of Kentucky State Police, or the commissioner's designee;
 - (e) The Kentucky state fire marshal, or the fire marshal's designee;
 - (f) The executive director of the Division of Emergency Management, or the executive director's designee;
 - (g) The Attorney General, or the Attorney General's designee;
 - (h) One (1) representative of local community crisis response teams appointed by the Governor;
 - (i) Four (4) members appointed by the Governor to represent mental health disciplines;
 - (j) Two (2) members appointed by the Governor to represent emergency services disciplines;
 - (k) One (1) member who is a mental health professional licensed for independent clinical practice, to be appointed by the Governor. The licensed mental health professional member shall serve as clinical director for the board;
 - (l) One (1) member, appointed by the Governor, from a statewide chaplain's association involved in emergency services, who is trained in grief counseling and has experience in crisis response;
 - (m) One (1) member from the Kentucky Chapter of the American Red Cross; and
 - (n) The commissioner of the Department for Community Based Services or the commissioner's designee.
- (3) All board members appointed pursuant to subsection (2)(h) to (2)(l) of this section shall be approved members of the existing community crisis response team.
- (4) All board members appointed pursuant to subsection (2)(h) to (2)(l) of this section shall have demonstrated a commitment to the provision of community crisis response services.
- (5) The members of the board appointed by the Governor shall serve for two (2) years and may be reappointed for one (1) additional consecutive two (2) year term. All vacancies in appointed members' terms shall be filled by appointment of the Governor for the remainder of the unexpired term.
- (6) The board shall elect annually from its membership a chairperson and shall establish other officers and committees as

needed to execute the duties of the board.

- (7) The board shall meet at least quarterly, and a majority of the members shall constitute a quorum for the transaction of the board's business.
- (8) Except for hired and appointed staff, no board member or team member shall receive compensation. However, board members and crisis response team members may receive reimbursement for expenses incurred in the course of providing crisis response services or executing the duties of the board, consistent with state policy governing the reimbursement of state employees for food, travel, and lodging. Except as provided for in KRS 36.260, nothing in the provisions of KRS 36.250 to 36.270 shall be construed to create liability of a private party for expenses incurred or reimbursed under this subsection.

Section 120. KRS 36.400 is amended to read as follows:

As used in KRS 36.400 to 36.425, unless the context otherwise requires:

- (1) "Division of Air Transport" includes the Capital City Airport;
- (2) "State aircraft" means aircraft owned by the Commonwealth, leased by the Commonwealth, or otherwise under the control of the Commonwealth and administratively assigned to the Division of Air Transport. It shall also include air charters by the division. However, this shall not include or apply to any and all aircraft assigned to, owned, leased, operated, or controlled by the Department of Kentucky State Police, or otherwise under the control or direction of the Department of Kentucky State Police. The operation, maintenance, scheduling, and care of Department of Kentucky State Police aircraft shall not be included under or affected by KRS 36.400 to 36.425; and
- (3) "Official business" means any activity involving travel in a state aircraft if the activity is reasonably required, expected, or appropriate, considering the nature of the using public official's job responsibilities. The activities shall include, but not be limited to, attendance by officials at nonpartisan ceremonial functions and events where their appearance is normally expected by virtue of their office or where official representation of the Commonwealth is otherwise appropriate, and to nonpolitical flights by the Governor and members of his immediate family when accompanying or representing him.

Section 121. KRS 39E.030 is amended to read as follows:

- (1) The commission shall be composed of not more than twenty-five (25) members and shall be chaired by the director of the Division of Emergency Management of the Department of Military Affairs, who shall also be a member. Other members shall include, but not be limited to, the executive director of the Commission on Fire Protection Personnel Standards and Education or the executive director's designee, representatives of the Environmental and Public Protection Cabinet, the office of the state fire marshal, the Department of Kentucky State Police, the Office of the Attorney General, affected industry, local government, health services, environmental interests, and other persons who have technical expertise in the emergency response field as the Governor deems appropriate.
- (2) Members of the commission shall be appointed by the Governor. All appointments shall be for a term of two (2) years. Members shall serve until their successors are appointed and qualified and shall be eligible for reappointment.
- (3) The commission shall meet not less than semi-annually, or as convened by the chairman.
- (4) If a member misses three (3) consecutive meetings of the full commission or three (3) meetings in two (2) consecutive years, the position shall be declared vacant by the commission. In these cases, the Governor shall make an appointment to fill the unexpired term.
- (5) The presence of thirteen (13) members shall constitute a quorum and actions taken at these meetings shall be considered as actions of the full commission.
- (6) Members of the commission shall not receive a salary for serving on the commission, but travel and per diem may be paid if funds are appropriated or otherwise made available for these purposes.

Section 122. KRS 39F.180 is amended to read as follows:

- (1) All 911 centers and dispatch centers, law enforcement agencies, law enforcement dispatchers, fire departments, rescue squads, emergency medical service agencies, and emergency management agencies shall report the information required to be reported by administrative regulation, for all reports of persons missing, lost, or overdue, if a search for the lost person has lasted for more than two (2) hours to:
 - (a) The local emergency management director; and
 - (b) The local search and rescue coordinator for the jurisdiction in which the person is reported missing.
- (2) (a) Any search for a missing minor, as that term is defined in KRS 2.015, shall be reported to the Department of Kentucky State Police by the person or organization to whom the missing minor is reported.
- (b) A search for a person who is known or reported to have an organic brain disorder, including but not limited to Alzheimer's disease, shall immediately be reported to the local emergency management director, local search and rescue coordinator if different from the local emergency manager, and the duty officer of the Division of Emergency Management by the person managing the search or by the organization conducting the search. The provisions of this section do not apply to any licensed long-term health care provider conducting a search for a missing resident until the provider requests a search by a person or organization specified in subsection (1) of this

section.

- (c) The making of this report does not relieve the person or organization from the duty to make other notifications and reports required in this section.
- (3) Any search and rescue mission which has lasted four (4) hours without the subject being located, shall be immediately reported to the duty officer of the Division of Emergency Management by telephone or radio.
- (4) The results of each lost, missing, or overdue person report or search mission required to be reported under subsections (1) to (3) of this section shall be reported to the division and the local director on forms provided by the division and containing the information required by administrative regulation. The report shall be filed within twenty (20) days after:
 - (a) The search and rescue mission is discontinued; or
 - (b) The victim has not been found and a decision is made to keep the case open or continue searching on a limited basis, whichever occurs earlier.
- (5) Each agency required to notify a local emergency management director or the division of a report of a missing person, or a search mission pursuant to this section shall develop a written standard operating procedure for handling and reporting requests to search for missing, lost, or overdue persons. This standard operating procedure shall be a public record.
- (6) The contents of reports, information to be conveyed upon notification, and other matters relating to the administration of this section and the securing of information required hereby shall be specified by the division by administrative regulations.
- (7) There is no requirement in Kentucky to delay the search for or rescue of any lost, missing, or overdue person. Any person who is reported lost, missing, or overdue, adult or child, may be searched for immediately by any emergency management, fire, law enforcement, emergency medical services, search and rescue, rescue squad, or other similar organization to which a missing or overdue person is reported. No public safety answering point, emergency dispatch center, or 911 center shall delay any call reporting a person lost, overdue, or missing to the organization specified in the county search and rescue annex of the county emergency management plan as responsible for searching for lost, missing, or overdue persons.

Section 123. KRS 42.320 is amended to read as follows:

- (1) There is hereby established the court cost distribution fund, which is created to provide a central account into which the court costs collected by all circuit clerks, under KRS 23A.205(1) and 24A.175(1), shall be paid.
- (2) The fund shall be administered by the Finance and Administration Cabinet, which shall make monthly disbursements from the fund according to the following schedule:
 - (a) Forty-nine percent (49%) of each court cost shall be paid into the general fund;
 - (b) Ten and eight-tenths percent (10.8%) of each court cost, up to five million four hundred thousand dollars (\$5,400,000), shall be paid into the State Treasury for the benefit and use of the Kentucky Local Correctional Facilities Construction Authority under KRS 441.605 to 441.695;
 - (c) Six and one-half percent (6.5%) of each court cost, up to three million two hundred fifty thousand dollars (\$3,250,000), shall be paid into the spinal cord and head injury research trust fund created in KRS 211.504;
 - (d) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars (\$2,750,000), shall be paid into the traumatic brain injury trust fund created in KRS 211.476;
 - (e) Five percent (5%) of each court cost, up to two million five hundred thousand dollars (\$2,500,000), shall be paid into a trust and agency account with the Administrative Office of the Courts and is to be used by the circuit clerks to hire additional deputy clerks and to enhance deputy clerk salaries;
 - (f) Three and one-half percent (3.5%) of each court cost, up to one million seven hundred fifty thousand dollars (\$1,750,000), shall be paid to a special trust and agency account that shall not lapse for the Department of Public Advocacy;
 - (g) Three and four-tenths percent (3.4%) of each court cost, up to one million seven hundred thousand dollars (\$1,700,000), shall be paid into the crime victims' compensation fund created in KRS 346.185;
 - (h) Seven-tenths of one percent (0.7%) of each court cost, up to three hundred fifty thousand dollars (\$350,000), shall be paid to the Justice and Public Safety Cabinet to defray the costs of conducting record checks on prospective firearms purchasers pursuant to the Brady Handgun Violence Prevention Act and for the collection, testing, and storing of DNA samples;
 - (i) Ten and one-tenth percent (10.1%) of each court cost, up to five million fifty thousand dollars (\$5,050,000), deposited in the fund shall be paid to the county sheriff in the county from which the court cost was received; and
 - (j) Five and one-half percent (5.5%) of each court cost, up to two million seven hundred fifty thousand dollars (\$2,750,000), deposited in the fund shall be paid to the county treasurer in the county from which the court cost was received and shall be used by the fiscal court in that county for the purposes of defraying the costs of operation of the county jail and the transportation of prisoners.
- (3) Any moneys remaining in the fund after the monthly disbursements in subsection (2) of this section shall be paid into the general fund.

2007 Regular Session

- (4) Any moneys collected above the prescribed amount shall be paid into the general fund.

Section 124. KRS 44.045 is amended to read as follows:

- (1) A passenger motor vehicle or vehicles may be purchased by the Finance and Administration Cabinet for the use of the Governor and the Lieutenant Governor.
- (2) Motor vehicles, including passenger motor vehicles, may be purchased by the Finance and Administration Cabinet as are deemed necessary by the secretary of the Finance and Administration Cabinet or by the secretary of the Transportation Cabinet for the discharge of the authorized duties and functions of the various agencies of the state. The vehicles shall be used for official purposes only, and for no other purposes. The assignment of passenger motor vehicles to specific individuals shall be discouraged, but may be made upon approval by the secretary of the Finance and Administration Cabinet of a written request to make the assignment by the head of the agency involved.
- (3) All motor vehicles purchased pursuant to this section shall be issued official license plates and shall bear on one (1) door on each side the great seal of the Commonwealth, and the words "For official use only." It shall not be necessary that the vehicles purchased pursuant to subsections (1), (4), and (5) of this section bear the seal and the words.
- (4) The Revenue and Justice and Public Safety Cabinets and the Department of Law ~~and the Crime Commission~~ may, upon approval by the secretary of the Finance and Administration Cabinet of a written request by the head of the agency involved, register a vehicle or vehicles under KRS 186.020 and be issued regular license plates. The vehicles shall be used for investigatory purposes only, and for no other purposes.
- (5) The Administrative Office of the Courts may register a vehicle or vehicles used by Justices and Judges of the Supreme Court and Court of Appeals under KRS 186.020 and be issued regular license plates.
- (6) The secretary of the Transportation Cabinet may adopt administrative regulations pursuant to KRS Chapter 13A necessary to govern the use of those state-owned vehicles acquired pursuant to the provisions of this section.
- (7) Any person violating subsections (2) and (4) of this section shall, on conviction thereof, be subject to the penalties prescribed in KRS 44.990.

Section 125. KRS 45.239 is amended to read as follows:

- (1) The Court of Justice shall initiate, by October 1, 2004, fully implement by October 1, 2005, and thereafter maintain a system for tracking and identifying debts.
- (2) The Court of Justice shall establish and operate a system for collecting debt.
- (3) In establishing the systems required by this section, the Court of Justice shall consider technology that could assist in the accurate, timely, and efficient delivery of payments of debts.
- (4) The Court of Justice, Justice and Public Safety Cabinet, and the Department of Revenue shall collaborate to implement a system, if feasible, to identify and collect debts in existence prior to the implementation date of the system required by subsection (1) of this section. Confidential information shared among these entities to identify and collect debts shall not be divulged to any unauthorized person. Debts collected under this subsection shall be reported annually and designated separately as part of the report required pursuant to KRS 45.238 beginning on October 1, 2005, and ending with the report filed on or before October 1, 2009.
- (5) The Court of Justice, Justice and Public Safety Cabinet, and Department of Revenue shall collaborate to implement a system, if feasible, to identify and collect liquidated debts in existence prior to the implementation date of the system required by subsection (1) of this section. Confidential information shared among these entities to identify and collect debts shall not be divulged to any unauthorized person. Debts collected under this subsection shall be reported annually to the Legislative Research Commission beginning on October 1, 2005, and ending with the report filed on or before October 1, 2009.

Section 126. KRS 45.253 is amended to read as follows:

- (1) Revolving accounts may be established by appropriation in a branch budget bill to finance activities which are self-supporting in whole or in part.
- (2) Trust and agency accounts may be established by a branch budget bill to receive and disburse contributions, gifts, donations, devises, and federal appropriations, and, when authorized by law, by depositing all of the fees (which include fees for maintenance in state institutions, incidental fees, tuition fees, fees for board and room, athletics, and student activities), rentals, admittance, sales, licenses collected by law, subventions, and other miscellaneous receipts of budget units.
- (3) The head of the budget unit or other responsible fiscal agent of the unit for which a revolving, trust, or agency account has been established shall deposit with the State Treasury all receipts of the character above described, and the Finance and Administration Cabinet shall credit all receipts to the budget unit and shall keep separate accounting for each account so established.
- (4) The amounts credited to any revolving, trust, or agency account so provided, shall be held available for disbursement for the purpose provided by law and shall not be diverted to any other purpose. Revolving, trust, or agency accounts shall be subject to withdrawal from the State Treasury by the head of each budget unit when actually needed, on requisition to the Finance and Administration Cabinet in the same manner provided by law as other state funds are withdrawn. Funds

received from the federal government in the form of grants or otherwise may be expended for the purpose intended even though received in a fiscal year other than that in which the related original encumbrance or expenditure was incurred. Trust and agency funds shall be allotted before an expenditure is made; and the secretary of the Finance and Administration Cabinet may withhold allotment of general fund appropriations to the extent trust and agency funds are available.

- (5) Subject to prior approval by the secretary of the Finance and Administration Cabinet, the Chief Justice, and the Legislative Research Commission for their respective branches, any budget unit which, as an incident to its authorized duties and functions, furnishes requested services or materials to any persons outside state government, where such services or materials are not required by law to be furnished gratuitously, may charge such persons an amount not to exceed the total expense to the budget unit of the services or materials furnished. The receipts from the approved charges shall be credited to the surplus account of the general fund. Payroll deductions for the Department of Kentucky State Police legal fund shall be made without any service fees or charges.
- (6) The Commonwealth Office of Technology may charge any agency of local government an amount, not to exceed the total expense to the department, for services rendered or materials furnished at the request of the local government agency, unless the services or materials are required by law to be furnished gratuitously. The receipts from the authorized charges shall be deposited in the State Treasury and credited to the trust and agency fund, the Commonwealth Office of Technology's operating account.
- (7) All receipts which accrue as the result of the Commonwealth Office of Technology's providing on-line computer access to public records by nongovernment entities shall be deposited in the State Treasury and credited to the trust and agency fund, the Commonwealth Office of Technology's operating account.

Section 127. KRS 56.491 is amended to read as follows:

- (1) No state agency shall have power or authority to make plans and specifications, provide public notice of invitations for bids, let contracts, or incur any financing commitments, either in the way of a charge against public funds or in the way of negotiations for issuance of revenue bonds, for any capital construction projects involving the improvement of lands or the construction, alteration, reconstruction, or major repair of any building or other structure, or sewage disposal or water supply system, requiring the expenditure of more than two hundred thousand dollars (\$200,000) without first securing the approval of the Finance and Administration Cabinet.
- (2) The state agency seeking the approval shall submit to the Finance and Administration Cabinet a general description of the proposed project, with the detailed information the cabinet may require. Review of construction plans for conformance with the Uniform State Building Code shall be conducted by the Office of Housing, Buildings and Construction. The Finance and Administration Cabinet shall not approve any project requiring its approval in any instance if it finds that: the project is not needed; the proposed method of financing is not sound; the project will exceed the amount of the funds available therefor; the work contemplated will be insufficient to accomplish the purpose of the project; or after providing for the ordinary recurring expenses of government and debt service and for payments under existing allotments for extraordinary expenses and capital outlay, cash will not be available in the State Treasury to promptly pay for the work during the biennium, or except as provided in subsection (5) of this section, that the work is to be done by employees of the agency.
- (3) The finding of the Finance and Administration Cabinet shall be final, except in cases where the issuance and sale of bonds is proposed, in which cases the cabinet shall submit its findings to the commission for final approval, modification, or disapproval.
- (4) Any capital construction project, the total cost of completion of which the Finance and Administration Cabinet determines will exceed two hundred thousand dollars (\$200,000), shall be contracted for on a competitive bid basis, and the execution of the contracts shall be approved and authorized by the cabinet. When a capital construction project has been approved as provided in this section, in whole or in part, the cabinet shall prepare the plans and specifications, provide public notice of invitations for bids, award the contracts, supervise the construction, and handle the financial negotiations on behalf of the requesting state agency; or with prior written approval, the cabinet may authorize a state agency to do so with delegated authority of the cabinet.
- (5) A capital construction project, the total cost of completion of which the Finance and Administration Cabinet determines will not exceed two hundred thousand dollars (\$200,000), may be performed by the employees of the requesting agency or by individuals hired specifically for the project who shall be exempt from the requirements of KRS Chapter 18A, if the project is approved and authorized by the cabinet. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the cabinet as defined in KRS Chapter 45A.
- (6) This section shall not apply to capital outlays to the Department of Highways for roads and bridges.
- (7) This section shall not apply to capital outlays by the Justice and Public Safety Cabinet for repair, maintenance, improvement, or expansion of present correctional facilities on which projects inmates are used. Any capital construction project to be performed by the Justice and Public Safety Cabinet shall be approved and authorized by the Finance and Administration Cabinet.
- (8) This section shall not apply to surveys capable of being performed by employees of the Department of Fish and Wildlife Resources. Boundary surveys or surveys involving property lines shall be performed by or under the supervision of an

employee possessing a professional land surveyor license.

Section 128. KRS 61.315 is amended to read as follows:

- (1) As used in this section, "police officer" means every paid police officer, sheriff, or deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, elected to office, or employed by any county, airport board created pursuant to KRS Chapter 183, city, or by the state; "firefighter" means every paid firefighter or volunteer firefighter who is employed by or volunteers his or her services to the state, airport board created pursuant to KRS Chapter 183, any county, city, fire district, or any other organized fire department recognized, pursuant to KRS 95A.262, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth and shall include qualified civilian firefighters employed at Kentucky-based military installations.
- (2) The spouse of any police officer, sheriff, deputy sheriff, corrections employee with the power of a peace officer pursuant to KRS 196.037, any auxiliary police officer appointed pursuant to KRS 95.445, or any citation or safety officer appointed pursuant to KRS 83A.087 and 83A.088, firefighter, or member of the Kentucky National Guard on state active duty pursuant to KRS 38.030, or a member of a state National Guard or a Reserve component on federal active duty who names Kentucky as home of record for military purposes, whose death occurs on or after July 1, 2002, as a direct result of an act in the line of duty shall receive a lump-sum payment of eighty thousand dollars (\$80,000) if there are no surviving children, which sum shall be paid by the State Treasurer from the general expenditure fund of the State Treasury. If there are surviving children and a surviving spouse, the payment shall be apportioned equally among the surviving children and the spouse. If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the State Treasurer shall:
 - (a) Pay thirty-five thousand dollars (\$35,000) to the surviving children; and
 - (b) Hold forty-five thousand dollars (\$45,000) in trust divided into equal accounts at appropriate interest rates for each surviving child until the child reaches the age of eighteen (18) years.

If a child dies before reaching the age of eighteen (18) years, his or her account shall be paid to his or her estate. If there are no surviving children, the payment shall be made to any parents of the deceased.
- (3) The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer firefighters, including, but not limited to, defining when a firefighter has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.
- (4) The Justice and Public Safety Cabinet may promulgate administrative regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, including, but not limited to, defining when a police officer has died in line of duty. Administrative hearings promulgated by administrative regulation under authority of this subsection shall be conducted in accordance with KRS Chapter 13B.
- (5) The Department of Corrections shall promulgate administrative regulations establishing the criteria and procedures applicable to the administration of this section as it pertains to correctional employees, including, but not limited to, defining which employees qualify for coverage and which circumstances constitute death in the line of duty.
- (6) The benefits payable under this section shall be in addition to any benefits now or hereafter prescribed under any police, sheriff, firefighter's, volunteer firefighter's, or National Guard or Reserve retirement or benefit fund established by the federal government or by any state, county, or any municipality.
- (7) Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

Section 129. KRS 61.362 is amended to read as follows:

- (1) Any public police department, sheriff's office, or the Department of Kentucky State Police may, upon written agreement with a residential property owner or a residential property owners' association, patrol the roadways and parking lots of private residential communities within the jurisdiction of the public police department, sheriff's office, or the Department of Kentucky State Police and enforce the traffic and motor vehicle laws of the Commonwealth of Kentucky and local traffic and motor vehicle ordinances, on that residential private property.
- (2) This section shall not permit a public police department, sheriff's office, or the Department of Kentucky State Police to enforce the private rules or regulations of the residential property owner.
- (3) This section shall not limit any peace officer from coming on residential private property for the enforcement of the law, provided that the entry upon residential private property is consistent with the provisions of the Constitution of the United States, the Constitution of Kentucky, the Kentucky Revised Statutes, and applicable court decisions.

Section 130. KRS 61.387 is amended to read as follows:

- (1) All conspicuously marked motor vehicles used by the Department of Kentucky State Police, sheriffs' departments, county police, urban-county police, and city police for transporting prisoners, which are conspicuously marked as law

enforcement vehicles, shall be equipped with a screen or other protective device between the area where prisoners are transported and the driver of the vehicle, and the area in which the prisoner is enclosed shall be equipped so that the doors and windows cannot be opened from the inside of the vehicle.

- (2) Subsection (1) of this section shall not apply to vehicles used for investigative purposes nor to special purpose vehicles not normally used for the transportation of prisoners.

Section 131. KRS 61.553 is amended to read as follows:

A Kentucky Employees Retirement System member's work performed in the Department of Kentucky State Police or its predecessor agency, the State Highway Patrol, prior to July 1, 1956, shall be creditable as prior service in the Kentucky Employees Retirement System if the member has not received prior service credit in the State Police Retirement System for such period of work. The purpose of this section is to grant prior service credit to state employees who cannot obtain such credit under the State Police Retirement System because of the maximum State Police employment age established by KRS 16.520.

Section 132. KRS 61.900 is amended to read as follows:

As used in KRS 61.902 to 61.930:

- (1) "Commission" means a commission issued to an individual by the secretary of justice and public safety, entitling the individual to perform special law enforcement duties on public property;
- (2) "Council" means the Kentucky Law Enforcement Council;
- (3) "Cabinet" means the Justice and Public Safety Cabinet;
- (4) "Public property" means property currently owned or used by any organizational unit or agency of state, county, city, metropolitan government, or a combination of these. The term shall include property currently owned or used by public airport authorities;
- (5) "Secretary" means the secretary of the Justice and Public Safety Cabinet;
- (6) "Special law enforcement officer":
 - (a) Means one (1) whose duties include the protection of specific public property from intrusion, entry, larceny, vandalism, abuse, intermeddling, or trespass;
 - (b) Means one (1) whose duties include the prevention, observation, or detection of, or apprehension for, any unlawful activity on specific public property;
 - (c) Means one (1) whose special duties include the control of the operation, speed, and parking of motor vehicles, bicycles, and other vehicles, and the movement of pedestrian traffic on specific public property;
 - (d) Means one (1) whose duties include the answering of any intrusion alarm on specific public property;
 - (e) Shall include the Capitol police, the Capital Plaza police, public school district security officers, public airport authority security officers, and the officers of the other public security forces established for the purpose of protecting specific public property; and
 - (f) Shall not include members of a lawfully organized police unit or police force of state, county, city, or metropolitan government, or a combination of these, who are responsible for the detection of crime and the enforcement of the general criminal law enforcement of the state; it shall not include any of the following officials or officers:
 1. Sheriffs, sworn deputy sheriffs, city marshals, constables, sworn deputy constables, and coroners;
 2. Auxiliary and reserve police appointed under KRS 95.160 or 95.445, or citation and safety officers authorized by KRS 83A.087 and 83A.088;
 3. State park rangers and officers of the Division of Law Enforcement within the Department of Fish and Wildlife Resources;
 4. Officers of the Transportation Cabinet responsible for law enforcement;
 5. Officers of the Department of Corrections responsible for law enforcement;
 6. Fire marshals and deputy fire marshals;
 7. Other officers not mentioned above who are employed directly by state government and are responsible for law enforcement;
 8. Federal peace officers;
 9. Those campus security officers who are commissioned under KRS 164.950;
 10. Private security guards, private security patrolmen, and investigators licensed pursuant to state statute; and
 11. Railroad policemen covered by KRS 277.270 and 277.280; and
- (7) "Sworn public peace officer" means one (1) who derives plenary or special law enforcement powers from, and is a full-time employee of, the federal government, the Commonwealth, or any political subdivision, agency, department, branch, or service of either, or of any municipality.

Section 133. KRS 61.902 is amended to read as follows:

2007 Regular Session

The secretary of the Justice and Public Safety Cabinet may commission special law enforcement officers, for such time as he or she deems necessary, to protect and to enforce the law on public property. Upon application of a unit or agency of state, county, city or metropolitan government, the secretary may appoint those persons recommended by the unit or agency who satisfy the requirements of KRS 61.900 to 61.930.

Section 134. KRS 61.904 is amended to read as follows:

KRS 61.900 to 61.930 shall be administered by the secretary, or by any agency within the ~~Justice~~ cabinet designated by the secretary and acting under his authority. The secretary shall ~~make,~~ promulgate~~;~~ and enforce such administrative~~rules, orders,~~ regulations~~, and instructions~~ as may be reasonable and necessary to carry out the provisions of KRS 61.900 to 61.930. The secretary may appoint such employees, and delegate such duties to the same, as he or she, in his or her sound discretion, deems appropriate.

Section 135. KRS 62.160 is amended to read as follows:

- (1) The state officers elected by the voters of the state at large, except the Governor and the Lieutenant Governor, the heads of departments, offices, and cabinets of the state government, the adjutant general, the members of the Public Service Commission, the members of the State Fair Board and Fish and Wildlife Resources Commission, and the members of the Kentucky Board of Tax Appeals and the Alcoholic Beverage Control Board, shall each give bond. The amounts of the bonds shall be fixed by the Governor, which amounts as to those offices set forth in subsection (2) of this section shall be not less than the amounts set forth for the respective offices. At any time when it appears to be to the interest of the Commonwealth, the Governor may increase the penal sum of any bond or require a renewal of the bond with other or additional surety.

- (2) The minimum sum of the bond for the following offices shall be as follows:

Secretary of State	\$10,000
Attorney General	10,000
State Treasurer	300,000
Secretary for economic development	10,000
Commissioner of Agriculture	10,000
Secretary for education	10,000
Auditor of Public Accounts	25,000
Adjutant general	10,000
Secretary of finance and administration	100,000
Commissioner of revenue	50,000
Secretary of transportation	50,000
Commissioner of highways	50,000
Secretary of justice <u>and public safety</u>	50,000
Secretary of corrections	25,000
Commissioner for public health services	10,000
Commissioner of labor	5,000
Commissioner for natural resources	50,000
State librarian	5,000
Executive director of alcoholic beverage control	10,000
Executive director of financial institutions	25,000
Secretary for environmental and public protection	10,000
Executive director of insurance	50,000
Commissioner of vehicle regulation	10,000
Commissioner of fish and wildlife resources	5,000
Secretary for health and family services	20,000
Commissioner of environmental protection	10,000
Commissioner of public protection and regulation	10,000
Secretary of commerce	25,000
Commissioner for community based services	20,000
Member of the Public Service Commission	10,000
Member of State Fair Board	10,000
Member of Fish and Wildlife Resources Commission	1,000

Member of Kentucky Board of Tax Appeals	10,000
Associate member of Alcoholic Beverage Control Board	5,000
Commissioner of local government	100,000

Section 136. KRS 62.170 is amended to read as follows:

- (1) The secretary of the Finance and Administration Cabinet shall secure, except for state officers required by KRS 62.160 to file bond, blanket bonds, with or without cosureties, written on a blanket position form, to cover all other officers, employees, or deputies of the Commonwealth of Kentucky, including all judges, clerks, and employees of the Court of Justice, including all other members of boards or commissions or employees of those boards or commissions, and including all superintendents, receivers, or employees of penal or eleemosynary institutions managed or directed by the Justice and Public Safety Cabinet, the Cabinet for Health and Family Services, or any other department or agency of the Commonwealth of Kentucky. Nothing in this paragraph shall be deemed to prohibit the securing of any such blanket position bond on a departmental, board, commission, agency, or institutional basis.
- (2) The secretary of the Finance and Administration Cabinet may secure one (1) or more excess blanket bonds, with or without cosureties, to cover selected groups of persons covered by the bond or bonds required in the preceding paragraph to provide additional coverage which he or she may deem necessary by the exposures indicated in accordance with the duties and responsibilities indicated by the personnel classification schedules of the Personnel Cabinet and, for Court of Justice officers and personnel, by the Administrative Office of the Courts and in accordance with the amounts of money and property handled by the respective officers and employees.
- (3) Such bond or bonds shall be written by and participated in only by insurance companies licensed by the Office of Insurance to do business in this state and shall be countersigned by a duly authorized licensed resident agent of the company. The bonds may be written with or without cosureties. Further, the bonds are to be a percentage of the total risks, the Office of Insurance to approve the amount of the risk written by any one (1) company.
- (4) The penal amount of the bond secured pursuant to this section shall be fixed by the secretary of the Finance and Administration Cabinet in accordance with the duties and responsibilities indicated by the personnel classification schedules of the Personnel Cabinet and, for Court of Justice officers and personnel, by the Administrative Office of the Courts, and in accordance with the amounts of money and property handled by the respective officers and employees.

Section 137. KRS 64.090 is amended to read as follows:

- (1) Sheriffs may charge and collect the following fees from the Commonwealth and any of its agencies, including the Department of Kentucky State Police, when the source of payment is not otherwise specified, if the Commonwealth, any of its agencies, or the Department of Kentucky State Police makes a request that the sheriff perform any of the following:
 - (a) Executing and returning process \$20.00;
 - (b) Serving an order of court and return 3.00;
 - (c) Summoning or subpoenaing each witness, fee to be paid by requester
to sheriff before service 10.00;
 - (d) Summoning an appraiser or reviewer 2.00;
 - (e) Attending a surveyor, when ordered by a
court, per deputy or sheriff assigned 20.00;
 - (f) Taking any bond that he is authorized or
required to take in any action 5.00;
 - (g) Collecting money under execution or distress warrant, if the debt is paid or the property sold, or a delivery bond
given and not complied with, six percent (6%) on the first three hundred dollars (\$300) and three percent (3%) on
the residue; when he or she levies an execution or distress warrant, and the defendant replevies the debt, or the writ
is stayed by legal proceedings or by the order of the plaintiff, half of the above commissions, to be charged to the
plaintiff and collected as costs in the case; 3.00;
 - (h) Taking a recognizance of a witness 5.00;
 - (i) Levying an attachment 3.00;
 - (j) When property attached is sold by an officer other than the officer levying the attachment, the court shall, in the
judgment, make the officer an additional and reasonable allowance for levying the attachment, and the fee of the
officer selling the property shall be lessened by that sum. Reasonable charges for removing and taking care of
attached property shall be allowed by order of court; 8.00;
 - (k) Summoning a garnishee 3.00;
 - (l) Summoning a jury in a misdemeanor case, attending the trial, and
conducting the defendant to jail, to be paid by the party
convicted 8.00;

2007 Regular Session

- (m) Serving process or arresting the party in misdemeanor cases, to be paid by the plaintiff 30.00;
 - (n) Serving an order or process of revivor 3.00;
 - (o) Executing a writ of possession against each tenant or defendant 7.00;
 - (p) Executing a capias ad satisfaciendum, the same commission as collecting money on execution. If the debt is not paid, but stayed or secured, half commission;
 - (q) Summoning and attending a jury in a case of forcible entry and detainer, besides fees for summoning witnesses 8.00;
 - (r) Collecting militia fines and fee-bills, ten percent (10%), to be deducted out of the fee-bill or fine;
 - (s) Levying for a fee-bill 3.00;
 - (t) Serving a notice 2.00;
 - (u) Serving summons, warrants or process of arrest in cases of children born out of wedlock 6.00;
 - (v) Serving a civil summons in a nonsupport case 10.00;
 - (w) Serving each order appointing surveyors of roads, to be paid out of the county levy 5.00;
 - (x) Serving each summons or order of court in applications concerning roads, to be paid out of the county levy if the road is established, and in all other cases to be paid by the applicant 5.00;
 - (y) Like services in cases of private passways to be paid by the applicant 5.00;
 - (z) Executing each writ of habeas corpus, to be paid by the petitioner 3.00;
 - (aa) All services under a writ issued under KRS 381.460 to 381.570 10.00; and
 - (bb) For services in summoning grand and petit jurors and performing his *or her* duties under KRS Chapter 29A the sheriff shall be allowed, for each person so summoned, and paid out of the State Treasury for constructive service the sum of \$1.50 and for personal service the sum of \$3.00.
- (2) Sheriffs may charge and collect a fee of forty dollars (\$40) from any person not requesting the service of the sheriff on behalf of the Commonwealth, any of its agencies, or the Department of Kentucky State Police for the services provided in subsection (1) of this section where a percentage, commission, or reasonable fee is not otherwise allowed. If a percentage, commission, or reasonable fee is allowed, that amount shall be paid. If payment is specified from a person other than the person who requested the service, then the person specified shall be responsible for payment.

Section 138. KRS 64.185 is amended to read as follows:

- (1) Coroners shall receive out of the county or urban-county treasury, whichever is appropriate, the monthly compensation the fiscal court of each county shall fix, subject to the following minimums:

	County Population	Monthly Minimum Compensation
(a)	10,000 or less	\$ 200
(b)	10,001 to 20,000	300
(c)	20,001 to 40,000	350
(d)	40,001 to 60,000	400
(e)	60,001 to 100,000	450
(f)	100,001 to 150,000	800
(g)	150,001 or more	1,000

Coroners who hold a current certificate of continuing education, issued jointly by the Department of Criminal Justice Training, Justice and Public Safety Cabinet, and the Office~~Division~~ of the Kentucky State Medical Examiner~~Examiners Office~~, Justice and Public Safety Cabinet, shall be paid the following minimum monthly compensation set forth in this subsection in recognition of the training:

County Population	Monthly Minimum Compensation
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(a)	10,000 or less	\$ 400
(b)	10,001 to 20,000	500
(c)	20,001 to 40,000	650
(d)	40,001 to 60,000	750
(e)	60,001 to 100,000	850
(f)	100,001 to 150,000	1,100
(g)	150,001 or more	1,300

- (2) Deputy coroners, who hold a current certificate of continuing education, as described in subsection (1) of this section, shall receive out of the county or urban-county treasury, whichever is appropriate, the monthly compensation the fiscal court of each county shall fix, subject to the following minimums:

	County Population	Monthly Minimum Compensation
(a)	10,000 or less	\$200
(b)	10,001 to 20,000	250
(c)	20,001 to 40,000	275
(d)	40,001 to 60,000	300
(e)	60,001 to 100,000	400
(f)	100,001 to 150,000	900
(g)	150,001 or more	1,100

- (3) The fiscal court of any county, urban-county, or charter county government, may compensate coroners and deputy coroners an additional amount of up to three hundred dollars (\$300) per month as an expense allowance.
- (4) The initial course of continuing education required under subsection (1) of this section shall consist of a basic training course prescribed by the Justice and Public Safety Cabinet. Annually thereafter the coroner shall attend and successfully complete at least eighteen (18) hours of approved training in order to be compensated in accordance with subsection (1) of this section.
- (5) If a deputy coroner assumes the office of coroner after receiving the training stipulated in this section, the deputy coroner shall be compensated in accordance with the compensation schedule set forth in subsection (1) of this section.
- (6) The number of deputy coroners in a county shall not exceed one (1) for each twenty-five thousand (25,000) inhabitants, or fraction thereof, according to the most recent federal census, but every coroner may, subject to fiscal court approval, appoint two (2) deputy coroners, regardless of population.

Section 139. KRS 65.133 is amended to read as follows:

- (1) Each local law enforcement agency and the Department of Kentucky State Police shall each have the responsibility for enforcing the provisions of sex offender registration laws.
- (2) Law enforcement agencies may enter into written agreements for joint investigation and enforcement of violations of sex offender registration laws. These agreements may include other local law enforcement agencies and may include the Department of Kentucky State Police.

Section 140. KRS 65.7623 is amended to read as follows:

- (1) There is hereby created the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky, the "CMRS Board," consisting of ten (10) members, appointed by the Governor as follows: two (2) members shall be employed by or representative of the interest of CMRS providers, of which, one (1) shall be a representative of a Tier III CMRS provider; one (1) member shall be a mayor of a city of the first or second class or urban-county government or his or her designee containing a public safety answering point; one (1) member shall be appointed from a list of local exchange landline telephone companies' representatives submitted by the Kentucky Telephone Association; one (1) member shall be a director of a certified public safety answering point operated by a local governmental entity or a consolidated group of local governmental entities appointed from lists of candidates submitted to the Governor by the Kentucky Firefighters Association, the State Association of Chiefs of Police, and the Kentucky Ambulance Providers Association; two (2) members shall be appointed from lists of candidates submitted to the Governor by the Kentucky Emergency Number Association and the Association of Public Communications Officials; and one (1) member shall be a director of a certified public safety answering point operated by a local government entity or a consolidated group of local governmental entities. The commissioner of the Department of Kentucky State Police, or the commissioner's designee, and the CMRS emergency telecommunications administrator also shall be members of the board. Any vacancy on the board shall be filled in the same manner as the original appointment.
- (2) The commissioner and administrator shall serve by virtue of their office. The other members shall be appointed no later than August 15, 1998, for a term of four (4) years and until their successors are appointed and qualified, except that of the first appointments, one (1) shall be for a term of one (1) year, one (1) shall be for a term of two (2) years, one (1) for a term

of three (3) years, and two (2) shall be for a term of four (4) years. Any member missing three (3) consecutive meetings may be removed by a majority vote of the remaining voting members.

- (3) In addition to the administrator, the Kentucky Office of Homeland Security shall provide staff services and carry out administrative duties and functions as directed by the board. The board shall be attached to the Kentucky Office of Homeland Security for administrative purposes only and shall operate as an independent entity within state government.
- (4) The board members shall serve without compensation but shall be reimbursed in accordance with KRS 45.101 for expenses incurred in connection with their official duties as members of the board.
- (5) All administrative costs and expenses incurred in the operation of the board, including payments under subsection (4) of this section, shall be paid from that portion of the CMRS fund that is authorized under KRS 65.7631 to be used by the board for administrative purposes.

Section 141. KRS 67.592 is amended to read as follows:

- (1) The county judge/executive shall designate the sheriff of the county, or, if there is a county police department, may designate the chief of the county police, as custodian of all property:
 - (a) Alleged to be or suspected of being the proceeds of crime;
 - (b) Alleged to be or suspected of having been used to facilitate the commission of a crime;
 - (c) Which is subject to confiscation or forfeiture, excluding property subject to forfeiture pursuant to KRS Chapter 218A, or both, under any provision of the Kentucky Revised Statutes;
 - (d) Which is taken from the person of a prisoner, except for any personal property that may be in the custody of a prisoner upon his or her admission to jail, in which case all property which he or she is not permitted to retain upon admission to jail shall be placed in the custody of the jailer;
 - (e) Which is lost or abandoned and taken into custody by any peace officer, or the courts; or
 - (f) Which is taken from persons supposed to be insane, intoxicated, or otherwise incapable of taking care of themselves.
- (2) Any peace officer, except for the Department of Kentucky State Police, or court having custody of the property shall, as soon as practicable, deliver it into the custody of the property clerk.
- (3) The sheriff or chief of county police designated as custodian of property shall appoint from persons on his or her staff, or may employ, a person to serve as property clerk and other persons necessary as deputy property clerks.
- (4) All the property shall be particularly described and registered by the property clerk, or his or her deputy, in a book kept for that purpose, containing the name of the owner, if ascertained, the place where found, the name of the person from whom it was taken, with the general circumstances of its receipt, the name of the officer recovering the property, the names of all claimants to the property, and any final disposition of the property. The property clerk shall advertise the property, if it is not the subject of a forfeiture proceeding, as to the amount and disposition of the property.
- (5) The fiscal court of the county may prescribe regulations in regard to the duties of the property clerk and his or her deputies, and require security for the faithful performance of the duties imposed by this section.
- (6) All animals stolen, strayed, lost, or confiscated that come into the possession of the property clerk shall be sent to an animal shelter located within the county, if there is one, or if there is none to an animal shelter in another county.
- (7) No property shall be delivered to the property clerk or his or her deputy except as provided in this section.
- (8) No property shall be disposed of by the property clerk or his or her deputy except in the manner prescribed by law.
- (9) The provisions of this section shall apply in all unincorporated areas of a county and in all cities which do not appoint a property custodian pursuant to KRS 95.845.

Section 142. KRS 72.210 is amended to read as follows:

In enacting legislation establishing an Office of the~~[a Division of]~~ Kentucky State Medical Examiner~~[Examiners Office]~~ for the Commonwealth of Kentucky, it is not the intention of the General Assembly to abolish or interfere with the coroner in his role as a constitutionally elected peace officer. It is the intention of the General Assembly for the office to aid, assist, and complement the coroner in the performance of his duties by providing medical assistance to him in determining causes of death.

Section 143. KRS 72.220 is amended to read as follows:

The Justice and Public Safety Cabinet shall, within budgetary limitation, provide medical assistance to coroners in investigating deaths; provide or contract for laboratory facilities for performing autopsies and investigations pursuant to KRS 72.210 to 72.275; provide for the keeping of reports of all investigations and examinations; and provide such other functions and duties as may be specified in KRS 72.210 to 72.275 or in the administrative~~[rules and]~~ regulations of the secretary of justice and public safety.

Section 144. KRS 72.225 is amended to read as follows:

An advisory commission is hereby established to act in a general advisory capacity to the medical examiner services. The commissioner of the Department of Kentucky State Police, the commissioner of criminal justice training, the secretary of justice and public safety, and the secretary for health and family services shall be ex officio members of the advisory commission. The secretary of justice and public safety shall appoint five (5) additional members for terms of four (4) years each or until their

successors are appointed and qualify. Members of the advisory commission shall receive no compensation for their services but shall be repaid their actual expenses incurred in attending meetings.

Section 145. KRS 72.235 is amended to read as follows:

The Justice and Public Safety Cabinet may establish or contract for physical facilities for the conduct of post-mortem and other necessary examinations. The cabinet may employ, by contract or otherwise, pathologists, toxicologists and other ancillary, technical and administrative personnel to perform autopsies and such other pathological, chemical and other studies and examinations as may be deemed necessary. Such studies and examinations may be performed in another state if deemed to be in the best interest of the Commonwealth by the chief medical examiner or the certified coroner or deputy coroner and the reports thereof shall have the same validity and admissibility in evidence as those performed within this state when duly certified by the chief medical examiner of the cabinet or by a certified coroner or deputy coroner.

Section 146. KRS 72.240 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet may employ a board certified forensic pathologist as the chief medical examiner who shall administer the Office~~[Division]~~ of the Kentucky State Medical Examiner~~[Examiners Office]~~ and one (1) associate chief medical examiner for the Commonwealth.~~[The chief medical examiner and the associate chief medical examiner shall be affiliated with the state medical schools.]~~
- (2) The Justice and Public Safety Cabinet may employ physicians licensed to practice medicine in Kentucky as county or district medical examiners to carry out the provisions of KRS 72.210 to 72.275 within the counties or district to which they are assigned by the medical examiner section. The cabinet may designate county or district health officers as county or district medical examiners and may authorize additional compensation therefor.

Section 147. KRS 72.255 is amended to read as follows:

The secretary of justice and public safety shall adopt administrative~~[rules and]~~ regulations to carry out the provisions of KRS Chapter 72 including but not limited to the adoption of forms, fees for examinations, certification requirements, reports of medical examiners and certified coroners, and other costs incidental to the administration of this chapter. The advisory commission provided for in KRS 72.225 shall review and may recommend new regulations or changes in the regulations provided for in this section.

Section 148. KRS 72.260 is amended to read as follows:

The secretary of justice and public safety is authorized to establish a schedule of fees for issuing duplicate records of investigations, examinations, autopsies, and other records; provided, however, that one (1) copy shall be provided free of charge to the coroner and either the county or Commonwealth's attorney concerned.

Section 149. KRS 72.275 is amended to read as follows:

Anyone participating in good faith pursuant to KRS 72.210 to 72.275 or the administrative~~[rules and]~~ regulations of the secretary of justice and public safety shall have immunity from any civil liability that might otherwise be incurred or imposed.

Section 150. KRS 72.400 is amended to read as follows:

In enacting legislation relating to coroners, the General Assembly recognizes that the coroner is an elected constitutional peace officer. The General Assembly also recognizes that the ascertainment of the cause and manner of death in cases in which the coroner has jurisdiction is an essential governmental service. It is the intent of KRS 72.410 to 72.470 to encourage the coroner to participate in approved training sessions to improve his skills for the Commonwealth and to cooperate with the Office~~[Division]~~ of the Kentucky State Medical Examiner~~[Examiners Office]~~ administered by the Justice and Public Safety Cabinet.

Section 151. KRS 72.405 is amended to read as follows:

As used in KRS 72.410 to 72.470, unless the context clearly indicates otherwise:

- (1) "Coroner ordered autopsy" means an autopsy ordered by the coroner having jurisdiction and performed by a pathologist pursuant to such authorization in order to ascertain the cause and manner of death in a coroner's case. In the event the pathologist deems it necessary, he may submit the appropriate specimen to a qualified chemist or toxicologist for analysis to assist him in ascertaining the cause of death in a coroner's case.
- (2) "Coroner's case" means a case in which the coroner has reasonable cause for believing that the death of a human being within his county was caused by any of the conditions set forth in KRS 72.025.
- (3) "Inquest" means an examination ordered by the coroner, or in his absence, ordered by a deputy coroner, into the causes and circumstances of any death which is a coroner's case by a jury of six (6) residents of the county impaneled and selected by the coroner to assist him in ascertaining the cause and manner of death.
- (4) "Post-mortem examination" means a physical examination of the body by a medical examiner or by a coroner or deputy coroner who has been certified by the Justice and Public Safety Cabinet and may include an autopsy performed by a pathologist or other appropriate scientific tests administered to determine cause of death.
- (5) "Certified coroner" or "certified deputy coroner" means a coroner or deputy coroner who has been certified by the Justice and Public Safety Cabinet to have successfully completed both the basic training course and annual inservice training course required by KRS 72.415, except that a deputy coroner shall be certified without completion of training courses required by KRS 72.415 if he is a licensed physician. The secretary of justice and public safety may waive the requirement

2007 Regular Session

for basic training and certify a coroner during the eighteen (18) month period after July 15, 1982, if the advisory commission set forth in KRS 72.225 certifies to the secretary after a thorough review that the experience and knowledge of the specific coroner is such that he is qualified to be a certified coroner without taking the basic training.

Section 152. KRS 72.410 is amended to read as follows:

- (1) The coroner of each county shall investigate the cause and manner of all deaths that are defined by KRS 72.405 as a coroner's case.
- (2) The coroner may, in his sound discretion, when investigating a coroner's case, request the assistance of the district medical examiner and the ~~Office~~[Division] of ~~the~~ Kentucky State Medical ~~Examiner~~[Examiners-Office], order an autopsy, and hold an inquest.
- (3)
 - (a) Upon notification of the death of a child under the age of eighteen (18) years which meets the criteria for a coroner's case as defined in KRS 72.405 and 72.025, the coroner shall as soon as practicable contact the local office of the Department for Community Based Services, law enforcement agencies with local jurisdiction, and the local health department to determine the existence of relevant information concerning the case.
 - (b) Any agency of the state or any other agency, institution, or facility providing services to the child or the child's family, shall provide to the coroner upon his *or her* request the cooperation, assistance, and information to enable the coroner to comply with the provisions of this chapter. This section shall not be deemed to abrogate the attorney-client nor the clergy-penitent privilege or the confidentiality of records provided by KRS 311.377(2). If other privileged or confidential records are disclosed to the coroner pursuant to this section, the records shall remain confidential or privileged and shall not be disclosed except as authorized by this section, to the state or local child fatality response team, or as otherwise required by law.

Section 153. KRS 72.415 is amended to read as follows:

- (1) For the purpose of enforcing the provisions of KRS 72.410 to 72.470, coroners and deputy coroners shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon public or private premises for the purpose of making investigations, to seize evidence, to interrogate persons, to require the production of medical records, books, papers, documents, or other evidence, and to impound vehicles involved in vehicular deaths, employ special investigators and photographers, and to expend funds for the purpose of carrying out the provisions of KRS 72.410 to 72.470. The fiscal court or urban-county government shall pay all reasonable expenses incurred by the coroner and his deputy in carrying out his responsibilities under the provisions of KRS 72.410 to 72.470.
- (2) No person shall be eligible to hold the office of deputy coroner unless he holds a high school diploma or its recognized equivalent. Every deputy coroner, other than a licensed physician, shall be required as a condition of office to take during every calendar year he *or she* is in office the training course of at least eighteen (18) hours provided by the Department of Criminal Justice Training or other courses approved by the Justice *and Public Safety* Cabinet after having completed the basic training course the first year of employment. The training course shall include material developed by the cabinet and approved by the Cabinet for Health and Family Services on the human immunodeficiency virus infection and acquired immunodeficiency syndrome. The material shall include information on known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change.

Section 154. KRS 72.460 is amended to read as follows:

The cost of autopsies shall be paid for by the fiscal court; provided, however, that the Justice *and Public Safety* Cabinet, ~~Office~~[Division] of ~~the~~ Kentucky State Medical ~~Examiner~~[Examiners-Office], may contract with pathologists and toxicologists and chemists and pay for such autopsies within the budgetary limitations of funds appropriated by the General Assembly for this purpose.

Section 155. KRS 95.435 is amended to read as follows:

- (1) The police department in cities of the second class, and urban-county government shall take charge of property, within their jurisdiction, alleged to be or suspected of being the proceeds of crime, property taken from the person of a prisoner, lost or abandoned property taken into the custody of any member of the police force or criminal court, and property taken from persons supposed to be insane, intoxicated or otherwise incapable of taking care of themselves. The officer or court having custody of such property shall as soon as practicable deliver it into the custody of the police department.
- (2) All such property shall be particularly described and registered by the police department in a book kept for that purpose, containing the name of the owner, if ascertained, the place where found, the name of the person from whom taken, with the general circumstances, the date of its receipt, the name of the officer recovering the property, the names of all claimants thereto, and any final disposition of the property. The police department shall advertise the property pursuant to KRS Chapter 424 for the information of the public as to the amount and disposition of the property.
- (3) If any property in the custody of the police department is desired as evidence in any criminal court, such property shall be delivered to any officer who presents an order to that effect from the court. Such property shall not be retained in the court but shall be returned to the police department.
- (4) All property except firearms that remains in the custody of the police department for three (3) months, without any lawful claimant thereto, may be sold at public auction in a suitable room designated for that purpose after having been advertised

pursuant to KRS Chapter 424. The proceeds of such sales shall be paid into the police and firefighters' pension fund of said city or urban-county government. Firearms shall be transferred to the Department of Kentucky State Police within ninety (90) days of abandonment, confiscation, release of the weapon as evidence, or forfeiture by a court, whichever occurs later.

Section 156. KRS 95.960 is amended to read as follows:

Funds in the Kentucky Law Enforcement Foundation Program Fund may be utilized by the Department of Criminal Justice Training to reimburse cities, urban-counties, or charter counties with regular police departments of ten (10) or fewer officers for the cost of the base salary for each regular, full-time police officer while the officer is obtaining the training required in KRS 95.955. The city, urban-county, or charter county shall show to the satisfaction of the Department of Criminal Justice Training that it will be placed in a situation of undue hardship if the funding is not provided. The secretary of the Justice and Public Safety Cabinet shall promulgate administrative regulations upon the recommendation of the Kentucky Law Enforcement Council to define what constitutes "undue financial hardship" and to otherwise implement this section.

Section 157. KRS 100.361 is amended to read as follows:

- (1) Nothing in this chapter shall apply or affect zoning regulations adopted pursuant to KRS Chapter 183.
- (2) Nothing in this chapter shall impair the sovereignty of the Commonwealth of Kentucky over its political subdivisions. Any proposal affecting land use by any department, commission, board, authority, agency, or instrumentality of state government shall not require approval of the local planning unit. However, adequate information concerning the proposals shall be furnished to the planning commission by the department, commission, board, authority, agency, or instrumentality of state government. If the state proposes to acquire, construct, alter, or lease any land or structure to be used as a penal institution or correctional facility, and the proposed use is inconsistent with or contrary to local planning regulations or the comprehensive plan for the area, the secretary of the Justice and Public Safety Cabinet, or his or her designee, shall notify, in accordance with KRS 424.180, the planning commission, the local governing body, who has jurisdiction over the area involved, and the general public of the state's proposals for the area, and he or she shall hold a public hearing on the proposals within the area at least ninety (90) days prior to commencing the acquisition, construction, alteration, or leasing. A final report on the public hearing shall be submitted to the Governor and members of the General Assembly within twenty-five (25) days of the public hearing, and prior to commencing any construction, alteration, acquisition, or leasing of such property or facilities.

Section 158. KRS 117.187 is amended to read as follows:

- (1) The State Board of Elections shall regularly provide special training regarding the election laws and methods of enforcement to all members of county boards of elections, county attorneys, Commonwealth's attorneys, and certain members of the Department of Kentucky State Police.
- (2) The county board of elections shall provide special training before each primary and regular election to all election officers, alternates, and certified challengers regarding their duties and the penalties for failure to perform. Election officers, including alternates, and certified challengers shall attend the training session, unless excused by the county board of elections for reason of illness or other emergency. Any person who fails to attend a training session without being excused shall be prohibited from serving as an election officer or challenger for a period of five (5) years. The training provided by the county board of elections shall include, but not be limited to, the following:
 - (a) Operation of the voting machine or ballot cards;
 - (b) Posting of necessary signs and notices at the polling place;
 - (c) Voter assistance;
 - (d) Maintaining precinct rosters;
 - (e) Confirmation of a voter's identity;
 - (f) Challenge of a voter;
 - (g) Completing changes of address or name at the polling place;
 - (h) Qualifications for voting in a primary election;
 - (i) Electioneering and exit polling;
 - (j) Write-in voting procedures;
 - (k) Persons who may be in the voting room;
 - (l) Election violations and penalties;
 - (m) Assistance which may be provided by law enforcement officers;
 - (n) Election reports;
 - (o) Disability awareness;
 - (p) Provisional voting process; and
 - (q) Election emergency contingency plan.
- (3) The county attorney shall attend the training session for election officers to assist in explaining the duties and penalties for

2007 Regular Session

failure to perform.

- (4) Compensation in the minimum amount of ten dollars (\$10) for reimbursement of actual expenses shall be paid by the county to the election officers for attending the training session.

Section 159. KRS 117.237 is amended to read as follows:

- (1) A county board of elections, a clerk, judge/executive, sheriff, fiscal court, the Attorney General, grand jury or the county chairman of either of the two (2) political parties which polled the largest vote in the preceding general election may request that the Department of Kentucky State Police patrol voting precincts in the county during the hours the polls are open on the day of any primary or regular or special election for the purpose of maintaining order and enforcing the election laws of the state. The Department of Kentucky State Police shall investigate any reported violations of the election laws. Candidates may petition any of the aforementioned officers or bodies to request State Police patrols of county voting precincts.
- (2) The Department of Kentucky State Police shall report the results of their investigation to the appropriate Commonwealth's and county attorneys.

Section 160. KRS 136.392 is amended to read as follows:

- (1) (a) Every domestic, foreign, or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370, or 136.390, shall charge and collect a surcharge of one dollar and fifty cents (\$1.50) upon each one hundred dollars (\$100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether the charges are designated as premiums, assessments, or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to administrative regulations promulgated by the executive director of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth day of each month, each insurer shall report and remit to the Department of Revenue, on forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. Insurers with an annual liability of less than one thousand dollars (\$1,000) for each of the previous two (2) calendar years may report and remit to the Department of Revenue all premium surcharge moneys collected on a calendar year basis on or before the twentieth (20th) day of January of the following calendar year. The funds derived from the premium surcharge shall be deposited in the State Treasury, and shall constitute a fund allocated for the uses and purposes of the Firefighters Foundation Program fund (KRS 95A.220 and 95A.262) and the Law Enforcement Foundation Program fund (KRS 15.430).
- (b) Effective July 1, 1992, the surcharge rate in paragraph (a) of this subsection shall be adjusted by the commissioner of revenue to a rate calculated to provide sufficient funds for the uses and purposes of the Firefighters Foundation Program fund as prescribed by KRS 95A.220 and 95A.262 and the Law Enforcement Foundation Program fund as prescribed by KRS 15.430 for each fiscal year. The rate shall be calculated using as its base the number of local government units eligible for participation in the funds under applicable statutes as of January 1, 1994. To allow the commissioner of revenue to calculate an appropriate rate, the secretary of the Environmental and Public Protection Cabinet and the secretary for the Justice and Public Safety Cabinet shall certify to the commissioner of revenue, no later than January 1 of each year, the estimated budgets for the respective funds specified above, including any surplus moneys in the funds, which shall be incorporated into the consideration of the adjusted rate for the next biennium. As soon as practical, the commissioner of revenue shall advise the executive director of insurance of the new rate and the executive director shall inform the affected insurers. The rate adjustment process shall continue on a biennial basis.
- (2) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the State Treasury as set forth in this section shall be paid by the State Treasurer into the Firefighters Foundation Program fund trust and agency account and the Law Enforcement Foundation Program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the Law Enforcement Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars (\$3,000,000) shall lapse. On and after July 1, 1999, moneys in this account shall not lapse. Money deposited to the Firefighters Foundation Program fund trust and agency account shall not be disbursed, expended, encumbered, or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300, except that beginning with fiscal year 1994-95, through June 30, 1999, moneys remaining in the account at the end of the fiscal year in excess of three million dollars (\$3,000,000) shall lapse, but moneys in the revolving loan fund established in KRS 95A.262 shall not lapse. On and after July 1, 1999, moneys in this account shall not lapse.
- (3) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative, or

assessment fire insurance company shall be deposited in the State Treasury, and shall be paid monthly by the State Treasurer into the Firefighters Foundation Program fund trust and agency account as provided in KRS 95A.220 to 95A.262. However, insurance premium surcharge funds collected from policyholders of any mutual company, cooperative, or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1994, shall continue to be paid into the Firefighters Foundation Program fund and the Law Enforcement Foundation Program fund as prescribed.

- (4) No later than July 1 of each year, the Office of Insurance shall provide the Department of Revenue with a list of all Kentucky-licensed property and casualty insurers and the amount of premium volume collected by the insurer for the preceding calendar year as set forth on the annual statement of the insurer. No later than September 1 of each year, the Department of Revenue shall calculate an estimate of the premium surcharge due from each insurer subject to the insurance premium surcharge imposed pursuant to this section, based upon the surcharge rate imposed pursuant to this section and the amount of the premium volume for each insurer as reported by the Office of Insurance. The Department of Revenue shall compare the results of this estimate with the premium surcharge paid by each insurer during the preceding year, and shall provide the Legislative Research Commission, the Commission on Fire Protection Personnel Standards and Education, the Kentucky Law Enforcement Council, and the Office of Insurance with a report detailing its findings on a cumulative basis. In accordance with KRS 131.190, the Department of Revenue shall not identify or divulge the confidential tax information of any individual insurer in this report.

Section 161. KRS 148.290 is amended to read as follows:

- (1) The commission may enter into agreements with the law enforcement agency of any urban-county or counties in which the State Horse Park is located or in any adjacent county or with the Department of Kentucky State Police for proper policing of the State Horse Park. If authorized to do so by the commission and subject to KRS 61.300, the executive director may commission employees of the park as patrol officers. These patrol officers shall have all the powers of peace officers upon the property of the State Horse Park and the public property and roads traversing or immediately adjacent thereto.
- (2) The commission is authorized to establish by resolution speed limits governing the operation of motor vehicles on horse park property. Notice to the public of such speed limits shall be posted by signs or markings.

Section 162. KRS 154A.080 is amended to read as follows:

- (1) The corporation shall establish and maintain a personnel program for its employees. The corporation may procure benefit programs or group insurance plans and shall provide a retirement plan. Employees of the corporation shall serve at the pleasure of the president who shall determine their compensation and benefits. The employees shall be subject to suspension, dismissal, reduction in pay, demotion, transfer, or other personnel action at the discretion of the president. Such personnel actions shall be exempt from the provisions of KRS Chapter 18A. The compensation of officers at the division head level and above shall be exempt from the provisions of KRS 64.640.
- (2) No officer or employee of the corporation shall have a financial interest in any vendor doing business or proposing to do business with the corporation.
- (3) No officer or employee of the corporation with decision-making authority shall participate in any decision involving a retailer with whom the officer or employee has a financial interest of five percent (5%) or more of the total value thereof.
- (4) No officer or employee of the corporation who leaves the employ of the corporation may represent any vendor, lottery retailer, or related entity before the corporation for a period of two (2) years following termination of employment with the corporation.
- (5) A background investigation shall be conducted by the chief security officer of the corporation on every applicant who has reached the final selection process prior to employment by the corporation. Applicants may be fingerprinted as a condition of employment. In addition, all division directors of the corporation and employees of the corporation performing duties primarily related to security matters, prior to employment, shall be subject to a background investigation report conducted by the Department of Kentucky State Police. The Department of Kentucky State Police shall be reimbursed by the corporation for the cost of investigations conducted pursuant to this section. No person who has been convicted of a felony, bookmaking or other forms of illegal gambling, or of a crime involving moral turpitude shall be employed by the corporation. Any employee of the corporation who is or has been convicted of a felony, bookmaking, or any other form of illegal gambling or of a crime involving moral turpitude shall be terminated from employment by the corporation, except that this requirement shall not be interpreted to limit the right of the corporation to terminate the employment of any employee, at will, prior to any conviction.

Section 163. KRS 154A.650 is amended to read as follows:

- (1) The Department of Kentucky State Police shall, at the request of the division of security, perform full criminal background investigations on all potential vendors and potential employees of the corporation at the level of division director and above and at any level within the division of security. The corporation shall reimburse the Department of Kentucky State Police for the actual costs of such investigations.
- (2) The corporation or its division of security shall:
 - (a) Conduct criminal background investigations and credit investigations on all potential retailers and investigate all potential employees of the corporation not referred to in subsection (1) of this section;

- (b) Supervise ticket validation and lottery drawings;
- (c) Inspect at times determined solely by the division, the facilities of any vendor in order to determine the integrity of the vendor's product and in order to determine whether the vendor is in compliance with its contract;
- (d) Report any suspected violations of this chapter to the appropriate Commonwealth's attorney, or the Attorney General and law enforcement agencies; and
- (e) Upon request, provide assistance to any Commonwealth's attorney, the Attorney General or law enforcement agency investigating a violation of this chapter.

Section 164. KRS 156.483 is amended to read as follows:

- (1) The State Department of Education shall not employ, in a position which involves supervisory or disciplinary power over a minor, any person who is a violent offender or has been convicted of a sex crime defined in KRS 17.165 as a felony. The Department of Education may employ, at its discretion, persons convicted of sex crimes classified as a misdemeanor. The Department of Education shall request all conviction information for any applicant for employment from the Justice and Public Safety Cabinet prior to employing the applicant.
- (2) Each application form, provided by the Department of Education to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."
- (3) Any request for records under subsection (1) of this section shall be on a form approved by the Justice and Public Safety Cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.
- (4) The provisions of this section shall apply after July 15, 1988, to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor.

Section 165. KRS 156.495 is amended to read as follows:

- (1) The Department of Education shall weekly distribute the names, provided by the Department of Kentucky State Police, of all missing children and children who have been recovered to all public and private schools admitting children in preschool through grade twelve (12).
- (2) Every public and private school in this state shall notify local law enforcement or the Department of Kentucky State Police at its earliest known contact with any child whose name appears on the list of missing Kentucky children.
- (3) The department shall encourage each public and private school to engage in a program whereby the parents of children who are absent from school are notified in person or by telephone to verify if they know that the child is not attending school.

Section 166. KRS 158.032 is amended to read as follows:

- (1) Upon notification by the commissioner of education of a child's disappearance, any school in which the child is currently or was previously enrolled shall flag the record of the child so that when a copy of or information regarding the child's record is requested, the school shall be alerted that the record is that of a missing child. The school shall immediately report to local law enforcement or the Kentucky Department of State Police any request concerning flagged records or any knowledge as to the whereabouts of any missing child.
- (2) Upon notification by the commissioner of education of any missing child who has been recovered, the school shall remove the flag from the child's record.
- (3) Upon enrollment of a student for the first time in any elementary or secondary school, the school shall notify in writing the person enrolling the student that within thirty (30) days the person shall provide either:
 - (a) A certified copy of the student's birth certificate; or
 - (b) Other reliable proof of the student's identity and age, and an affidavit of the inability to produce a copy of the birth certificate.
- (4) Upon the failure of a person enrolling the student to comply with this section, the school shall notify the person in writing that unless he complies within ten (10) days the case shall be referred to the Department of Kentucky State Police or local law enforcement officials for investigation. If compliance is not obtained within the ten (10) day period, the school shall so refer the case.
- (5) Within fourteen (14) days after enrolling a transfer student, each elementary or secondary school shall request directly from the student's previous school a certified copy of the student's record. Any school receiving a request of a student's record which has been flagged as the record of a missing child shall not forward the student's record but shall instead notify local law enforcement or the Department of Kentucky State Police.

Section 167. KRS 158.155 is amended to read as follows:

- (1) If a student has been adjudicated guilty of an offense specified in this subsection or has been expelled from school for an offense specified in this subsection, prior to a student's admission to any school, the parent, guardian, principal, or other person or agency responsible for a student shall provide to the school a sworn statement or affirmation indicating on a form provided by the Kentucky Board of Education that the student has been adjudicated guilty or expelled from school

attendance at a public or private school in this state or another state for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs. The sworn statement or affirmation shall be sent to the receiving school within five (5) working days of the time when the student requests enrollment in the new school.

- (2) If any student who has been expelled from attendance at a public or private school in this state for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs requests transfer of his records, those records shall reflect the charges and final disposition of the expulsion proceedings.
- (3) If any student who is subject to an expulsion proceeding at a public or private school in this state for homicide, assault, or an offense in violation of state law or school regulations relating to weapons, alcohol, or drugs requests transfer of his records to a new school, the records shall not be transferred until that proceeding has been terminated and shall reflect the charges and any final disposition of the expulsion proceedings.
- (4) A person who is an administrator, teacher, or other employee of a public or private school shall promptly make a report to the local police department, sheriff, or the Department of Kentucky State Police, by telephone or otherwise, if:
 - (a) The person knows or has reasonable cause to believe that conduct has occurred which constitutes:
 1. A misdemeanor or violation offense under the laws of this Commonwealth and relates to:
 - a. Carrying, possession, or use of a deadly weapon; or
 - b. Use, possession, or sale of controlled substances; or
 2. Any felony offense under the laws of this Commonwealth; and
 - (b) The conduct occurred on the school premises or within one thousand (1,000) feet of school premises, on a school bus, or at a school-sponsored or sanctioned event.
- (5) A person who is an administrator, teacher, supervisor, or other employee of a public or private school who receives information from a student or other person of conduct which is required to be reported under subsection (1) of this section shall report the conduct in the same manner as required by that subsection.
- (6) Neither the husband-wife privilege of KRE 504 nor any professional-client privilege, including those set forth in KRE 506 and 507, shall be a ground for refusing to make a report required under this section or for excluding evidence in a judicial proceeding of the making of a report and of the conduct giving rise to the making of a report. However, the attorney-client privilege of KRE 503 and the religious privilege of KRE 505 are grounds for refusing to make a report or for excluding evidence as to the report and the underlying conduct.
- (7) Nothing in this section shall be construed as to require self-incrimination.
- (8) A person acting upon reasonable cause in the making of a report under this section in good faith shall be immune from any civil or criminal liability that might otherwise be incurred or imposed from:
 - (a) Making the report; and
 - (b) Participating in any judicial proceeding that resulted from the report.

Section 168. KRS 160.151 is amended to read as follows:

- (1)
 - (a) Beginning with the 2002-2003 school year, a private, parochial, or church school that has voluntarily been certified by the Kentucky Board of Education in accordance with the provisions of KRS 156.160(3) may require a national and state criminal background check on all new certified hires in the school and student teachers assigned to the school. Certified individuals who were employed in another certified position in a Kentucky school within six (6) months of the date of the hire and who had previously submitted to a national and state criminal background check for previous employment may be excluded from further national or state criminal background checks.
 - (b) The national criminal history background check shall be conducted by the Federal Bureau of Investigation. The state criminal history background check shall be conducted by the Department of Kentucky State Police or the Administrative Office of the Courts.
 - (c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation by the Department of Kentucky State Police after a state criminal background check has been conducted. Any fee charged by the Department of Kentucky State Police, the Administrative Office of the Courts, or the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (2) If a school requires a criminal background check for a new hire, the school shall conspicuously include the following disclosure statement on each application or renewal form provided by the employer to an applicant for a certified position: "STATE LAW AUTHORIZES THIS SCHOOL TO REQUIRE A CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT FOR THIS TYPE OF POSITION."
 - (a) For purposes of this subsection, "contractor" means an adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school-affiliated entity, at times when students are present. The term "contractor" includes an employee of a contractor.
 - (b) The school or school board may require a contractor, volunteer, or visitor to submit to a national criminal history

check by the Federal Bureau of Investigation and state criminal history background check by the Department of Kentucky State Police or Administrative Office of the Courts. Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested, shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

- (3) (a) A nonpublic school voluntarily implementing the provisions of this chapter may choose not to employ any person who is a violent offender as defined by KRS 17.165(2), has been convicted of a sex crime which is classified as a felony as defined by KRS 17.165(1), or has committed a violent crime as defined in KRS 17.165(3). A nonpublic school may employ, at its discretion, persons convicted of sex crimes classified as a misdemeanor.
- (b) If a school term has begun and a certified position remains unfilled or if a vacancy occurs during a school term, a nonpublic school implementing the provisions of this chapter may employ an individual who will have supervisory or disciplinary authority over minors on probationary status pending receipt of a criminal history background check.
- (c) Employment at a nonpublic school implementing the provisions of this chapter may be contingent on the receipt of a criminal history background check documenting a record as a violent offender, of a sex crime, or of a violent crime as defined in KRS 17.165.
- (d) Nonpublic schools implementing the provisions of this chapter may terminate probationary employment under this section upon receipt of a criminal history background check documenting a record as a violent offender, of a sex crime, or of a violent crime as defined in KRS 17.165.

Section 169. KRS 160.380 is amended to read as follows:

- (1) As used in this section:

- (a) "Contractor" means an adult who is permitted access to school grounds pursuant to a current or prospective contractual agreement with the school, school board, school district, or school-affiliated entity, at times when students are present. The term "contractor" includes an employee of a contractor.
- (b) "Relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.
- (c) "Vacancy" means any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

- (2) (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself or herself to another position within the school district.
- (b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall post position openings in the local board office for public viewing.
- (c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.
- (d) When a vacancy occurs in a local district, the superintendent shall conduct a search to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district.
- (e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to marrying a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has at least twenty (20) years of service in school systems may be an employee of the school district. A superintendent's spouse who is employed under this provision

shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection.

- (f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.
- (g)
 - 1. No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.
 - 2. No spouse of a principal shall be employed in the principal's school, except:
 - a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district; or
 - b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.
 - 3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.
 - 4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.
- (3) No superintendent shall employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor.
- (4)
 - (a) A superintendent shall require a national and state criminal background check on all new certified hires in the school district and student teachers assigned within the district. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check for the previous employment.
 - (b) The superintendent shall require that each new certified hire and student teacher, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation.
 - (c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Department of Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.
 - (d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.
- (5) A superintendent shall require a state criminal background check on all classified initial hires.
 - (a) The superintendent shall require that each classified initial hire submit to a state criminal history background check by the Department of Kentucky State Police. If an applicant has been a resident of Kentucky twelve (12) months or less, the superintendent may require a national criminal history background check as a condition of employment.
 - (b) Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested under the provisions of paragraph (a) of this subsection, shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (6) The superintendent may require a contractor, volunteer, or visitor to submit to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation. Any request for records under this section shall be on an applicant fingerprint card provided by the Department of Kentucky State Police. The results of the state criminal background check and the results of the national criminal history background check, if requested, shall be sent to the hiring superintendent. Any fee charged by the Department of Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.
- (7)
 - (a) If a school term has begun and a certified or classified position remains unfilled or if a vacancy occurs during a school term, a superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check. Application for the

2007 Regular Session

criminal record of a probationary employee shall be made no later than the date probationary employment begins.

- (b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.
- (c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.
- (d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.
- (8) (a) Each application or renewal form, provided by the employer to an applicant for a classified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT. UNDER CERTAIN CIRCUMSTANCES, A NATIONAL CRIMINAL HISTORY BACKGROUND CHECK MAY BE REQUIRED AS A CONDITION OF EMPLOYMENT."
- (b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."
- (c) Each application form for a district position shall require the applicant to:
 1. Identify the states in which he or she has maintained residency, including the dates of residency; and
 2. Provide picture identification.
- (9) The provisions of subsections (4), (5), (6), (7), and (8) of this section shall apply to a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.
- (10) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, when an employee of the school district is charged with any offense which is classified as a felony, the superintendent may transfer the employee to a second position until such time as the employee is found not guilty, the charges are dismissed, the employee is terminated, or the superintendent determines that further personnel action is not required. The employee shall continue to be paid at the same rate of pay he or she received prior to the transfer. If an employee is charged with an offense outside of the Commonwealth, this provision may also be applied if the charge would have been treated as a felony if committed within the Commonwealth. Transfers shall be made to prevent disruption of the educational process and district operations and in the interest of students and staff and shall not be construed as evidence of misconduct.

Section 170. KRS 161.148 is amended to read as follows:

- (1) As used in this section, "volunteers" means adults who assist teachers, administrators, or other staff in public school classrooms, schools, or school district programs, and who do not receive compensation for their work.
- (2) Local school districts may utilize adult volunteers in supplementary instructional and noninstructional activities with pupils under the direction and supervision of the professional administrative and teaching staff.
- (3) Each board of education shall develop policies and procedures that encourage volunteers to assist in school or district programs.
- (4) Each local board of education shall develop and adopt a policy requiring a state criminal records check on all volunteers who have contact with students on a regularly scheduled or continuing basis, or who have supervisory responsibility for children at a school site or on school-sponsored trips. The request for records may be from the Justice and Public Safety Cabinet or the Administrative Office of the Courts, or both, and shall include records of all available convictions as described in KRS 17.160(1). Any request for a criminal records check of a volunteer under this subsection shall be on a form or through a process approved by the Justice and Public Safety Cabinet or the Administrative Office of the Courts. If the cabinet or the Administrative Office of the Courts charges fees, the local board of education shall arrange to pay the cost which may be from local funds or donations from any source including volunteers.
- (5) The local board of education shall provide orientation material to all volunteers who have contact with students on a regularly scheduled or continuing basis, including school policies, safety and emergency procedures, and other information deemed appropriate by the local board of education.
- (6) The provisions of this section shall not apply to students enrolled in an educational institution and who participate in observations and educational activities under direct supervision of a local school teacher or administrator in a public school.

Section 171. KRS 164.2841 is amended to read as follows:

- (1) (a) Any person whose parent or any nonmarried widow or widower whose spouse was a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, firefighter, or volunteer firefighter and who was killed while in active service or training for active service or who died as a result of a service-connected disability shall not be required to pay any matriculation or tuition fee upon admission to any state-supported university, community college, or vocational training institution. The provisions of this subsection shall apply to

any firefighter or volunteer firefighter who is killed or dies under the conditions covered in this subsection on July 1, 1989, or thereafter.

- (b) In order to obtain the benefits conferred by paragraph (a) of this subsection, the parent-child relationship shall be shown by birth certificate, adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death shall be evidenced by certification from the records of the Kentucky Justice and Public Safety Cabinet, the appropriate city or county law enforcement agency which employed the deceased, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.
- (2) (a) Any person whose parent or any nonmarried widow or widower whose spouse was an employee participating in a state-administered retirement system, and not otherwise covered by subsection (1) of this section, and who died as a result of a duty-related injury as described in KRS 61.621 shall not be required to pay any matriculation or tuition fee upon admission to any state-supported university, community college, or vocational training institution.
- (b) In order to obtain the benefits conferred by paragraph (a) of this subsection, the parent-child relationship shall be shown by birth certificate, adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death shall be evidenced by certification from the records of the employing agency or the appropriate retirement system.
- (3) If one so admitted to a state-supported university, community college, or vocational training institution under the provisions of this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of his attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

Section 172. KRS 164.2842 is amended to read as follows:

- (1) (a) The spouse, regardless of age, and any child of a permanently and totally disabled law enforcement officer, firefighter, or volunteer firefighter injured while in active service or in training for active service, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state-supported university, community college, or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.
- (b) For the spouse or child to be entitled to benefits under this section, the disabled law enforcement officer, firefighter, or volunteer firefighter shall be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the Kentucky Justice and Public Safety Cabinet, the appropriate city or county law enforcement agency which employed the disabled, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, or if deceased, the claim to benefits is to be based on the rating held by the law enforcement officer, firefighter, or volunteer firefighter at the time of death. The parent's or spouse's service and rating shall be evidenced by certification from the records of the Kentucky Justice and Public Safety Cabinet, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.
- (c) In the absence of certification of permanent and total disability by the Kentucky Office of Workers' Claims, the Kentucky Justice and Public Safety Cabinet, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, medical evidence showing permanent and total disability or the existence of permanent and total disability for a period of at least thirty (30) days immediately prior to death may be accepted, if this evidence is signed by a physician licensed to practice or an official of an accredited medical hospital.
- (d) The parent-child relationship shall be shown by birth certificate, legal adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence.
- (e) To entitle a spouse or child to benefits under this section the disabled law enforcement officer, firefighter, or volunteer firefighter shall have been a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, firefighter, or volunteer firefighter.
- (2) (a) The spouse, regardless of age, and any child of a person who was an employee participating in a state-administered retirement system and not otherwise covered by subsection (1) of this section and who was disabled as a result of a duty-related injury as described in KRS 61.621, who is over the age of seventeen (17) and under the age of twenty-three (23) shall not be required to pay any matriculation or tuition fee upon his admission to any state-supported university, community college, or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.
- (b) The parent-child relationship shall be shown by birth certificate, legal adoption papers, or other documentary

evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence.

- (3) The marriage of an eligible child shall not serve to deny full entitlement to the benefits provided in this section.

Section 173. KRS 164.970 is amended to read as follows:

- (1) Vehicles used for emergency purposes by the safety and security department of a public institution of higher education shall be considered as emergency vehicles and shall be equipped with blue lights and sirens and shall be operated in conformance with the requirements of KRS Chapter 189.
- (2) Safety and security officers directly employed by the governing board of public institutions of higher education pursuant to KRS 164.950 to 164.980 shall have the rights accorded to peace officers in cities of the first four (4) classes provided under KRS 527.020, provided the governing board of the public institution of higher education so authorized in writing.
- (3) Safety and security departments of public institutions of higher education may install, maintain, and operate radio systems on police or other radio frequencies under licenses issued by the Federal Communications Commission, or its successor; KRS 432.570 to the contrary notwithstanding.
- (4) Safety and security departments of public institutions of higher education shall comply with the requirements of the Kentucky Revised Statutes and the Justice and Public Safety Cabinet with regard to reporting of criminal and other statistics.

Section 174. KRS 164.955 is amended to read as follows:

- (1) Safety and security officers so appointed shall be peace officers and conservators of the peace. They shall have general police powers including the power to arrest, without process, all persons who within their view commit any crime or misdemeanor. They shall possess all of the common law and statutory powers, privileges, and immunities of sheriffs, except that they shall be empowered to serve civil process to the extent authorized by the employing governing board of the respective institution employing them. Without limiting the generality of the foregoing, such safety and security officers are hereby specifically authorized and empowered, and it shall be their duty:
- (a) To preserve the peace, maintain order and prevent unlawful use of force or violence or other unlawful conduct on the campuses of their respective institutions, and to protect all persons and property located thereon from injury, harm and damage;
- (b) To enforce, and to assist the officials of their respective institutions in the enforcement of, the lawful rules and regulations of said institution, and to assist and cooperate with other law enforcement agencies and officers. Provided, however, that such safety and security officers shall exercise the powers herein granted upon any real property owned or occupied by their respective institutions, including the streets passing through and adjacent thereto. Said powers may be exercised in any county of the Commonwealth where the institution owns, uses, or occupies property. Additional jurisdiction may be established by agreement with the chief of police of the municipality or sheriff of the county or the appropriate law enforcement agency in which such property is located, dependent upon the jurisdiction involved.
- (2) Safety and security officers may exercise their powers away from the locations described in subsection (1) of this section only upon the following conditions:
- (a) When in hot pursuit of an actual or suspected violator of the law; or
- (b) When authorized to do so pursuant to the agreement authorized by subsection (1) of this section; or
- (c) When requested to act by the chief of police of the city or county in which the institution's property is located; or
- (d) When requested to act by the sheriff of the county in which the institution's property is located; or
- (e) When requested to act by the ~~commissioner~~director of the Department of Kentucky State Police; or
- (f) When requested to act by the authorized delegates of those persons or agencies listed in (c), (d) or (e) above; or
- (g) When requested to assist a state, county or municipal police officer, sheriff, or other peace officer in the performance of his lawful duties; or
- (h) When operating under an interlocal cooperation agreement pursuant to KRS Chapter 65.
- (3) Safety and security officers appointed pursuant to KRS 164.950 to 164.980 shall have, in addition to the other powers enumerated herein, the power to conduct investigations anywhere in this Commonwealth, provided such investigation relates to criminal offenses which occurred on property owned, leased, or controlled by the university. Where desirable and at the discretion of the institution of higher education's police officials, the university safety and security department may coordinate said investigations with any law enforcement agency of this Commonwealth or with agencies of the federal government.
- (4) Safety and security departments created and operated by the governing boards of public institutions of higher education shall, for all purposes, be deemed public police departments and the sworn safety and security officers thereof are, for all purposes, deemed public police officers.
- (5) Nothing in KRS 164.950 to 164.980 shall be construed as a diminution or modification of the authority or responsibility of any city or county police department, the Department of Kentucky State Police, sheriff, constable, or other peace officer either on the property of an institution of higher education or otherwise.

Section 175. KRS 165A.460 is amended to read as follows:

All proprietary schools located or doing business in this state that offer CDL driver training shall be governed by the provisions of this chapter, except for matters governing:

- (1) The curriculum which shall be established by the board in consultation with the Department of Kentucky State Police and the Kentucky Community and Technical College System; and
- (2) The inspection of CDL driver training school facilities which shall be under the authority of the Department of Kentucky State Police pursuant to KRS 165A.475 and 332.095.

Section 176. KRS 165A.465 is amended to read as follows:

- (1) All persons initially applying for a license to operate a CDL driver training school or a license as a CDL driver training instructor, shall be required to undergo a state and national criminal history background check conducted by the Department of Kentucky State Police. Application forms for a license to operate a CDL driver training school or a license as a CDL driver training instructor shall conspicuously state the following: "STATE LAW REQUIRES A STATE AND NATIONAL CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF APPLYING FOR THIS LICENSE. ANY PERSON WHO REFUSES TO SUBMIT TO A CRIMINAL HISTORY BACKGROUND CHECK SHALL NOT BE ELIGIBLE TO APPLY FOR, OR BE ISSUED, A LICENSE TO OPERATE A CDL DRIVER TRAINING SCHOOL OR A LICENSE FOR A CDL DRIVER TRAINING INSTRUCTOR."
- (2) All applicants shall be required to submit to being fingerprinted in accordance with administrative regulations promulgated by the Department of Kentucky State Police under KRS Chapter 13A. If the applicant is a corporation, the fingerprints of all officers shall be required.
- (3) The results of the state and national criminal history background checks shall be sent to the board for review within seventy-two (72) hours. If circumstances prohibit the results from being sent to the board within seventy-two (72) hours, the application shall not be processed further until the results are made available to the board. The board shall inform the applicant if, based upon the criminal history background check, the applicant is either eligible or ineligible to be issued a license to operate a CDL driver training school or a license for a CDL driver training instructor. The board shall promulgate administrative regulations under KRS Chapter 13A specifying the offenses and conditions under which an application shall be denied based upon a criminal history background check.
- (4) Any fee charged by the Department of Kentucky State Police to conduct a criminal history background check shall be paid by the applicant and shall not be refundable if, based upon the background check, the board denies the person the right to be issued a license under this chapter. Any fee charged to conduct a criminal history background check shall be an amount not greater than the actual cost of processing the request and conducting the search.

Section 177. KRS 165A.470 is amended to read as follows:

- (1) A person shall not operate, conduct, maintain, or establish a CDL driver training school unless the person holds a valid current license issued by the board. The following persons shall not be allowed to be connected in any capacity whatsoever with a CDL driver training school:
 - (a) Any person whose employment duties in any way relate to the issuance of a motor vehicle operator's license under KRS Chapter 186 or 281A;
 - (b) Any employee of the board, Justice and Public Safety Cabinet, or Department of Kentucky State Police; and
 - (c) Any member of the immediate family of persons identified in paragraphs (a) and (b) of this subsection.
- (2) A person shall not operate, conduct, maintain, or establish a CDL driver training school unless the school has:
 - (a) At least one (1) licensed CDL driver training instructor in its employ; and
 - (b) At least one (1) commercial motor vehicle owned or leased in the name of the CDL driver training school that is properly registered in the Commonwealth and that has undergone a safety inspection within the past twelve (12) months.
- (3) A person shall not continue to operate a CDL driver training school if the board has suspended, revoked, canceled, or refused to renew the school's license.
- (4) A person shall not act as an instructor for a CDL driver training school unless the person holds a valid current license as an instructor issued by the board and unless the person is employed by a licensed CDL driver training school.

Section 178. KRS 165A.475 is amended to read as follows:

- (1) Any person seeking a license to operate, conduct, maintain, or establish a CDL driver training school shall apply to the board on forms prepared and furnished by the board. The application shall include the following information:
 - (a) The title or name of the school, the names of the owners of the school, and, if the owner is to be a corporation, the names and addresses of the officers of the corporation;
 - (b) Except for corporations, a statement that the owners of the CDL driver training school are each twenty-one (21) years of age or over, are residents of this state, and have been for at least one (1) year next preceding the application for the CDL driver training school license, and are each of good moral character;
 - (c) A description of the established place of business together with the hours during which the CDL driver training

school is conducted and a description of the equipment and facilities used in CDL driver training;

- (d) Evidence of liability insurance coverage of the CDL driver training school, the instructor, and students of the CDL driver training school while operating driver training school equipment. The insurance shall have minimum limits of not less than twenty-five thousand dollars (\$25,000) for bodily injury or death of one (1) person in any one (1) accident and subject to the limit for any one (1) person, fifty thousand dollars (\$50,000) for bodily injury or death of two (2) or more persons in any one (1) accident and ten thousand dollars (\$10,000) for damage to the property of others in any one accident. Evidence of insurance coverage shall also provide that the insurance coverage shall not be canceled except after ten (10) days prior notice in writing by the carrier to the board. Upon request by an applicant, the board shall review an application and provide a letter to the applicant that a proposed CDL driver training school has met all preliminary requirements for approval, except the provisions of this paragraph. The letter may be used by the applicant to help secure the liability insurance coverage needed under this paragraph to obtain a license to operate a school. A letter provided under this paragraph shall not be construed as approval to perform CDL driver's training or to operate a school.
- (2) Each original application for a license to operate a CDL driver training school and each application for renewal of a license to operate a CDL driver training school shall be accompanied by the payment of a fee of two hundred dollars (\$200) to the board and written proof that the applicant has complied with the criminal history background check required by KRS 165A.465. The application fee charged under this subsection shall not be refundable if, based upon the background check, the board denies the person the right to be issued a license under this chapter.
- (3) The board shall pay the Department of Kentucky State Police to inspect and investigate CDL driver training schools under the requirements of subsection (4) of this section. The payment shall be an amount not greater than the actual cost of conducting the inspection and investigation.
- (4) Upon receipt of an application for a license to operate a CDL driver training school, the board shall request the Department of Kentucky State Police to investigate the person's program and verify the information contained in the application. The Department of Kentucky State Police shall contact the applicant and make an appointment to inspect the school's facilities. At the time of inspection, the Department of Kentucky State Police shall verify that the school meets the standards promulgated as administrative regulations under KRS Chapter 13A for license as a CDL driver training school. Upon request, the standards shall be furnished to the school by the board prior to the visit. If the standards are met, the school shall be licensed to offer instruction on how to operate a commercial motor vehicle including classifications, endorsements, and restrictions.
- (5) Any person seeking a license to act as a CDL driver training instructor shall apply to the board on forms prepared and furnished by the board setting forth that the applicant is twenty-one (21) years of age or older; is of good moral character; is a high school graduate or has the equivalent of a high school education, or has equivalent experience; and holds a current and valid operator's license.
- (6) Each original application for a license as a CDL driver training instructor and each application for renewal of a license as a CDL driver training instructor shall be accompanied by the payment of a fee of twenty dollars (\$20.00) to the board and written proof that the applicant has complied with the criminal history background check required by KRS 165A.465. The application fee charged under this subsection shall not be refundable if, based upon the background check, the board denies the person the right to be issued a license under this chapter.
- (7) In making the determination of good moral character under this section, the board shall consider but shall not be limited to the following:
 - (a) If the applicant has been convicted of a crime;
 - (b) The age of the applicant at the time any criminal conviction was entered;
 - (c) The length of time that has elapsed since the applicant's last criminal conviction; and
 - (d) The relationship of any crime convicted to the ability of the applicant to operate a CDL driver training school.

Section 179. KRS 174.055 is amended to read as follows:

There are hereby transferred to and vested in the secretary and cabinet all functions, powers, duties, funds, personnel, equipment and supplies relating to operators' licenses under provisions of KRS Chapter 186, boats and boating provisions of KRS Chapter 235, financial responsibility provisions of KRS Chapter 189, traffic safety coordinating committee under provisions of KRS Chapter 17, and motor vehicle inspection under provisions of KRS Chapter 189, which said provisions of law have been conferred upon the Department of Public Safety and under the commissioner and other officers and offices of said Department of Public Safety. The examination of applicants under KRS 186.480 shall be retained by the Department of Kentucky State Police.

Section 180. KRS 174.065 is amended to read as follows:

The cabinet shall:

- ~~(1)(a))~~ Assist the Department of Kentucky State Police in coordinating all efforts of the state's various departments and agencies to promote traffic safety and in making recommendations regarding the prevention of unnecessary duplications of these efforts, and~~;~~
- ~~(2)(b))~~ Cooperate with all organizations, public or private, in the encouragement and promotion of traffic safety education

in all forms; ~~and~~ and ~~and~~

~~(3)(e)~~ Receive, control and expend, in accordance with the general provisions of the Kentucky Revised Statutes governing financial administration of all state agencies, grants and funds from either public or private sources.

Section 181. KRS 174.410 is amended to read as follows:

- (1) The secretary shall be responsible for controlling and regulating the movement of all radioactive materials and the intrastate transport of other hazardous materials transported by all carrier modes within the Commonwealth.
- (2) The secretary, in consultation with the secretary of the Environmental and Public Protection Cabinet and the secretary of the Cabinet for Health and Family Services, shall adopt by reference or in entirety, the Federal Hazardous Materials Transportation Regulations, 49 C.F.R. (1978), as amended, to effectively carry out the intent of KRS 174.400 to 174.425.
- (3) The cabinet and the Justice and Public Safety Cabinet shall cooperate with and assist the Environmental and Public Protection Cabinet in implementing and enforcing the transportation provisions of any state hazardous waste regulations promulgated pursuant to KRS Chapter 224. The specific nature and details of the assistance effort shall be established by a formal cooperative agreement acceptable to the cabinets, and all activities shall occur in accordance with the terms of the agreement. The agreement shall address and include, but not necessarily be limited to, the following items:
 - (a) As a part of routine and periodic transportation checks and inspections, ensure that shipments of hazardous waste do not present a threat to the public or the environment; are accompanied by the required hazardous waste manifest or such other shipping or delivery documents as may be acceptable to the Environmental and Public Protection Cabinet; and comply with applicable shipping standards;
 - (b) Upon receipt of a written request from the secretary or general counsel of the Environmental and Public Protection Cabinet, actively conduct field investigations relating to the illegal, improper, or unauthorized transport of hazardous waste in the state. Such investigations may, at a minimum, include passive and active surveillance, apprehension, and reporting, with the scope and extent of each investigation to be previously agreed to by the involved cabinets;
 - (c) Compile and maintain such necessary records that may normally be required to carry out the provisions of this subsection and shall for minor violations report quarterly, and for major violations report weekly, to the Environmental and Public Protection Cabinet on the status of the interagency hazardous-waste transportation monitoring and enforcement activity for irregularities or violations;
 - (d) Provide any information, evidence, and other support, either in written form or in the form of oral testimony during a legal proceeding or both, as may be required by the Environmental and Public Protection Cabinet to fully carry out its statutory responsibility under the appropriate sections of KRS Chapter 224;
 - (e) The Environmental and Public Protection Cabinet shall, unless specifically agreed otherwise, have primary responsibility for initiating and conducting all legal proceedings arising from the terms and provisions of this subsection; and
 - (f) The Environmental and Public Protection Cabinet shall provide sufficient training, technical assistance, and other support to the appropriate cabinets to prepare representatives of the cabinets to adequately carry out the responsibilities set forth in this subsection.

Section 182. KRS 174.420 is amended to read as follows:

- (1) Any person transporting hazardous materials in the Commonwealth shall carry a copy of the shipping papers required in 49 C.F.R. (1978), as amended, in the transporting vehicle while in the Commonwealth.
- (2) In the event of an accident involving hazardous material, the operator of the vehicle shall:
 - (a) Notify the Department of Kentucky State Police of the accident within one (1) hour, who shall then notify the local jurisdiction and any other appropriate state agency with emergency action responsibility, and
 - (b) Provide the shipping papers to state and local emergency response authorities, and immediately bring to their attention the fact that the vehicle is transporting hazardous materials.
- (3) In addition to the other requirements of this section, any person transporting hazardous wastes shall carry in the transporting vehicle a copy of a manifest in a form approved by the Environmental and Public Protection Cabinet.

Section 183. KRS 175.480 is amended to read as follows:

Every project of the authority shall be open to regular policing by the Department of Kentucky State Police as in the case of other public highways of the Commonwealth.

Section 184. KRS 176.506 is amended to read as follows:

- (1) The Motorcycle Advisory Commission for Highway Safety shall be composed of seven (7) members, appointed as follows:
 - (a) One (1) representative of the Office of Construction and Operations within the Kentucky Transportation Cabinet's Department of Highways, appointed by the Governor;
 - (b) One (1) representative of the Office of Project Development within the Kentucky Transportation Cabinet's Department of Highways, appointed by the Governor;

2007 Regular Session

- (c) One (1) representative of the Department of Kentucky State Police, appointed by the Governor;
 - (d) Two (2) representatives of the Kentucky Motorcycle Association, to be appointed by the Governor from a list of five (5) nominees selected by the association;
 - (e) One (1) member of the Kentucky Motorcycle Safety Education Advisory Commission, appointed by the Governor; and
 - (f) One (1) representative of the Kentucky Association of Highway Contractors, to be appointed by the Governor from a list of five (5) nominees selected by the association.
- (2) Except for initial appointments as provided for in 2003 Ky. Acts ch. 122, sec. 3, members of the Motorcycle Advisory Commission for Highway Safety shall serve a term of four (4) years. Sitting members shall be eligible to succeed themselves.
 - (3) Commission members shall receive no compensation for their services, and shall not be compensated for expenses incurred from travel or in connection with the performance of their duties as commission members.
 - (4) The commission shall elect its chair and vice chair from its membership.
 - (5) The commission shall meet quarterly or upon the call of the chair or the request of the secretary of the Transportation Cabinet.
 - (6) A majority of the members of the commission constitutes a quorum and the commission may make recommendations only at meetings where a quorum is present.
 - (7) The commission shall keep a record of its meetings and recommendations.
 - (8) For administrative purposes, the commission shall be attached to the Transportation Cabinet's Office of the Secretary.
- Section 185. KRS 177.074 is amended to read as follows:
- (1) Every road which is part of the state primary system shall be identified by a specific route number or name which shall be designated on the official state road map. In addition to a route number, the secretary:
 - (a) Shall name a road or road segment to comply with the provisions of subsections (2) and (3) of this section; and
 - (b) May, at the secretary's discretion, or subject to the provisions of subsection (4) of this section, name a road or bridge on the state highway system after an individual, historic event, or any other name which may be of significance to the history of this Commonwealth or any of its counties or communities.
 - (2) The secretary shall, within thirty (30) days of receipt of a written request by the commissioner of the Department of Kentucky State Police, name a state road or segment of a state road in memory and honor of one (1) or more Kentucky state troopers killed in the line of duty. The written request shall comply with the provisions of subsection (4) of this section and shall include:
 - (a) The trooper's name;
 - (b) The name and address of any living relatives of the trooper, if known;
 - (c) Date and circumstances of the trooper's death; and
 - (d) The route number and current name of the state road where the trooper was killed if applicable, or the route number and current name of the state road closest to the deceased trooper's home.
 - (3) The written request required under subsection (2) of this section shall identify the route number, current name of the state road, or milepoints of the specific segment of state road the Department of Kentucky State Police are requesting be named in honor and memory of a state trooper killed in the line of duty. The road or road segment identified in the request shall be either the state road where the trooper was killed, or the state road closest to the deceased trooper's home. The cabinet shall consult with the commissioner of the Department of Kentucky State Police on the design of the road signs naming the state road or road segment in honor and memory of each trooper, and the cabinet shall erect the appropriate highway signs within thirty (30) days of receipt of the written request required under subsection (2) of this section.
 - (4) If the road segment identified in the request under subsection (2) of this section has already been named for another individual or organization, either by action of the General Assembly or by order of the secretary, the Department of Kentucky State Police and the cabinet shall consult on and determine an alternate location that is acceptable to both agencies.
 - (5) The secretary shall be petitioned by a unit of local government, civic organization, or other interested party before naming a road or bridge on the state primary road system. In addition, the secretary shall be convinced by the petitioner that the person or event that the road or bridge is being named for is of civic or historical significance.
 - (6) Except as provided in subsections (9) and (10) of this section, the secretary shall name a road or bridge upon direction by joint resolution of the General Assembly. Upon introduction of a resolution, the secretary shall inform the chairman of the committee to which the resolution is assigned as to whether he or she has been petitioned to name a road or bridge presented in the resolution and if so petitioned, his or her reasons for not taking action on the request.
 - (7) If the secretary grants the request to name a road or bridge through petition, the signs to be placed on the roads shall become the responsibility of the petitioner with the design and placement of the signs approved by the department. If the

signs are to be placed as a result of a resolution passed by the General Assembly, the responsibility for placement of the signs shall be upon the Department of Highways.

- (8) The Transportation Cabinet may adopt administrative regulations to implement the road and bridge naming program. The administrative regulations shall at a minimum establish basic standards for design and placement of signs or allow the local entity to reimburse the Transportation Cabinet for the cost of manufacturing and installing the signs for which a petition has been granted.
- (9) The new proposed truck bypass around Mayfield, Kentucky, shall be named the "Dick Castleman Bypass," after former State Representative Dick Castleman.
- (10) The bridge on United States Highway 27 over the Kentucky River near Camp Nelson, between Jessamine and Garrard Counties, shall be named the "Loyd Murphy Memorial Bridge."

Section 186. KRS 177.530 is amended to read as follows:

- (1) Each turnpike project when constructed and opened to traffic shall be maintained and kept in good condition and repair by the department, and shall be operated and maintained by such force of toll-takers and other operating and maintenance employees and, unless policed by the Department of Kentucky State Police as an ordinary incident to the performance of statutory functions, shall be policed by the department by such force of police, as the department may in its discretion employ, and the department may be reimbursed for the cost thereof unless it has previously assumed such cost as provided in KRS 177.480.
- (2) All private property damaged or destroyed in carrying out the powers granted by KRS 177.390 to 177.570 shall be restored or repaired and placed in its original condition as nearly as practicable or adequate compensation made therefor out of funds provided under the authority of KRS 177.390 to 177.570.
- (3) All counties, cities, towns and other political subdivisions and all public agencies and commissions of the Commonwealth, notwithstanding any contrary provision of law, are hereby authorized and empowered to lease, lend, grant or convey to the department at its request upon such terms and conditions as the proper authorities of such counties, cities, towns, political subdivisions, agencies or commissions of the Commonwealth may deem reasonable and fair and without the necessity for any advertisement, order of court or other action or formality, other than the regular and formal action of the authorities concerned, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the department, including public roads and other real property already devoted to public use.
- (4) On or before January 30 in each year the department shall make an annual report of its activities for the preceding calendar year to the Governor and to the General Assembly. Each such report shall set forth a complete operating and financial statement covering its operations during the year. The department shall cause an audit of its books and accounts to be made at least once in each year by certified public accountants and the cost thereof may be treated as a part of the cost of construction or operation of the project. Such audits shall be deemed to be public records within the meaning of KRS 61.870(2).
- (5) No officer or employee of the department shall have any interest, direct or indirect, in the sale or purchase of any bonds authorized by KRS 177.390 to 177.570. Violation of this provision is punishable by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one (1) year, or both.
- (6) Any person who uses any turnpike project and fails or refuses to pay the toll provided therefor shall be punished by a fine of not more than one hundred dollars (\$100) or by imprisonment for not more than thirty (30) days, or both, and in addition thereto the department shall have a lien upon the vehicle driven by such person for the amount of such toll and may take and retain possession thereof until the amount of such toll and all charges and penalties in connection therewith shall have been paid.

Section 187. KRS 183.881 is amended to read as follows:

- (1) Safety and security officers so appointed shall be peace officers and conservators of the peace. They shall have general police powers to arrest, without process, all persons who within their view commit any crime or misdemeanor. They shall possess all of the common law and statutory powers, privileges, and immunities of sheriffs, except that they shall be empowered to serve civil process to the extent authorized by the employing airport board. Without limiting the generality of the foregoing, such safety and security officers are hereby specifically authorized and empowered, and it shall be their duty:
 - (a) To preserve the peace, maintain order and prevent unlawful use of force or violence or other unlawful conduct on the airport facility of their respective airport board, and to protect all persons and property located thereon from injury, harm and damage;
 - (b) To enforce, and to assist officials of their respective airport boards in the enforcement of the lawful rules and regulations of said airport board, and to assist and cooperate with the law enforcement agencies and officers.

Provided, however, that such safety and security officers shall exercise the powers herein granted upon any real property owned or occupied by their respective airport boards including the streets passing through and adjacent thereto. Said powers may be exercised in any county of the Commonwealth where the airport board owns, uses, or occupies property. Additional jurisdiction may be established by agreement with the chief of police of the municipality or sheriff of the county or the appropriate law enforcement agency in which such property is located, dependent upon the jurisdiction

2007 Regular Session

involved.

- (2) Safety and security officers may exercise their powers away from the locations described in subsection (1) of this section only upon the following conditions:
 - (a) When in hot pursuit of an actual or suspected violator of the law; or
 - (b) When authorized to do so pursuant to the agreement authorized by subsection (1) of this section; or
 - (c) When requested to act by the chief of police of the city or county in which the airport board's property is located; or
 - (d) When requested to act by the sheriff of the county in which the airport board's property is located; or
 - (e) When requested to act by the ~~commissioner~~^{director} of the Department of Kentucky State Police; or
 - (f) When requested to act by the authorized delegates of those persons or agencies listed in (c), (d) or (e) above; or
 - (g) When requested to assist a state, county or municipal police officer, sheriff, or other peace officer in the performance of his or her lawful duties; or
 - (h) When operating under an interlocal cooperation agreement pursuant to KRS Chapter 65.
- (3) Safety and security officers appointed pursuant to KRS 183.110 and 183.880 to 183.886 shall have, in addition to the other powers enumerated herein, the power to conduct investigations anywhere in this Commonwealth, provided such investigation relates to criminal offenses which occurred on property owned, leased, or controlled by the airport board. Where desirable and at the discretion of the airport board's police officials, the airport board's safety and security department may coordinate said investigations with any law enforcement agency of this Commonwealth or with agencies of the federal government.
- (4) Safety and security departments created and operated by the airport boards shall, for all purposes, be deemed public police departments and the sworn safety and security officers thereof are, for all purposes, deemed public police officers.
- (5) Nothing in KRS 183.110 and 183.880 to 183.886 shall be construed as a diminution or modification of the authority or responsibility of any city or county police department, the Department of Kentucky State Police, sheriff, constable, or other peace officer either on the property of an airport board or otherwise.

Section 188. KRS 183.884 is amended to read as follows:

- (1) Vehicles used for emergency purposes by the safety and security department of an airport board shall be considered as emergency vehicles and shall be equipped with blue lights and sirens and shall be operated in conformance with the requirements of KRS Chapter 189.
- (2) Safety and security departments of the airport boards may install, maintain, and operate radio systems on police or other frequencies under licenses issued by the Federal Communications Commission, or its successor.
- (3) Safety and security departments of airport boards shall comply with the requirements of the Kentucky Revised Statutes and the Justice and Public Safety Cabinet with regard to reporting of criminal and other statistics.

Section 189. KRS 186.005 is amended to read as follows:

- (1) It is declared to be the policy of this Commonwealth that all commercial vehicles should be regulated, registered, and the laws pertaining thereto be administered by the Transportation Cabinet. Motor vehicles other than commercial vehicles should be registered, regulated, and controlled by the Transportation Cabinet and the Justice and Public Safety Cabinet.
- (2) All motor vehicles registered under the provisions of KRS 186.050(1) shall be on an annual basis and evidenced by a license plate whose registration designation is a combination of three (3) letters of the alphabet and three (3) Arabic numerical digits. These registration plates shall be issued for use during a multiyear period and validated for continued use the following year, or years, by affixing an appropriate insignia of plastic or adhesive material bearing the date of the new year.
- (3) All motor vehicles registered under the provisions of KRS 186.050(3)(a), (4)(a), (5), (6), or (11) shall have registration plates issued for use during a multiyear period and validated for continued use the following year, by affixing an appropriate insignia of plastic or adhesive material bearing the date of the new year.
- (4) The Transportation Cabinet may promulgate regulations and prepare the proper insignia and forms, which forms shall include information required by the Transportation Cabinet.

Section 190. KRS 186.180 is amended to read as follows:

- (1) (a) If the owner loses his or her copy of a registration or transfer receipt, he or she may obtain a duplicate from the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and by filing an affidavit, upon a form furnished by the cabinet. The owner shall pay to the clerk a fee of three dollars (\$3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.
- (b) When the owner's copy of any registration or transfer receipt shows that the spaces provided thereon for noting and discharging security interests have been exhausted, the owner may apply to the county clerk who issued the receipt in order to obtain a duplicate thereof. The owner shall surrender his or her copy of the current receipt to the clerk and provide proof of insurance on the motor vehicle in compliance with KRS 304.39-080, before a duplicate may

be issued. The owner shall pay the clerk a fee of three dollars (\$3), except proof of insurance shall not be required for duplicates applied for by motor vehicle dealers as defined in KRS 190.010.

- (c) Any security interest which has been discharged as shown by the records of the clerk or upon the owner's copy of the current receipt shall be omitted from the duplicate receipt to be issued by the clerk.
- (2) If the owner loses a registration plate, he or she shall surrender his or her registration receipt to the county clerk from whom it was obtained and file a written statement as to the loss of the plate. Upon presenting the clerk proof of insurance on the motor vehicle in compliance with KRS 304.39-080, and upon the payment of the sum of three dollars (\$3) for each plate and a fee of three dollars (\$3) to the clerk for his or her services, the owner shall be issued another registration receipt and a plate or plates which shall bear a different number from that of the lost plate. The clerk shall retain the owner's statement and a copy of the owner's proof of insurance, and shall make a notation on the triplicate copy of the surrendered registration receipt stating the number of the registration receipt replacing it. The original copy of the surrendered receipt shall be forwarded to the cabinet. The cabinet shall forthwith cancel the registration corresponding to the number of the lost plate. The cancellation shall be reported by the cabinet to the commissioner of the Department of Kentucky State Police. Any person finding a lost registration plate shall deliver it to the Transportation Cabinet or to any county clerk for forwarding it to the cabinet.
- (3) If the owner moves from one (1) county into another county of the Commonwealth, he or she may obtain a registration plate bearing the name of the county of residence. In order to obtain a new registration plate, the owner shall surrender his or her current registration receipt and current registration plate to the county clerk. Upon being provided with proof of insurance on the motor vehicle in compliance with KRS 304.39-080, the clerk shall provide the owner with a new registration receipt and plate bearing the county name. The surrendered receipt and plate shall be forwarded to the Transportation Cabinet. The fee for this registration shall be five dollars (\$5) of which the clerk shall be entitled to three dollars (\$3) and the cabinet shall be entitled to two dollars (\$2).
- (4) If the owner's registration is revoked as a result of the provisions set forth in KRS 186A.040, the owner may have his or her registration reinstated by the county clerk who issued the present owner's copy of the receipt by presenting the clerk proof of:
 - (a) Insurance on the motor vehicle in compliance with KRS 304.39-080 and by filing an affidavit upon a form furnished by the cabinet; or
 - (b) A valid compliance or exemption certificate in compliance with KRS 224.20-720 or issued under the authority of an air pollution control district under KRS 224.20-760.
- (5) The owner of a motor vehicle that has the vehicle's registration revoked under KRS 186.290 shall pay to the clerk a fee of twenty dollars (\$20), which shall be equally divided between the county clerk and the cabinet.
- (6) On and after January 1, 2006, if the motor vehicle is a personal motor vehicle as defined in KRS 304.39-087, proof of insurance required under this section shall be determined by the county clerk as provided in KRS 186A.042.

Section 191. KRS 186.181 is amended to read as follows:

The secretary of the Transportation Cabinet shall, upon receipt of a report from the Transportation Cabinet or the Department of Vehicle Regulation of a canceled motor vehicle registration plate, cause all members of the Department of Kentucky State Police and such peace officers as he or she may deem necessary, to be notified of the cancellation. It shall be the duty of all members of the Department of Kentucky State Police and of all peace officers to seize any registration plate bearing a canceled number and to report such seizure to the appropriate department.

Section 192. KRS 186.412 is amended to read as follows:

- (1) A person who has attained the age of eighteen (18) years and is under the age of twenty-one (21) at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least one hundred eighty (180) days. A person who is at least twenty-one (21) years of age at the time of application for an instruction permit may apply for an operator's license to operate a motor vehicle, motorcycle, or moped if the person has possessed the valid instruction permit for at least thirty (30) days.
- (2) Except as provided in subsection (4) of this section, a person shall apply for an operator's license in the office of the circuit clerk of the county where the person lives. The application form shall require the person's:
 - (a) Full legal name and signature;
 - (b) Date of birth;
 - (c) Social Security number, federal tax identification number, a letter from the Social Security Administration declining to issue a Social Security number, or a notarized affidavit from the applicant to the Transportation Cabinet swearing that the person either does not have a Social Security number, or refuses to divulge his or her Social Security number, based upon religious convictions;
 - (d) Sex;
 - (e) Present Kentucky resident address, exclusive of a post office box address alone;
 - (f) Other information necessary to permit the application of United States citizens to also serve as an application for voter registration;

2007 Regular Session

- (g) A brief physical description of the applicant;
 - (h) A statement if the person has previously been licensed as an operator in another state;
 - (i) Proof of the person's Kentucky residency, including but not limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement; and
 - (j) Other information the cabinet may require by administrative regulation promulgated under KRS Chapter 13A.
- (3) A permanent resident shall present one (1) of the following documents issued by the United States Department of Justice, Immigration and Naturalization Service:
- (a) An I-551 card with a photograph of the applicant; or
 - (b) A form with the photograph of the applicant or a passport with a photograph of the applicant on which the United States Department of Justice, Immigration and Naturalization Service has stamped the following: "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until ----. Employment authorized."
- (4) If the person is not a United States citizen and has not been granted status as a permanent resident of the United States, the person's application for an original operator's license shall be submitted to either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
- (a) The application form shall be accompanied by the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, authorizing the person to be in the United States and, if applicable, the person's international driving permit. The application form of a special status individual with a K-1 status shall be accompanied by an original or certified copy of the person's completed marriage license signed by the official who presided over the marriage ceremony and two (2) witnesses. The application form of a special status individual with a K-1 status shall also include the person's petition to enter the United States for the purpose of marriage that contains the name of the prospective spouse. If the name of the prospective spouse on the petition does not match the name of the spouse on the marriage license, the Transportation Cabinet shall not be required to issue an operator's license.
 - (b) The Transportation Cabinet shall, within fifteen (15) days of receipt of the application, review the person's documentation and determine if the person will be issued a Kentucky operator's license. If the review of an application will take longer than fifteen (15) days, the cabinet shall continue the review, but the cabinet shall be required to make a determination in all cases within thirty (30) days of receipt of the application.
 - (c) If the cabinet determines the person may be issued an operator's license, the cabinet shall issue the person an official form that the person shall take to the office of the circuit clerk of the county where the person resides. The circuit clerk shall review the person's documentation and the official form issued by the Transportation Cabinet. If the documentation is verified as accurate, and if the person successfully completes the examinations required under KRS 186.480, the circuit clerk shall issue the person a Kentucky operator's license.
 - (d) Except as provided in paragraphs (e) and (f) of this subsection, a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States shall apply to renew an operator's license, or obtain a duplicate operator's license, in the office of the circuit clerk in the county in which the person resides.
 - (e) If a person is renewing an operator's license or is applying for a duplicate license after July 15, 2002, and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, has not been reviewed by either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office under the provisions of this subsection, the person shall be required to apply for the renewal or duplicate with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
 - (f) If a person has any type of change in the person's immigration status, the person shall apply to renew an operator's license with either the Transportation Cabinet in Frankfort or a Transportation Cabinet field office.
- (5) The circuit clerk shall issue an operator's license bearing a color photograph of the applicant and other information the cabinet may deem appropriate. The photograph shall be taken by the circuit clerk so that one (1) exposure will photograph the applicant and the application simultaneously. When taking the photograph, the applicant shall be prohibited from wearing sunglasses or any other attire that obscures any features of the applicant's face as determined by the clerk. The clerk shall require an applicant to remove sunglasses or other obscuring attire before taking the photograph required by this subsection. Any person who refuses to remove sunglasses or other attire prohibited by this section as directed by the clerk shall be prohibited from receiving an operator's license. The operator's license issued by the cabinet shall not contain the applicant's Social Security number. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A that develop a numbering system that uses an identification system other than Social Security numbers. If an applicant does not have a Social Security number, or the applicant has submitted a notarized affidavit refusing to divulge his or her Social Security number based upon religious convictions, the Transportation Cabinet shall assign the applicant a unique identifying number. The license shall also designate by color coding and use the phrase "under 21" if the licensee is under the age of twenty-one (21); "CDL" if the license is issued pursuant to KRS Chapter 281A; or "under 21 CDL" if the licensee holds a commercial driver's license issued pursuant to KRS Chapter 281A and is under the age of twenty-one (21).
- (6) Every applicant shall make oath to the circuit clerk as to the truthfulness of the statements contained in the form.
- (7) (a) Except as provided in subsection (8) of this section, the circuit clerk shall issue a color photo personal

identification card to any person who is a Kentucky resident and who resides in the county who complies with the provisions of this section and who applies in person in the office of the circuit clerk. An application for a personal identification card shall be accompanied by the same information as is required for an operator's license under subsection (2) of this section, except if a person does not have a fixed, permanent address, the person may use as proof of residency a signed letter from a homeless shelter, health care facility, or social service agency currently providing the person treatment or services and attesting that the person is a resident of Kentucky.

- (b) It shall be permissible for the application form for a personal identification card to include as a person's most current resident address a mailing address, post office box, or an address provided on a voter registration card.
- (c) Every applicant for a personal identification card shall make an oath to the circuit clerk as to the truthfulness of the statements contained on the application form. If the applicant is not the legal owner or possessor of the address provided on the application form, the applicant shall swear that he or she has permission from the legal owner, authorized agent for the legal owner or possessor to use the address for purposes of obtaining the personal identification card. The personal identification card shall designate by color coding and by use of the phrase "under 21" if the applicant is under the age of twenty-one (21).
- (d) A personal identification card shall be valid for a period of four (4) years from the date of issuance. Except as provided in this subsection, an initial or renewal personal identification card issued to a person who is not a United States citizen and who has not been granted status as a permanent resident of the United States and who is not a special status individual, but who is a Kentucky resident, shall be valid for a period equal to the length of time the person's documentation from the United States Department of Justice, Immigration and Naturalization Service is issued, or four (4) years, whichever time period is shorter. An initial or renewal personal identification card shall be valid for a period of two (2) years if the person is not a special status individual and the person's documentation issued by the United States Department of Justice, Immigration and Naturalization Service, is issued for an indefinite period of time and does not have an expiration date. The fee shall be the same as for a regular personal identification card.
- (e) A personal identification card may be suspended or revoked if the person who was issued the card presents false or misleading information to the cabinet when applying for the card.
- (8) A person may be issued a personal identification card if the person currently holds a valid Kentucky instruction permit or operator's license. If a person's instruction permit or operator's license has been suspended or revoked, the person may be issued a temporary personal identification card. A temporary personal identification shall be renewed annually and may be surrendered when the person applies to have his or her instruction permit or operator's license reinstated.
- (9) The Transportation Cabinet shall implement a voluntary statewide child identification program. The program shall issue a color photo personal identification card to a child two (2) to fifteen (15) years of age. Application for a child identification card shall be accompanied by a Social Security card and a birth certificate for the child, or other proof of the child's date of birth as provided under subsection (2) of this section. The card shall contain the child's name and the toll-free number of the Kentucky Missing Persons Clearinghouse, Department of Kentucky State Police. The card shall not contain the child's Social Security number. The cabinet shall set a four dollar (\$4) fee for the child identification card. Two dollars (\$2) of the fee shall be used to cover the cabinet's cost for equipment and supplies. Two dollars (\$2) of the fee shall be an administrative fee of the circuit clerk for issuing the card which shall be deposited by the Administrative Office of the Courts into a trust and agency account for the circuit clerks and used for the purposes of hiring additional deputy clerks and providing salary adjustments to deputy clerks. The card shall expire every four (4) years on the child's birthday. Within the time period that the child identification card is valid, the card may be updated with a new photograph and information. The fee for an updated card shall be four dollars (\$4), with two dollars (\$2) of the fee going to the cabinet and two dollars (\$2) going to the Administrative Office of the Courts in the same manner as the fee for an initial card as described in this subsection. The descriptive data and a photo image of the child shall be stored in the Kentucky Driver's License Information System and may be retrieved and used by public agencies subject to the provisions of the Driver Privacy Protection Act, 18 U.S.C. sec. 2721, and may also be used by the Kentucky Missing Persons Clearinghouse.
- (10) If a citizen of the Commonwealth currently serving in the United States military is stationed or assigned to a base or other location outside the boundaries of the Commonwealth, the citizen may renew a Class D operator's license issued under this section by mail. If the citizen was issued an "under 21" operator's license, upon the date of his or her twenty-first birthday, the "under 21" operator's license may be renewed for an operator's license that no longer contains the outdated reference to being "under 21."
- (11) A citizen of the Commonwealth renewing an operator's license by mail under subsection (10) of this section may have a personal designee apply to the circuit clerk on behalf of the citizen to renew the citizen's operator's license. An operator's license being renewed by mail under subsection (10) of this section shall be issued a license without a photograph. The license shall show in the space provided for the photograph the legend "valid without photo and signature."
- (12) If a citizen of the Commonwealth has been serving in the United States military and has allowed his operator's license to expire, he shall, within ninety (90) days of returning to the Commonwealth, be permitted to renew his license without having to take a written test or road test. A citizen who does not renew his license within ninety (90) days of returning to the Commonwealth shall be required to comply with the provisions of this chapter governing renewal of a license that has expired. If a citizen of the Commonwealth has been issued an "under 21" or "under 21 CDL" operator's license and the

person is unable to renew the license on the date of his twenty-first birthday, the "under 21" or "under 21 CDL" operator's license shall be valid for ninety (90) days beyond the date of the person's twenty-first birthday.

- (13) The cabinet shall provide on each license to operate motor vehicles, motorcycles, and mopeds a space for the licensed driver's:
 - (a) Blood type;
 - (b) Medical insignia if the person provides evidence that a medical identification bracelet noting specific physical ailments or a drug allergy is being worn or other proof as may be required by the cabinet; and
 - (c) A statement whereby the owner of the license may certify in the presence of two (2) witnesses his willingness to make an anatomical gift under KRS 311.195.
- (14) If the motor vehicle operator denotes a physical ailment or drug allergy on the operator's license, he may apply for and shall receive, for a fee of one dollar (\$1) paid to the circuit clerk, a medical insignia decal that may be affixed to the lower left side of the front windshield of a motor vehicle.
- (15) An operator's license pursuant to this section shall be designated a Class D license.
- (16) A person shall not have more than one (1) license.
- (17) Upon marriage, a woman applying for an operator's license or a color photo personal identification card shall provide the circuit clerk with her marriage license and complete an affidavit form provided by the circuit court clerk. She shall have the following choices in regard to her full legal name as required in subsections (2) and (7) of this section:
 - (a) Use her husband's last name;
 - (b) Retain her maiden name;
 - (c) Use her maiden name hyphenated with her husband's last name;
 - (d) Use her maiden name as a middle name and her husband's last name as her last name; or
 - (e) In the case of a previous marriage, retain that husband's last name.
- (18) Upon issuing an operator's license or personal identification card, the clerk shall draw the recipient's attention to the location on the license relating to anatomical gifts under subsection (13)(c) of this section and offer to allow personnel in the clerk's office to serve as the witnesses to the recipient's certification of willingness to make an anatomical gift if the recipient is the person to whom the license is issued.

Section 193. KRS 186.440 is amended to read as follows:

An operator's license shall not be granted to:

- (1) Any person who is not a resident of Kentucky;
- (2) Any person under the age of sixteen (16);
- (3) Any person under the age of eighteen (18) who holds a valid Kentucky instruction permit issued pursuant to KRS 186.450, but who has not graduated from high school or who is not enrolled and successfully participating in school or who is not being schooled at home, except those persons who satisfy the District Court of appropriate venue pursuant to KRS 159.051(3) that revocation of their license would create an undue hardship. Persons under the age of eighteen (18) shall present proof of complying with the requirements of KRS 159.051;
- (4) Any person whose operator's license has been suspended, during the period of suspension, subject to the limitations of KRS 186.442;
- (5) Any person whose operator's license has been revoked, nor to any nonresident whose privilege of exemption under KRS 186.430 has been refused or discontinued, until the expiration of the period for which the license was revoked, or for which the privilege was refused or discontinued;
- (6) Any applicant adjudged incompetent by judicial decree;
- (7) Any person who in the opinion of the Department of Kentucky State Police, after examination, is unable to exercise reasonable and ordinary control over a motor vehicle upon the highways;
- (8) Any person who is unable to understand highway warnings or direction signs in the English language;
- (9) Any person required by KRS 186.480 to take an examination who has not successfully passed the examination;
- (10) Any person required by KRS Chapter 187 to deposit proof of financial responsibility, who has not deposited that proof;
- (11) Any person who has not filed a correct and complete application attested to in the presence of a person authorized to administer oaths;
- (12) Any person who cannot meet the requirements set forth in KRS 186.411(1) or (3); or
- (13) Any person whose operator's license has been suspended or revoked under the provisions of KRS Chapter 186, 187, or 189A until the person has forwarded to the cabinet a reinstatement fee of fifteen dollars (\$15). The fee shall be paid by certified check or money order payable to the State Treasurer who shall deposit five dollars (\$5) of the fee in a trust and agency fund to be used in defraying the costs and expenses of administering a driver improvement program for problem drivers. Ten dollars (\$10) of the fee shall be deposited by the State Treasurer in a trust and agency account to the credit of

the Administrative Office of the Courts and shall be used to assist circuit clerks in hiring additional employees, providing salary adjustments for employees, providing training for employees, and purchasing additional equipment used in administering the issuance of driver's licenses. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions set out in KRS 186.411 when, within one (1) year of suspension, the driving privileges of the individuals are reinstated or to any student who has had his or her license revoked pursuant to KRS 159.051.

Section 194. KRS 186.452 is amended to read as follows:

- (1) Beginning April 1, 2007, a person who is at least sixteen and one-half (16-1/2) years of age may apply for an intermediate license to operate a motor vehicle if the person has:
 - (a) Held an instruction permit a minimum of one hundred eighty (180) days without a violation under KRS 186.450(4), (5), or (6), a conviction for a moving violation under KRS Chapter 189 for which points are assessed by the cabinet, or a conviction for a violation of KRS 189A.010(1); and
 - (b) Presented a statement to the Department of Kentucky State Police signed by a parent or guardian of the applicant attesting that the applicant has completed at least sixty (60) hours of supervised driving experience, including at least ten (10) hours at night, while accompanied by a person who has attained the age of twenty-one (21) years and holds a valid operator's license occupying the seat beside the applicant.
- (2) If an applicant for an intermediate license successfully completes the examinations required under KRS 186.480, the Department of Kentucky State Police shall affix an intermediate license sticker to the instruction permit and report the applicant's new status to the Transportation Cabinet. The Transportation Cabinet shall update the information in its computer system to reflect that the applicant has been granted an intermediate license. An intermediate license shall be valid for two (2) years and may be renewed.
- (3) A person shall have the intermediate license in his or her possession at all times when operating a motor vehicle.
- (4) A person with an intermediate license who is under the age of eighteen (18) years shall not operate a motor vehicle, motorcycle, or moped between the hours of 12 midnight and 6 a.m. unless the person can demonstrate good cause for driving, including emergencies, involvement in school-related activities, or involvement in work-related activities.
- (5) Except when accompanied by a driver training instructor affiliated with a driver training school licensed under KRS Chapter 332 or a public or nonpublic secondary school, a person with an intermediate license who is under the age of eighteen (18) years shall not operate a motor vehicle at any time when accompanied by more than one (1) unrelated person who is under the age of twenty (20) years. A peace officer shall not stop or seize a person nor issue a uniform citation for a violation of this subsection if the officer has no other cause to stop or seize the person other than a violation of this subsection. This subsection shall not apply to any operator of a vehicle registered under the provisions of KRS 186.050(4) who is engaged in agricultural activities.
- (6) A violation under subsection (3), (4), or (5) of this section, a conviction for a moving violation under KRS Chapter 189 for which points are assessed by the cabinet, or a conviction for a violation of KRS 189A.010(1) shall add an additional minimum of one hundred eighty (180) days from the date of the violation before a person who is under the age of eighteen (18) years may apply for an operator's license.

Section 195. KRS 186.480 is amended to read as follows:

- (1) The Department of Kentucky State Police shall examine every applicant for an operator's license as identified in KRS 186.6401, except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless:
 - (a) The applicant is granted written permission by the circuit clerk of the county in which he or she resides to take the examination in another county, and the Department of Kentucky State Police agree to arrange for the examination in the other county; or
 - (b) The applicant is tested using a bioptic telescopic device.
- (2) The examination shall include a test of the applicant's eyesight to ensure compliance with the visual acuity standards set forth in KRS 186.577. The examination shall also include a test of the applicant's ability to read and understand highway signs regulating, warning and directing traffic, the applicant's knowledge of traffic laws and an actual demonstration of the applicant's ability to exercise ordinary and reasonable control in the operation of a motor vehicle. An applicant for a motorcycle operator's license shall be required to show his or her ability to operate a motorcycle, in addition to other requirements of this section. The provisions of this subsection shall not apply to an applicant who:
 - (a) At the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident; or
 - (b) Is a citizen of the Commonwealth who has been serving in the United States military and has allowed his or her operator's license to expire.
- (3) Any person whose intermediate license or operator's license is denied, suspended, or revoked for cause shall apply for reinstatement at the termination of the period for which the license was denied, suspended, or revoked by submitting to the examination. The provisions of this subsection shall not apply to any person whose license was suspended for failure to

meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.

Section 196. KRS 186.495 is amended to read as follows:

The circuit clerk of each county shall maintain an alphabetical index of all persons to whom operators' licenses and motorcycle operators' licenses have been issued in his county, which index shall be sufficient to enable the prompt locating of the complete license record of each of such persons. Such index shall at all times be available for inspection by the Department of Kentucky State Police and other officers charged with the duty of enforcing highway laws.

Section 197. KRS 186.510 is amended to read as follows:

The licensee shall have his or her license in his or her immediate possession at all times when driving a motor vehicle and shall display it upon demand to the circuit clerk or examiner, a peace officer, a member of the Department of Kentucky State Police, or a field deputy or inspector of the Department of Vehicle Regulation or Transportation Cabinet or, pursuant to KRS 67A.075 or 83A.088, a safety officer who is in the process of securing information to complete an accident report. It shall be a defense to any charge under this section if the person so charged produces in court an operator's license, issued to him or her before his or her arrest and valid at the time of his or her arrest.

Section 198. KRS 186.577 is amended to read as follows:

- (1) All persons applying for an initial operator's license or an initial instruction permit shall submit to a test of visual acuity and visual field at the time of application.
- (2) Persons whose visual acuity is 20/40 or better without corrective lenses shall not have a restriction placed on their driving privileges. Persons whose visual acuity is 20/40 or better with corrective lenses shall have their driving privileges restricted to mandate the use of the corrective lenses. If a person fails to meet a 20/40 visual acuity standard, the Department of Kentucky State Police shall refer the person to a vision specialist for examination.
- (3) A person referred to a vision specialist by the Department of Kentucky State Police under subsection (2) of this section whose visual acuity is 20/60 or better shall be eligible to test for an instruction permit or operator's license. If corrective lenses were prescribed by the vision specialist, the person's driving privileges shall be restricted to mandate the use of the corrective lenses.
- (4) Persons who meet the requirements of KRS 186.578 and are issued operator's licenses under KRS 186.579 shall have their driving privileges restricted to the use of a bioptic telescopic device.

Section 199. KRS 186.578 is amended to read as follows:

- (1) Applicants accepted to participate in a certified driver training program shall meet the following minimum vision requirements:
 - (a) A distance visual acuity of 20/200 or better, with corrective lenses, in the applicant's better eye;
 - (b) A visual field of at least one hundred twenty (120) degrees horizontally and eighty (80) degrees vertically in the same eye as used in paragraph (a) of this subsection;
 - (c) A distance visual acuity of 20/60 or better using a bioptic telescopic device; and
 - (d) No ocular diagnosis or prognosis that indicates a likelihood that significant deterioration of visual acuity or visual field to levels below the minimum standards outlined in this subsection will occur.
- (2) Upon acceptance into a certified driver training program, an applicant shall be given an examination to test his or her knowledge of the motor vehicle laws of the Commonwealth. This examination may be taken orally. Upon successful completion of this examination, the applicant shall be issued a temporary instruction permit, that shall be valid only when the applicant is accompanied by an employee of a certified driver training program. Temporary instruction permits issued under this section shall be valid for one (1) year from the date of issue.
- (3) An applicant who successfully completes a certified driver training program shall be reexamined by a vision specialist upon completion of the program. The examination shall certify that the applicant continues to meet the visual acuity and visual field standards set forth in subsection (1) of this section.
- (4) An applicant who successfully completes a certified driving training program and passes the visual reexamination required by subsection (3) of this section shall be eligible to take a comprehensive operator's license examination administered by the Department of Kentucky State Police. The operator's license examination shall include testing of the applicant's driving skills over a route specifically designed to test the applicant's competency using a bioptic telescopic device.
- (5) An applicant who is a restricted out-of-state driver establishing residence in Kentucky shall be required to take and pass a temporary instruction permit examination before being eligible to take the operator's license examination. An applicant who is a restricted out-of-state driver establishing residence in Kentucky shall not be required to complete a certified driver training program, but shall be required to take and pass the visual examination outlined in subsection (3) of this section before taking the operator's license examination.
- (6) If an applicant or restricted out-of-state driver fails the operator's license examination three (3) times, he or she shall not be eligible to retake the examination until successfully completing additional training from a certified driver training program and obtaining an affidavit from the program director recommending that the applicant or restricted out-of-state driver be

allowed to retake the examination.

- (7) The Office for the Blind shall promulgate administrative regulations in accordance with KRS Chapter 13A to set standards for a certified driver training program and to otherwise carry out the provisions of this section.

Section 200. KRS 186.6401 is amended to read as follows:

The following persons shall be required to successfully complete the examinations required under KRS 186.480 prior to being issued a Kentucky operator's license:

- (1) A person who has been issued a Kentucky instruction permit or intermediate license;
- (2) A person who has applied for a Kentucky operator's license under KRS 186.412(4); and
- (3) Other persons as identified in an administrative regulation promulgated by the Department of Kentucky State Police under KRS Chapter 13A.

Section 201. KRS 186A.025 is amended to read as follows:

- (1) (a) The Finance and Administration Cabinet shall have full responsibility and authority for day-to-day administration of the automated system described by this chapter; and
(b) May request the assistance of any cabinet or department of state government in carrying out its responsibilities under this chapter.
- (2) The Commonwealth Office of Technology shall assure, to the extent feasible, twenty-four (24) hour, year-round information support to the Department of Kentucky State Police, and to other law enforcement agencies state and nationwide, regarding vehicles registered and, when required, titled in this state.

Section 202. KRS 186A.055 is amended to read as follows:

The Department of Vehicle Regulation, in cooperation with the Department of Kentucky State Police, shall ensure that the automated vehicle registration and titling system provided for by this chapter will be designed, equipped, and operated so that, under normal conditions, the system will withhold production of a certificate of title until the vehicle identification number of a vehicle for which a title is sought, and when present, its license number has been automatically compared against the Law Information Network Kentucky (LINK) and, unless it refuses to permit such an arrangement, the National Crime Information Center (NCIC) computerized listing of vehicles reported stolen, and a "no stolen report" or its equivalent is received.

Section 203. KRS 186A.060 is amended to read as follows:

The Department of Vehicle Regulation is directed to develop, in cooperation with county clerks, auto dealers, and the Department of Revenue, Office of Insurance, and Department of Kentucky State Police, the forms required to record all information pertinent to the initial registration, or titling and taxation, or transfer of registration or title of a vehicle. The Department of Vehicle Regulation shall make every effort to minimize and reduce the amount of paperwork required to apply for, or transfer, a vehicle title. When possible, the title document itself shall be used as the primary form used to effect a transfer of vehicle ownership. When no in-state title exists, then forms shall be designed by the department that require only the appropriate and essential information to effect the application for title. The department shall constantly review the information needs of government agencies and other organizations with the goal of reducing, or eliminating, unnecessary documentation. Information being sought for application for title relevant to, but not limited to, vehicle identification, owner, buyer, usage tax, county clerk or inspector shall be set forth by the cabinet in such a way as to promote flexibility in reaching this goal, except that an applicant for a motor vehicle title shall not be required to provide his or her social security number as part of the application process. The use of an electronic medium shall be employed so that forms can be printed by the automated system. Existing statutory language in this chapter and KRS Chapter 186 pertaining to application, signature, forms, or application transfer record may be construed to be electronic in nature at the discretion of the cabinet as provided for by administrative regulation. Any person who knowingly enters, or attests to the entry of, false or erroneous information in pursuit of a certificate of title shall be guilty of forgery in the second degree.

Section 204. KRS 186A.090 is amended to read as follows:

- (1) The owner of a vehicle required to be titled or registered in this state which:
 - (a) Does not have a legitimate vehicle identification number as affixed by a manufacturer regularly engaged in the original manufacture of the type vehicle for which registration is sought, or in accordance with the law of this or another state; or
 - (b) Has been built from parts;shall, before making application for registration of the vehicle, apply to the Department of Vehicle Regulation for issuance of a vehicle identification number plate, which shall be affixed to the vehicle in the manner prescribed by administrative regulations of the Department of Vehicle Regulation.
- (2) The Department of Vehicle Regulation shall establish, in cooperation with the Department of Kentucky State Police, regulations governing the form of application required by this section, and may require inspection of the vehicle before a vehicle identification number plate has been issued and after such plate has been affixed to the vehicle.

Section 205. KRS 186A.250 is amended to read as follows:

- (1) The Department of Vehicle Regulation shall suspend or revoke a certificate of title, after giving notice and providing a

2007 Regular Session

reasonable opportunity for the holder to be heard, when authorized by any other provision of law, or, if it finds:

- (a) The certificate of title was fraudulently procured or erroneously issued; or
 - (b) The vehicle has been scrapped, dismantled or destroyed. Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it.
- (2) When the Department of Vehicle Regulation suspends or revokes a certificate of title, the owner or person in possession of it shall, immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate to the Department of Vehicle Regulation.
 - (3) The department shall promptly notify the Department of Kentucky State Police of the suspension or revocation of any certificate of title.
 - (4) Any peace officer shall seize and impound any certificate of title which has been suspended or revoked except when such document is in the custody of the Department of Vehicle Regulation or the Department of Kentucky State Police.

Section 206. KRS 186A.255 is amended to read as follows:

The Department of Vehicle Regulation shall promptly notify the Department of Kentucky State Police of the particulars of:

- (1) Any attempted or actual registration or titling in this state of a stolen motor vehicle, or trailer, or motor vehicle or trailer whose true identity is in doubt, of which it becomes aware;
- (2) Counterfeit, stolen or altered ownership documents it receives; and
- (3) Attempts to supply, or supplying to it, of false or fraudulent information in any application for a certificate of registration, certificate of title for a motor vehicle or trailer in this state.

Section 207. KRS 186A.305 is amended to read as follows:

- (1) No person shall intentionally remove, deface, cover, destroy, alter, or obscure any vehicle identification number, or other distinguishing number, of a motor vehicle or trailer or any part thereof in this state, without written authorization from the Department of Kentucky State Police, nor shall any person place or stamp, in place of the original manufacturer's serial, motor, or other number or mark upon a vehicle, any number except one assigned thereto by the Department of Vehicle Regulation under the provisions of KRS 186.1911 or authorized agency of another state.
- (2) This section does not prohibit the restoration by an owner of the original vehicle identification number when the restoration is authorized by the Department of Kentucky State Police, nor prevent any manufacturer from placing in the ordinary course of business numbers or marks upon new motor vehicles or new parts thereof.
- (3) This section shall not apply to a scrap processor who loads, unloads, crushes, flattens, destroys, grinds up, handles, shreds, or otherwise reduces a motor vehicle or motor vehicle part into metallic scrap for the purpose of recycling such metallic content.

Section 208. KRS 187.310 is amended to read as follows:

- (1) The cabinet shall, upon request, furnish any person a certified abstract of the operating record of any person subject to the provisions of KRS 187.290 to 187.620. The abstract shall designate the motor vehicles, if any, registered in the name of the person. If there is not a record of the person being convicted of violating any law relating to the operation of a motor vehicle, or of any injury or damage caused by the person, the department shall so certify on the abstract.
- (2) The certified abstract shall not include information concerning any violation of the law, injury, or damage that occurred earlier than three (3) years prior to the request. The abstracts shall not be admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident. The certified abstract shall not include accident reports filed with the Department of Kentucky State Police under KRS 189.635, and shall not include suspension orders of a student who has had his or her operator's license, permit, or privilege to operate a motor vehicle revoked or denied for being academically deficient pursuant to KRS 159.051 if the suspension has been lifted by the reinstatement of academic eligibility pursuant to KRS 159.051. The cabinet shall not furnish to any person the accident report of a driver other than himself or herself. This section shall in no way preclude the right of any court of law, law enforcement officer, or attorney representing the individual affected from securing full and complete information concerning the record of that individual.
- (3) Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder has a dependent whose license has been revoked or denied for being academically deficient pursuant to KRS 159.051.

Section 209. KRS 189.540 is amended to read as follows:

- (1) The Kentucky Board of Education shall promulgate administrative regulations to govern the design and operation of all Kentucky school buses and to govern the operation of district-owned passenger vehicles transporting students under KRS 156.153(2). The board shall, with the advice and aid of the Department of Kentucky State Police and the Transportation Cabinet, enforce the administrative regulations governing the operation of all school buses whether owned by a school district or privately contracted and all district-owned passenger vehicles transporting students under KRS 156.153(2). The regulations covering the operation shall by reference be made a part of any contract with a school district. Every school district and private contractor referred to under this subsection shall be subject to those regulations.
- (2) Any employee of any school district who violates any of the administrative regulations in any contract executed on behalf

of a school district shall be subject to removal from office. Any person operating a school bus under contract with a school district who fails to comply with any of the administrative regulations shall be guilty of breach of contract and the contract shall be canceled after proper notice and a hearing by the responsible officers of such school district.

- (3) Any person who operates a school bus shall be required to possess a commercial driver's license issued pursuant to KRS 281A.170 with a school bus endorsement as described in KRS 281A.175.

Section 210. KRS 189.580 is amended to read as follows:

- (1) (a) The operator of any vehicle, whose vehicle, vehicle load, or vehicle equipment which is involved in an accident resulting in injury to or death of any person or resulting only in damage to a vehicle or other property which is driven or attended by any person shall immediately stop and ascertain the extent of the injury or damage and render reasonable assistance, including the carrying, or making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary, or if such carrying is requested by the injured person. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give the occupant of the vehicle, or person struck, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants and operator. The total names need not exceed five (5) in number.
- (b) If an accident that occurs on an interstate highway or parkway or any on-ramp or off-ramp thereto does not involve death, known or visible injury, or the transportation of hazardous material, the operator shall move the vehicle off the roadway to a place as close to the accident scene as practicable without obstructing traffic as soon as the vehicle can be moved without the risk of further injury or damage. The operator or person having or assuming authority of the operator, or ownership of the vehicle, shall give any other person involved in the accident, if requested, the registration number of the vehicle, if any, and also the names and addresses of the owner, the occupants, and the operator of his or her vehicle, and insurance information for the vehicle.
- (2) The operator of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to such other vehicle or property shall immediately stop as close to the accident scene as possible without obstructing traffic and shall then and there either locate and notify the operator or owner of such vehicle or other property of his or her name, address, and the registration number of the vehicle he or she is driving or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving his or her name, address, and the registration number of the vehicle he or she is driving, or shall file a report with the local police department.
- (3) If the operator of a vehicle is unable to move a vehicle off the roadway under the provisions of subsections (1) and (2) of this section, the operator or owner may permit any person who possesses a valid operator's license or proper class of commercial driver's license to move the vehicle as provided in this section.
- (4) Except as provided for in subsection (5) of this section, a peace officer or safety officer may remove or cause to be removed from the roadway of an interstate highway or parkway or any on-ramp or off-ramp thereto, without consent of the owner or operator, any vehicle, cargo, or other property which is obstructing the roadway, creating or aggravating an emergency situation, or otherwise endangering public safety. Any vehicle, cargo, or other property obstructing the roadway of an interstate highway or parkway shall be removed by the most expeditious means available to clear the obstruction, giving due regard to the protection of the property removed.
- (5) (a) In accidents that involve fatalities or known or visible injuries, the removal provisions of subsection (4) of this section shall apply only after all medical assistance, fire supervision, and site investigation have been completed.
- (b) The removal provisions of subsection (4) of this section shall not apply if an accident involves, or is believed to involve, a release of hazardous materials.
- (6) (a) The operator of a vehicle involved in an accident on a highway in this state which results in a fatality or a known or visible injury to a person or damage to a vehicle which renders the vehicle inoperable shall immediately notify a public safety answering point, law enforcement agency, or law enforcement officer having jurisdiction, if the operator is physically capable of doing so and has in his or her possession a functioning communications device with which to do so.
- (b) In the event an operator fails to notify or is incapable of notifying a public safety answering point, law enforcement agency, or law enforcement officer having jurisdiction, the responsibility for reporting the accident within a reasonable amount of time shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident, if the owner or occupant is physically capable of doing so, has in his or her possession a functioning communications device with which to do so, and, in the case of the owner, knows of the motor vehicle accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with the officer's agency.
- (7) The operator of a vehicle involved in an accident on a highway in this state resulting in injury to or death of any person or in which total property damage of five hundred dollars (\$500) or more is sustained, and in which an investigation is not conducted by a law enforcement officer, shall file a written report of the accident with the Department of Kentucky State Police within ten (10) days of the occurrence of the accident upon forms provided by the department.

- (8) Any agency, including the Commonwealth, that removes property from the roadway may intervene in any civil action arising from the accident to recover any costs expended. An owner of real property shall not be liable for the costs of removal under this section of trees, fences, structures, or other debris which fall into the roadway as a result of fire, severe weather, or other casualty.

Section 211. KRS 189.635 is amended to read as follows:

- (1) The Justice and Public Safety Cabinet, Department of Kentucky State Police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident reports shall be utilized for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.
- (2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his law enforcement agency.
- (3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of Kentucky State Police within ten (10) days after investigation of the accident upon forms supplied by the department.
- (4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars (\$500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of Kentucky State Police within ten (10) days of occurrence of the accident upon forms provided by the department.
- (5) All accident reports filed with the Department of Kentucky State Police in compliance with subsection (4) above shall remain confidential except that the department may disclose the identity of a person involved in an accident when his or her identity is not otherwise known or when he or she denies his or her presence at an accident. Except as provided in subsection (7) of this section, all other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure except when produced pursuant to a properly executed subpoena or court order, or except pursuant to subsection (6) of this section. These reports shall be made available only to the parties to the accident, the parents or guardians of a minor who is party to the accident, and the insurers of any party who is the subject of the report, or to the attorneys of the parties.
- (6) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report. A newspaper, periodical, or radio or television station shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast.
- (7) The motor vehicle insurers of any train engineer or other train crew member involved in an accident on a railroad while functioning in their professional capacity shall be prohibited from obtaining a copy of any accident report filed on the accident under this section without written consent from the individual the company insures. Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder, in his or her professional capacity, is a train engineer or other train crew member involved in an accident on a railroad.

Section 212. KRS 189.753 is amended to read as follows:

- (1) Any motor vehicle left upon the right-of-way of a state highway for three (3) consecutive days shall be presumed an abandoned vehicle.
- (2) The Department of Kentucky State Police shall locate abandoned vehicles on the right-of-way of state highways. Upon determination that a vehicle is abandoned, and notwithstanding the provisions of KRS 189.450, the Department of Kentucky State Police may order any person engaged in the business of storing or towing motor vehicles to remove the abandoned vehicle to a site chosen by the person. The department shall determine, if possible, the ownership of the vehicle through the abandoned vehicle's license plates, serial number, or other methods of determining ownership. As soon as practicable the owner shall be notified by mail, whether he or she is a Kentucky resident or a resident of another state, that the abandoned vehicle was illegally upon public property; the name and the address where the storage facility is located; that removal of the vehicle from the storage facility will involve payment of towing and storage charges; and that the vehicle may be sold pursuant to provisions of KRS 376.275 if not claimed within sixty (60) days. A notification shall not be required if ownership cannot be determined. In the event of such sale, the state shall receive any proceeds after the satisfaction of all liens placed on the vehicle.
- (3) The commissioner of the Department of Kentucky State Police shall promulgate administrative regulations pursuant to KRS Chapter 13A to carry out the provisions of this section.

Section 213. KRS 189A.050 is amended to read as follows:

- (1) All persons convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall be sentenced to pay a service fee of three hundred twenty-five dollars (\$325), which shall be in addition to all other penalties authorized by law.
- (2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.
- (3) The revenue collected from the service fee imposed by this section shall be utilized as follows:
 - (a) Twelve percent (12%) of the amount collected shall be transferred to the Department of Kentucky State Police forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;
 - (b) Twenty percent (20%) of the service fee collected pursuant to this section shall be allocated to the Department of Public Advocacy;
 - (c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;
 - (d) Sixteen percent (16%) of the amount collected shall be transferred as follows:
 1. Fifty percent (50%) shall be credited to the traumatic brain injury trust fund established under KRS 211.476; and
 2. Fifty percent (50%) shall be credited to the Cabinet for Health and Family Services, Department for Mental Health and Mental Retardation Services, for the purposes of providing direct services to individuals with brain injuries that may include long-term supportive services and training and consultation to professionals working with individuals with brain injuries. As funding becomes available under this subparagraph, the cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the services permitted by this subparagraph.
 - (e) Any amount specified by a specific statute shall be transferred as provided in that statute;
 - (f) Forty-six percent (46%) of the amount collected shall be transferred to be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment, and educational programs authorized by this chapter and by the Department of Public Advocacy; and
 - (g) The remainder of the amount collected shall be transferred to the general fund.
- (4) The amounts specified in subsection (3)(a), (b), (c), and (d) of this section shall be placed in trust and agency accounts that shall not lapse.

Section 214. KRS 189A.103 is amended to read as follows:

The following provisions shall apply to any person who operates or is in physical control of a motor vehicle or a vehicle that is not a motor vehicle in this Commonwealth:

- (1) He or she has given his or her consent to one (1) or more tests of his or her blood, breath, and urine, or combination thereof, for the purpose of determining alcohol concentration or presence of a substance which may impair one's driving ability, if an officer has reasonable grounds to believe that a violation of KRS 189A.010(1) or 189.520(1) has occurred.
- (2) Any person who is dead, unconscious, or otherwise in a condition rendering him or her incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section, and the test may be given.
- (3) The breath, blood, and urine tests administered pursuant to this section shall be administered at the direction of a peace officer having reasonable grounds to believe the person has committed a violation of KRS 189A.010(1) or 189.520(1).
 - (a) Tests of the person's breath, blood, or urine, to be valid pursuant to this section, shall have been performed according to the administrative regulations promulgated by the secretary of the Justice and Public Safety Cabinet, and shall have been performed, as to breath tests, only after a peace officer has had the person under personal observation at the location of the test for a minimum of twenty (20) minutes.
 - (b) All breath tests shall be administered by a peace officer holding a certificate as an operator of a breath analysis instrument, issued by the secretary of the Justice and Public Safety Cabinet or his or her designee.
- (4) A breath test shall consist of a test which is performed in accordance with the manufacturer's instructions for the use of the instrument. The secretary of the Justice and Public Safety Cabinet shall keep available for public inspection copies of these manufacturer's instructions for all models of breath testing devices in use by the Commonwealth of Kentucky.
- (5) When the preliminary breath test, breath test, or other evidence gives the peace officer reasonable grounds to believe there is impairment by a substance which is not subject to testing by a breath test, then blood or urine tests, or both, may be required in addition to a breath test, or in lieu of a breath test.
- (6) Only a physician, registered nurse, phlebotomist, medical technician, or medical technologist not otherwise prohibited by law can withdraw any blood of any person submitting to a test under this section.

2007 Regular Session

- (7) After the person has submitted to all alcohol concentration tests and substance tests requested by the officer, the person tested shall be permitted to have a person listed in subsection (6) of this section of his or her own choosing administer a test or tests in addition to any tests administered at the direction of the peace officer. Tests conducted under this section shall be conducted within a reasonable length of time. Provided, however, the nonavailability of the person chosen to administer a test or tests in addition to those administered at the direction of the peace officer within a reasonable time shall not be grounds for rendering inadmissible as evidence the results of the test or tests administered at the direction of the peace officer.

Section 215. KRS 189A.120 is amended to read as follows:

- (1) When an alcohol concentration for a person twenty-one (21) years of age or older in a prosecution for violation of KRS 189A.010 is 0.08 or above, is 0.02 or above for a person under the age of twenty-one (21), or when the defendant, regardless of age, has refused to take an alcohol concentration or substance test, a prosecuting attorney shall not agree to the amendment of the charge to a lesser offense and shall oppose the amendment of the charge at trial, unless all prosecution witnesses are, and it is expected they will continue to be, unavailable for trial.
- (2) A prosecuting attorney shall not amend a blood alcohol concentration, and he or she shall oppose the amendment of the percentage, unless uncontroverted scientific evidence is presented that the test results were in error. In those cases, the prosecutor shall state his or her reasons for agreeing with the amendment, and the scientific data upon which the amendment was made shall be made a part of the record in this case.
- (3) The record of charges and disposition thereof, including reasons for amending the charges, shall be transmitted by the court to the Justice and Public Safety Cabinet for inclusion in the centralized criminal history record information system under KRS 17.150.

Section 216. KRS 189A.300 is amended to read as follows:

The Commonwealth shall provide at least one (1) breath alcohol analysis and simulating unit for each county, paid for by state funds received pursuant to the service fee levied in KRS 189A.050. All units shall be approved by the secretary of the Justice and Public Safety Cabinet or his or her designee.

Section 217. KRS 194A.065 is amended to read as follows:

- (1) The Cabinet for Health and Family Services, the Department of Juvenile Justice, the Department of Corrections, the Administrative Office of the Courts, and the Department of Kentucky State Police shall be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system.
- (2) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440.
- (3) The Cabinet for Health and Family Services shall provide access to the Department of Kentucky State Police, the Department of Corrections, the Department of Juvenile Justice, and the Administrative Office of the Courts to its database.

Section 218. KRS 194A.092 is amended to read as follows:

The Division of Child Abuse and Domestic Violence Services is hereby created and established within the Cabinet for Health and Family Services. The office shall be headed by a director, who shall be appointed by the secretary.

- (1) The division's duties, rights, and responsibilities shall include, but not be limited to, the following:
- (a) Provide coordinative functions so that no services funded or provided by state government agencies are duplicative so as to ensure the greatest efficiency in the use of resources and funding, and to ensure that a consistent philosophy underlies all efforts undertaken by the administration in initiatives related to child abuse, domestic violence, and rape or sexual assault.
 - (b) Coordinate the legislative efforts of the administration related to child abuse, domestic violence and rape or sexual assault which shall include drafting legislative proposals and providing input to the secretary on the impact of legislation proposed by other agencies and government branches.
 - (c) Provide training and consultation to programs provided or funded by the state which provide services to victims of child abuse, domestic violence, rape or sexual assault, and other crimes.
 - (d) In conjunction with staff from the Justice and Public Safety Cabinet and other staff within the Cabinet for Health and Family Services, and with input from direct service providers throughout Kentucky, develop standards of care for victim and offender services provided or funded by the state.
 - (e) Design and implement research programs which attend to the quality of victim-related services.
 - (f) Provide consultation on the development of budgets for the rape crisis, child abuse, and domestic violence programs funded by the state.
 - (g) Provide recommendations to the Governor and to the Secretaries of the Justice and Public Safety Cabinet and the Cabinet for Health and Family Services, related to the improvement and expansion of victim services provided or funded by these agencies.
 - (h) Undertake new and progressive initiatives to improve and enhance the delivery of services to victims of child abuse, domestic violence, and rape or sexual assault.
- (2) The director may, at the request of the Governor or any secretary, serve as a designee on boards, commissions, task forces

or other committees addressing child abuse, domestic violence and rape or sexual assault.

Section 219. KRS 194A.150 is amended to read as follows:

When federal programs require a particular citizens' council within or attached to the cabinet to include state officials as voting members, the secretary shall, for the specific purposes of those federal programs, be authorized to vote in those council meetings and shall further be authorized to call upon either the secretary of the Cabinet for Health and Family Services, the secretary of the Finance and Administration Cabinet, the chief state school officer, the secretary of the Justice and Public Safety Cabinet, the secretary of the Environmental and Public Protection Cabinet, the secretary of the Cabinet for Economic Development, the executive director of the Council on Higher Education, or any combination of the above as may be appropriate, to be voting members of expanded citizens' councils for the purposes of these federal programs. The secretary shall exercise this prerogative only when the federal programs specifically require that state officials be voting members of the citizens' councils.

Section 220. KRS 194A.735 is amended to read as follows:

- (1) Subject to sufficient funding, the Cabinet for Health and Family Services and the Justice and Public Safety Cabinet, in consultation with any other state agency as appropriate, shall develop and implement a homelessness prevention pilot project that offers institutional discharge planning on a voluntary basis to persons exiting from state-operated or supervised institutions involving mental health and foster care programs, and persons serving out their sentences in any state-operated prison in Oldham County.
- (2) The primary goal of the project shall be to prepare a limited number of persons in a foster home under supervision by the Cabinet for Health and Family Services, state-operated prison in Oldham County under supervision by the Justice and Public Safety Cabinet, and mental health facility under supervision by the Cabinet for Health and Family Services for return or reentry into the community, and to offer information about any necessary linkage of the person to needed community services and supports.
 - (a) The pilot project shall be jointly supported by each of the cabinets. One (1) office for the pilot project shall be located in a family resource center or Department for Community Based Services building in Jefferson County, due to its urban population, and one (1) office shall be located in Clinton, Cumberland, McCreary, or Wayne County, due to its rural population. The pilot project office in Jefferson County shall serve persons intending to locate in Jefferson County who are being released from a mental health facility under supervision by the Cabinet for Health and Family Services and persons intending to locate in Jefferson County who are being released after serving out their sentences from any state-operated prison in Oldham County. The pilot project office in Clinton, Cumberland, McCreary, or Wayne County shall serve persons intending to locate in Clinton, Cumberland, McCreary, or Wayne County who are aging out of the foster care program following placement in Clinton, Cumberland, McCreary, or Wayne County.
 - (b) Within thirty (30) days following July 13, 2004, the cabinets shall supply each pilot project director with the collection of information on available employment, social, housing, educational, medical, mental health, and other community services in the county. The information shall include but not be limited to the service area of each public and private provider of services, the capacity of each provider to render services to persons served by the pilot project, the fees of each provider, contact names and telephone numbers for each provider, and an emergency contact for each provider.
 - (c) Within thirty (30) days following July 13, 2004, the cabinets and directors shall begin a program of education for each of the cabinet and foster home and mental health and appropriate state-operated prison facility staff who will participate in the development of a discharge plan for volunteer participants under this section.
- (3) The pilot project shall operate on a voluntary basis. One (1) of each five (5) persons eligible for discharge or completing their sentence shall be offered the opportunity to participate in the pilot program. This offer shall be made at least six (6) months prior to discharge. There shall be a cap on the number of persons served in each office, to be determined by available funding and staffing requirements.
 - (a) The staff member designated as the homelessness prevention coordinator for each foster home or mental health facility shall maintain a file for each volunteer participant in the foster home or mental health facility, relating to the participant's employment, social, housing, educational, medical, and mental health needs. This file shall be updated from time to time as appropriate and pursuant to an administrative regulation promulgated by the cabinet in accordance with KRS Chapter 13A that establishes standards for the discharge summary. The staff member designated as the homelessness prevention coordinator for the appropriate state-operated prison participating in the pilot project shall maintain a file containing appropriate forms completed and updated by each person voluntarily participating in the pilot project, relating to the information provided under subsection (6) of this section. All applicable privacy and confidentiality laws shall be followed in assembling and maintaining this file.
 - (b) Six (6) months prior to the expected date of discharge, the discharge coordinator for each foster home and mental health and state-operated prison facility shall contact the homelessness prevention director for Jefferson County or the homelessness prevention director for Clinton, Cumberland, McCreary, or Wayne County, as appropriate, about the pending release of the volunteer participant who is eligible for discharge from a foster home or mental health facility or who will have served out his or her sentence in a state-operated prison facility that is participating in the pilot project. The director shall visit the home or facility, as appropriate, to assist with the preparation of the final

2007 Regular Session

comprehensive discharge plan.

- (c) The director and the discharge coordinator for each participating foster home and mental health and state-operated prison facility shall work together to develop a final comprehensive discharge plan that addresses the employment, health care, educational, housing, and other needs of the person to be released, subject to the consent of the person and the funding and staffing capabilities of the director. Information provided by the coordinator may include and be limited to, subject to the staffing and funding capabilities of the coordinator, information provided by the person to be released on a form or forms made available by the foster home or mental health or state-operated prison facility. The discharge plan shall contain but not be limited to the following:
1. Estimated discharge date from the foster home, state-operated prison facility, or mental health facility;
 2. Educational background of the person to be released, including any classes completed or skills obtained by the person while in the foster home, state-operated prison facility, or mental health facility;
 3. The person's medical and mental health needs;
 4. Other relevant social or family background information;
 5. A listing of previous attempts to arrange for post-release residence, employment, medical and mental health services, housing, education, and other community-based services for the person; and
 6. Other available funding and public programs that may reimburse any services obtained from a provider listed in the discharge plan. Every effort shall be made in the discharge plan to refer the person to a provider that has agreed to an arranged public or private funding arrangement.

No discharge plan shall be completed unless the written consent, consistent with state and federal privacy laws, to compile the information and prepare the plan has been given by the person eligible for release who has volunteered to participate in the pilot program.

- (4) The director shall assist with the completion of a final comprehensive discharge plan that may include, but need not be limited to, the following:
- (a) Availability of appropriate housing, including but not limited to a twenty-four (24) month transitional program, supportive housing, or halfway house. Planning discharge to an emergency shelter is not appropriate to meet the housing needs of the person being discharged from foster care, a state-operated prison facility, or a mental health facility;
 - (b) Access to appropriate treatment services for participants who require follow-up treatment;
 - (c) Availability of appropriate employment opportunities, including assessment of vocational skills and job training; and
 - (d) Identification of appropriate opportunities to further education.
- (5) Discharge planning shall be individualized, comprehensive, and coordinated with community-based services.
- (a) Each discharge plan shall create a continuous, coordinated, and seamless system that is designed to meet the needs of the person.
 - (b) Staff of the foster home or facility and staff of community-based services providers shall be involved in the planning.
 - (c) Each facility shall utilize, wherever possible, community-based services within the facility to establish familiarity of the person residing in the facility with the community services.
- (6) The Department of Corrections shall, through an administrative regulation promulgated in accordance with KRS Chapter 13A, develop a discharge plan that addresses the education; employment, technical, and vocational skills; and housing, medical, and mental health needs of a person who is to be released after serving out his or her sentence in a state-operated prison facility participating in the pilot project.
- (7) Appropriate data about discharge placements and follow-up measures shall be collected and analyzed. The analysis shall be included in the interim and final reports of the pilot program specified in subsection (8) of this section.
- (8) Each homelessness prevention director shall have regular meetings with appropriate state cabinet and agency staff to review the pilot project and make recommendations for the benefit of the program. Each director shall be assisted by a local advisory council composed of local providers of services and consumer advocates who are familiar with homelessness prevention issues. Priority for membership on the advisory council shall be given to existing resources and regional mental health and substance abuse advisory councils at the discretion of the director.
- (9) Each cabinet shall collect data about the discharge plans, referrals, costs of services, and rate of recidivism related to the homelessness prevention program, and shall submit an annual report to the Governor and the Legislative Research Commission no later than October 1 that summarizes the data and contains recommendations for the improvement of the program. The annual report also shall be forwarded to the Kentucky Commission on Services and Supports for Individuals with Mental Retardation and Other Developmental Disabilities, Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses, and the Kentucky Housing Corporation Homelessness Policy Council.

Section 221. KRS 196.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Cabinet" means the Justice and Public Safety Cabinet;
- (2) "Commissioner" means commissioner of the Department of Corrections;
- (3) "Department" means the Department of Corrections;
- (4) "Institution" means any institution under the control of the Department of Corrections; and
- (5) "Secretary" means secretary of the Justice and Public Safety Cabinet.

Section 222. KRS 196.026 is amended to read as follows:

The Department of Corrections shall consist of the following organizational units:

- (1) Personnel Division;

- (2) Office of Adult Institutions, which shall have the following divisions:

- (a) Division of Operations and Program Services;
- (b) Division of Medical Services;
- (c) Division of Mental Health Services;
- (d) Division of Correctional Industries;
- (e) Division of Kentucky State Reformatory;
- (f) Division of Luther Luckett Correctional Complex;
- (g) Division of Roederer Correctional Complex;
- (h) Division of Blackburn Correctional Complex;
- (i) Division of Kentucky Correctional Institution for Women;
- (j) Division of Frankfort Career Development Center;
- (k) Division of Northpoint Training Center Division;
- (l) Division of Eastern Kentucky Correctional Complex;
- (m) Division of Bell County Forestry Camp;
- (n) Division of Kentucky State Penitentiary;
- (o) Division of Western Kentucky Correctional Complex;
- (p) Division of Green River Correctional Complex; and
- (q) Division of Little Sandy Correctional Complex.

Each division specified in paragraphs (e) to (q) of this subsection shall be headed by a warden pursuant to KRS 196.160;

- (3) Office of Community Services and Facilities, which shall have the following divisions:

- (a) Division of Probation and Parole; and
- (b) Division of Local Facilities; and

- (4) Office of Support Services, which shall have the following divisions:

- (a) Division of Administrative Services;
- (b) Division of Corrections Training; and
- (c) Division of Population Management [Office of General Counsel];

- (2) ~~Division of Administrative Services;~~
- (3) ~~Division of Corrections Training;~~
- (4) ~~Division of Institutional Operations;~~
- (5) ~~Division of Mental Health Programs;~~
- (6) ~~Division of Correctional Industries;~~
- (7) ~~Division of Medical Services;~~
- (8) ~~Division of Probation and Parole;~~
- (9) ~~Division of Community Services and Local Facilities;~~
- (10) ~~Division of Personnel Services; and~~
- (11) ~~Western Region Division and Eastern Region Division, Adult Institutions.~~

~~Each state penal correctional institution referenced in KRS 197.010 shall be considered a division for organizational purposes. Each institution shall be headed by a warden pursuant to KRS 196.160.~~

Section 223. KRS 196.035 is amended to read as follows:

The secretary shall, except as otherwise provided in KRS 439.250 to 439.560 and KRS Chapter 13A, have the power and authority to ~~promulgate, adopt, amend, or rescind~~ administrative regulations he or she deems necessary or suitable for the proper administration of the functions of the cabinet or any division in the cabinet, including qualification for the receipt of federal funds and for cooperation with other state and federal agencies. The secretary may delegate to any person appointed the power and authority as he or she deems reasonable and proper for the effective administration of the cabinet.

Section 224. KRS 196.037 is amended to read as follows:

- (1) All personnel of the department, while acting for the department in any capacity entailing the maintenance of custody over any prisoners, shall have all the authority and powers of peace officers.
- (2) All department personnel who are officially requested by a law enforcement agency in a county of Kentucky or by the Department of Kentucky State Police to assist in the apprehension of a prisoner who has escaped from the legal or physical custody of the Department of Corrections or a detention facility of the Department of Corrections shall possess, while responding to and for the duration of the matter for which the request was made, the same powers of arrest as peace officers.
- (3) Probation and parole officers, while acting for the department in any capacity entailing the maintenance of custody or supervision of any confined prisoner, paroled prisoner, escaped prisoner, probationer, or other person otherwise placed under their supervision shall have all the authority and powers of peace officers.

Section 225. KRS 196.075 is amended to read as follows:

The department~~[of Corrections]~~, under the direction of the commissioner, shall exercise the functions vested in the department relating to probation and parole. The commissioner shall ~~promulgate, make~~ administrative regulations governing parolees and shall have the same powers of arrest as probation and parole officers.

Section 226. KRS 196.093 is amended to read as follows:

The Department of Corrections shall, in cooperation with the Department of Kentucky State Police, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Administrative Office of the Courts, be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system:

- (1) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440;
- (2) The Department of Corrections shall provide access to the Department of Kentucky State Police, the Department of Juvenile Justice, the Cabinet for Health and Family Services, and the Administrative Office of the Courts to its database; and
- (3) The Department of Corrections shall assign the same identification number or other variable to each person whose name appears in the database.

Section 227. KRS 196.701 is amended to read as follows:

- (1) To develop and implement a statewide strategic plan for the state and community corrections programs, the Kentucky State Corrections Commission is created and is attached to the office of the secretary of the Justice and Public Safety Cabinet. The commission shall consist of twenty-three (23) members as follows:
 - (a) The secretary of the Justice and Public Safety Cabinet or his or her designee in writing;
 - (b) The commissioner of the Department of Corrections or his or her designee in writing;
 - (c) The deputy commissioner of the Office of Community Services and Facilities;
 - (d) The deputy commissioner of the Office of Adult Institutions;
 - (e) The executive director of the Parole Board or his or her designee in writing;
 - (f) The executive director of the Office of Legislative and Intergovernmental Services of the Justice and Public Safety Cabinet or his or her designee in writing;
 - (g) Two (2) Circuit Court Judges appointed by the Chief Justice;
 - (h) A county judge/executive appointed by the Governor;
 - (i) A county jailer appointed by the Governor;
 - (j) A Commonwealth's attorney appointed by the Governor;
 - (k) A practicing attorney appointed by the Governor;
 - (l) A victim, as that term is defined in KRS 346.020, appointed by the Governor;
 - (m) Four (4) service providers from the field of mental health, substance abuse treatment, or vocational and educational training, appointed by the Governor;
 - (n) A public member who is qualified to express the views of organized labor, appointed by the Governor;
 - (o) A public member who is qualified to express the views of business and industry, appointed by the Governor;
 - (p) The public advocate or his or her designee in writing; and

~~(g) Three (3) at-large members appointed by the Governor~~~~[community corrections programs, the Kentucky State Corrections Commission is created and is attached to the office of the secretary of the Justice Cabinet. The commission shall consist of eleven (11) members as follows:~~

- ~~(a) The deputy commissioner of the Division of Community Services and Local Facilities;~~
- ~~(b) A Circuit Court judge appointed by the Chief Justice;~~
- ~~(c) A county judge/executive appointed by the Governor;~~
- ~~(d) A county jailer appointed by the Governor;~~
- ~~(e) A Commonwealth's attorney appointed by the Governor;~~
- ~~(f) A victim, as that term is defined in KRS 346.020, appointed by the Governor;~~
- ~~(g) Two (2) service providers from the field of mental health, substance abuse treatment, or vocational and educational training appointed by the Governor;~~
- ~~(h) The executive director of the Office of the Criminal Justice Council or the executive director's designee;~~
- ~~(i) The executive director of the Parole Board; and~~
- ~~(j) The public advocate or his or her designee].~~

- (2) The terms of those members appointed by the appointing authority shall be three (3) years. These members shall serve at the pleasure of the appointing authority and shall be eligible for reappointment. The appointed members may be removed for cause. All others serve during their terms of office. If there is a vacancy, the appointing authority shall immediately make an appointment effective for the unexpired term.
- (3) The chairperson of the commission shall be the secretary of justice and public safety~~[deputy commissioner of the Division of Community Services and Local Facilities]~~. The commissioner of the Department of Corrections shall serve as the~~commission shall elect from among its members a]~~ vice chairperson who shall preside and exercise the functions of the chairperson during absence or disability of the chairperson.
- (4) Regular meetings of the commission shall be held at least once every four (4) months at a place, day, and hour determined by the commission. Special meetings shall be held when needed as determined by the chairperson. If five (5) or more members of the commission request in writing that the chairperson call a special meeting, then the chairperson shall call a special meeting.
- (5) Members of the commission shall receive reimbursement for necessary expenses for attendance at official commission meetings or public hearings. The administrative functions of the commission shall be performed by a full-time employee of the department who is selected by the commissioner. All public members of the commission shall, in addition to expenses, receive twenty-five dollars (\$25) per day for attending each meeting.

Section 228. KRS 196.702 is amended to read as follows:

The commission shall:

- (1) Develop a statewide strategic plan for the development and implementation of goals and objectives, target populations, and program criteria for community corrections programs;
- (2) Conduct, in collaboration with community corrections boards, a statewide assessment of community corrections programs;
- (3) Award all grant moneys to community corrections programs;
- (4) Review community correction program plans and their implementation to ensure compliance with the statewide strategic plan, including the following goals:
 - (a) Effectiveness of community corrections programs in maintaining public safety;
 - (b) Reduction of local commitments to the department;
 - (c) Reduction in the rate of recidivism; and
 - (d) Reduction in revocations of probation and parole;
- (5) Provide technical assistance, support, and training to local boards;
- (6) Submit an annual report no later than September 1 of each year to the commissioner, the Governor, and the General Assembly which includes at least the following information:
 - (a) The status of the implementation of the statewide strategic plan;
 - (b) The effectiveness of community corrections programs in achieving the goals outlined in subsection (4) of this section; and
 - (c) An accounting of the distribution of grants and other funds;~~and]~~
- (7) Administer the provisions of KRS 196.700 to 196.735;
- (8) Advise the Governor and the commissioner concerning correctional policy and programs, including particularly the following:
 - (a) The need for, and the development of, new or specialized institutions, facilities, or programs;

- (b) The need for, and the effectuation of, collaboration and liaison within the department, and between the department and community agencies and resources, including the bench and bar, in order to promote the readjustment and rehabilitation of offenders in institutions or under parole or probation supervision in the community; and
- (c) The need for, and the development of, useful research in penology, correctional treatment, criminal law, or in the disciplines relevant thereto;
- (9) Establish a Parole Board Nominating Committee which shall:
 - (a) Include five (5) ex officio members of the commission:
 - 1. The secretary of the Justice and Public Safety Cabinet, who shall serve as chairperson of the committee;
 - 2. The commissioner of the Department of Corrections, who shall serve as the vice chairperson of the committee;
 - 3. The executive director of the Parole Board;
 - 4. The deputy commissioner of the Office of Adult Institutions; and
 - 5. The deputy commissioner of the Office of Community Services and Facilities;
 - (b) Include ten (10) other members of the commission:
 - 1. Two (2) Circuit Judges;
 - 2. Two (2) service providers with backgrounds in mental health or education;
 - 3. A person representing the views of business and industry;
 - 4. A person representing the views of organized labor;
 - 5. A practicing attorney; and
 - 6. Three (3) at-large members;
 - (c) Publicize vacancies and impending term expirations on the Parole Board in accordance with standards set forth in KRS 424.180;
 - (d) Submit the names of three (3) candidates to the commission for every vacancy or expired term on the Parole Board;
 - (e) Forward a statement of qualifications of each nominee to the commission along with the nomination. This statement shall identify the experience which meets the qualifications for Parole Board membership outlined in KRS 439.320(1); and
 - (f) Maintain the statement of qualifications as a public record in accordance with KRS 61.870 to 61.884.

SECTION 229. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

The commission or one (1) or more of its members may visit and inspect any state penal institution, and may inform and advise the commissioner of the Department of Corrections in regard to the institution's physical or other condition, its discipline, management, program, and its general adequacy or inadequacy. The commission or a majority of its members shall have full access to the grounds and buildings and to the books and records belonging or relating to the institution, as well as the right to subpoena witnesses, take proof, or hear testimony under oath relating to the institution.

Section 230. KRS 197.010 is amended to read as follows:

Definitions as used in this chapter, unless the context otherwise requires:

- (1) "Cabinet" means the Justice and Public Safety Cabinet;
- (2) "Classification" means the systematic assignment of a prisoner to a custody level, program, and penitentiary;
- (3) "Department" means Department of Corrections;
- (4) "Eligible sexual offender" means a sexual offender for whom the sentencing court, department officials, or both have determined that he or she:
 - (a) Has demonstrated evidence of a mental, emotional, or behavioral disorder, but not active psychosis or mental retardation; and
 - (b) Is likely to benefit from the program;
- (5) "Penitentiaries" includes the state penal institutions for males at Eddyville, LaGrange, the Green River Correctional Complex, the Luther Luckett Correctional Complex, the Kentucky Correctional Institute for Women, the Northpoint Training Center, the Roederer Correctional Complex, the Eastern Kentucky Correctional Complex, the Western Kentucky Correctional Complex, Frankfort Career Development Center, Blackburn Correctional Complex, and Bell County Forestry

Camp, together with the branches thereof, any private prison as provided by KRS 197.500, and any other similar institutions hereafter established;

- (6) "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in KRS 17.500; and
- (7) "State agency" means any department, board, commission, or agency of the state government.

Section 231. KRS 197.020 is amended to read as follows:

- (1) The Department of Corrections shall:
 - (a) Promulgate administrative regulations~~[Formulate and prescribe all necessary regulations and bylaws]~~ for the government and discipline of the penitentiary, ~~[the rules]~~ for the government and official conduct of all officials connected with the penitentiary and for the government of the prisoners in their department and conduct;
 - (b) Promulgate administrative regulations for~~[Prescribe]~~ the character of food and diet of the prisoners; ~~[rules for]~~ the preservation of the health of the prisoners; the daily cleansing of the penitentiary; the cleanliness of the persons of the prisoners; the general sanitary government of the penitentiary and prisoners; the character of the labor; ~~the~~~~[and]~~ quantity of food and clothing; and the length of time during which the prisoners shall be employed daily;
 - (c) Promulgate administrative regulations~~[Adopt, amend, and rescind]~~, as the department deems necessary, ~~for~~~~[administrative regulations governing]~~ the disposition of abandoned, lost, or confiscated property of prisoners; and
 - (d) Cause the administrative regulations promulgated~~[prescribed]~~ by the department~~[them]~~, together with the law allowing commutation of time to prisoners for good conduct, to be printed and posted in conspicuous places in the cell houses and workshops.
- (2) The department may impose a reasonable fee for the use of medical facilities by a prisoner who has the ability to pay for the medical and dental care. These funds may be deducted from the prisoner's inmate account. A prisoner shall not be denied medical or dental treatment because he has insufficient funds in his inmate account.
- (3) The department may promulgate administrative regulations in accordance with KRS Chapter 13A to implement a program that provides for reimbursement of telehealth consultations.

Section 232. KRS 197.110 is amended to read as follows:

The Department of Corrections shall promulgate~~[make]~~ administrative regulations it deems necessary and proper in relation to:

- (1) The classification of prisoners;
- (2) The terms and conditions under which prisoners may be assigned to work under the direction of any other state agency;
- (3) The adequate care, supervision, guarding, discipline, maintenance, transportation, and housing of prisoners when assigned to work outside of the prison. The department shall ascertain from the jailer of the county in which the work is being carried on if accommodations are available, and shall place as many prisoners as possible under the care of the jailer;
- (4) The payment of money to prisoners and their dependents for work performed, including the amount to be paid and the manner of the payment and distribution thereof;
- (5) Any other purposes as the department deems necessary and proper for carrying out the intent of this chapter.

Section 233. KRS 197.500 is amended to read as follows:

As used in KRS 197.505 to 197.525, unless the context otherwise requires:

- (1) ~~["Department" means the Department of Corrections;~~
- ~~(2) ["Adult correctional facility" means any minimum or medium adult penal or correctional facility operated for the purpose of housing convicted felons for the department; and~~
- ~~(2)(3)~~ "Private provider" means a private legal entity authorized to do business in the Commonwealth and which is in the business of establishing, operating, and managing adult correctional facilities.

Section 234. KRS 197.505 is amended to read as follows:

- (1) The state may enter into contracts with a private provider to establish, operate, and manage adult correctional facilities. In all such contracts the state shall retain clear supervisory and monitoring powers over the operation and management of the adult correctional facility to insure that the inmates are properly cared for and that the employees of the facility and the public are adequately protected.
- (2) Any adult correctional facility operated by a private provider under this section shall ensure that all inmates housed in the facility, including those inmates housed under contract with another state, shall meet classification requirements as set forth by the department for the designated security level of the facility.
- (3) Any adult correctional facility contracted for pursuant to this section shall be constructed only in a county with an established Department of Kentucky State Police post or in a county in which at least two (2) State Police officers reside as a result of a duty assignment or in a county with a full-time police department.

Section 235. KRS 197.510 is amended to read as follows:

Any contract entered on or after July 15, 1988, between the state and a private provider for the operation and management of an adult correctional facility shall include terms which comply with at least the following:

- (1) Unless otherwise provided by KRS 197.505 to 197.525, any adult correctional facility contracted for pursuant to KRS 197.505 shall submit a plan to the department for achieving American Correctional Association standards within five (5) years, which is appropriate for the specific type of adult correctional facility.
- (2) The provisions of KRS Chapter 45A shall apply to any contract or any proposal for a contract authorized by KRS 197.505 to 197.525 for an adult correctional facility.
- (3) The adult correctional facility shall prepare an annual written budget of anticipated revenues and expenditures which is approved by the appropriate governing authority. The facility shall have written policies which govern revisions in the budget. The facility shall have a fiscal system which accounts for all income and expenditures on an on-going basis.
- (4) The adult correctional facility shall prepare and distribute to its governing authority and appropriate agencies including the department, at a minimum, the following documents: annual budget income and expenditure statements; funding source financial reports; and annual independent audit report.
- (5) The adult correctional facility shall have written fiscal policies and procedures adopted by the governing authority which include at a minimum: internal controls; petty cash; bonding; signature control on checks; resident funds; and employee expense reimbursement.
- (6) There shall be an annual independent audit of the adult correctional facility. The facility shall have a written policy for inventory control of all property and assets and for purchasing and requisitioning supplies and equipment. The facility shall use a method which documents and authorizes wage payment to employees and consultants.
- (7) The private provider shall develop and implement a plan for the dissemination of information about the adult correctional facility to the public, government agencies, and the media. The plan shall be made available to all persons. All documents and records, except financial records, maintained by the private provider shall be deemed public records as defined by KRS 61.870 and be subject to the provisions of KRS 61.872 to 61.884.
- (8) The adult correctional facility shall conform to all applicable zoning ordinances and all applicable state and local building codes, including the Kentucky Building Code, 1983 edition and subsequent modifications or replacements thereto.
- (9) The adult correctional facility shall comply with all applicable laws and regulations of the local and state government regarding sanitation, food service, safety, and health. Copies of inspections completed by the appropriate authorities shall be sent to the department.
- (10) The adult correctional facility shall comply with the provisions of the Life Safety Code, 1983 edition, National Fire Protection Association 101 and the regulations of the state or the local fire safety authority, whichever has primary jurisdiction over the adult correctional facility. Copies of the inspections completed by the appropriate authorities shall be sent to the department.
- (11) A minimum of sixty (60) square feet of floor space per resident shall be provided in the living area of the adult correctional facility. Other areas to be provided shall include space and furnishings to accommodate group meetings of the residents, private counseling space with adequate furniture, and a visiting area.
- (12) The adult correctional facility shall provide a variety of indoor and outdoor recreational and leisure time activities to include but not be limited to: television, radio, library materials, and recreational facilities. Telephone facilities shall be available on the premises, which are accessible to residents.
- (13) The adult correctional facility shall provide a level and quality of programs at least equal to those provided by state-operated facilities that house similar types of inmates and at a cost that provides the state with a savings of not less than ten percent (10%) of the cost of housing inmates in similar facilities and providing similar programs to those types of inmates in state-operated facilities.
- (14) The adult correctional facility shall be staffed twenty-four (24) hours per day seven (7) days per week. The staffing pattern shall be adequate to insure close inmate surveillance and maintenance of security within the facility. The staffing pattern shall address the program, transportation, and security needs of the facility. In determining security need, the proximity of the facility to neighborhood and schools shall be considered.
- (15) The adult correctional facility shall have a written personnel policy and employees shall be given a copy. The personnel policies shall include, at a minimum:
 - (a) Organization chart;
 - (b) Employment practices and procedures including in-service training and staff developing;
 - (c) Promotions;
 - (d) Job qualifications and job descriptions;
 - (e) Grievance and appeal procedures;
 - (f) Employee evaluation;
 - (g) Personnel records;
 - (h) Benefits;

- (i) Holidays;
 - (j) Leave;
 - (k) Hours of work;
 - (l) Salaries (or the base for determining salaries);
 - (m) Disciplinary procedures;
 - (n) Termination; and
 - (o) Resignation.
- (16) The adult correctional facility shall maintain written job descriptions and job qualifications for all positions in the facility including: job title, responsibilities of the positions, and required minimum experience and education. An affirmative action program shall be adopted by the governing authority. The correctional facility shall maintain a current, accurate, and confidential personnel record on each employee. The facility shall have written policy and procedures requiring an annual performance evaluation of all employees. This evaluation shall be reviewed and discussed with the employee.
- (17) Prior to employment, all employees of the adult correctional facility shall be subject to thorough background investigation to include criminal, medical, and employment history. All security employees of the facility shall be at least eighteen (18) years of age. The facility shall provide initial orientation for all new employees during the first week of employment. The facility shall comply with all governmental regulatory requirements related to employment and personnel practices. Personnel selection and assignments shall be based on merit.
- (18) The administrator of the adult correctional facility shall have a minimum of five (5) years experience in corrections or law enforcement and five (5) years experience in administration. The remaining staff of the facility shall have the same qualifications and training as the staff employed in similar positions in adult correctional facilities operated by the department.
- (19) The adult correctional facility shall provide the following services and programs, the extent to which shall be set forth in the contract between the state and the private provider but shall be consistent with the standards of the American Correctional Association:
- (a) Health and medical services;
 - (b) Food services;
 - (c) Mail, telephone use, and visitation;
 - (d) Access to legal services and legal materials;
 - (e) Vocational training;
 - (f) Educational programs;
 - (g) Counseling services including personal counseling;
 - (h) Drug and alcohol counseling; and
 - (i) Sanitation services.
- (20) The adult correctional facility shall have a written fire and emergency plan for the facility which shall be communicated to all employees and inmates and updated, if needed. The facility's written emergency plan shall be conspicuously posted in the facility. The facility staff shall document the conduct of quarterly emergency drills.
- (21) The adult correctional facility shall have a written policy restricting the use of physical force to instances of justifiable self-protection, prevention of property damage, and prevention of escapes, and only to the degree necessary. In compliance with applicable laws, the facility shall maintain and make public, written policies and procedures for conducting searches of residents and all areas of the facility, to control contraband and locate missing or stolen property. The facility shall have a written plan to control movement in and out of the facility. The facility shall have written procedures to account for the whereabouts of the residents at all times.
- (22) The adult correctional facility shall establish a procedure for inspecting all facility areas accessible to inmates for contraband and physical security at least weekly. Isolated security spot checks shall be conducted daily. Items considered as contraband or items permitted in the facility shall be clearly defined in the facility's rules.
- (23) The adult correctional facility shall report all suspected felonies to the Department of Kentucky State Police for investigation. A written report shall be made of all extraordinary or unusual occurrences within twenty-four (24) hours of the occurrence. This report shall be placed in the inmate's folder and a copy forwarded to the department. All these occurrences shall be promptly reported to the department verbally prior to submission of the written report. Extraordinary or unusual occurrences shall include but not be limited to:
- (a) Death of a resident;
 - (b) Attempted suicide or suicide;
 - (c) Serious injury, whether accidental or self-inflicted;
 - (d) Attempted escape or escape from confinement;

2007 Regular Session

- (e) Fire;
 - (f) Riot;
 - (g) Battery, whether by a staff member or resident;
 - (h) Sexual assaults; and
 - (i) Occurrence of contagious or infectious disease, or illness within the facility.
- (24) Each adult correctional facility shall have written policy and procedures for emergency situations including but not limited to:
- (a) Escapes;
 - (b) Taking of hostages;
 - (c) Riots;
 - (d) Food poisoning;
 - (e) Civil disturbances in the community;
 - (f) Natural disaster;
 - (g) Suicides; and
 - (h) Other deaths and disorder.
- (25) The adult correctional facility shall adopt a written policy and procedures which shall insure that the constitutional rights of inmates to voluntarily practice their own religious activities are protected, subject only to those limitations necessary to maintain order and security of the facility.
- (26) The adult correctional facility shall adopt a written policy which shall be implemented to insure that no inmate or group of inmates is in a position of control or authority over other inmates.
- (27) The adult correctional facility shall have a policy and procedure for recommending awarding of meritorious good time for inmates in accordance with policies and procedures of the department. The procedures shall include formation of a committee to include an administrator to screen all recommendations. The recommendations shall be sent to the department. Recommendations for restoration of good time shall be screened by the same committee and forwarded to the department.
- (28) If the adult correctional facility operates a canteen, all profits shall be spent for recreational programs for inmates. Prices shall be in accordance with those established by the Department of Corrections Inmate Canteen Board.
- (29) The department shall have the authority to conduct periodic, scheduled, and unannounced inspections of the adult correctional facility during the term of the contract. The department shall generally observe and monitor the operations of the adult correctional facility at least once per week.
- (30) The contract shall provide a hold harmless clause by which the private provider agrees to indemnify, defend, and hold harmless the Commonwealth, its officers, agents, and employees from:
- (a) Any claims or losses for service rendered by the private provider, person, or firm performing or supplying services in connection with performance of the contract;
 - (b) Any claims or losses to any person or firm injured or damaged by the erroneous or negligent acts of the private provider, its officers, or employees in the performance of the contract;
 - (c) Any claims or losses resulting to any person or firm injured or damaged by the private provider, its officers, or employees by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a manner not authorized by the contract, or by federal or Commonwealth regulations or statutes; and
 - (d) Any failure of the private provider, its officers, or employees to observe Kentucky laws, including but not limited to labor laws and minimum wage laws.
- (31) The contract shall require that the private provider give a performance bond to the Commonwealth as obligee, in form satisfactory to the Commonwealth, executed by a surety company authorized to do business in Kentucky and in the penal sum equal to: twenty percent (20%) multiplied by the maximum number of inmates to be housed in the adult correctional facility multiplied by three hundred sixty-five (365) and further multiplied by the rate to be paid the private provider per inmate per day.
- (32) The private provider shall provide public liability, property damage, and workers' compensation insurance, insuring, as they may appear, the interest of all parties of agreement against any and all claims which may arise out of the private provider's operations under the terms of this contract. If any carrier of the insurance exercises cancellation, notice shall be made immediately to the Commonwealth of the cancellation.
- (33) As set forth within the contract between the Department of Corrections and the private provider:
- (a) Failure of the private provider to provide the required services, products, or facilities shall entitle the department to withhold from the contract an amount up to two (2) times the estimated value per day per inmate for the service,

- product, or facility during the entire length of time which the failure to provide exists.
- (b) The department shall in writing notify the provider of any failure to provide services, products, or facilities as required. A copy of the written notice shall be sent to the Finance and Administration Cabinet. The private provider shall have fourteen (14) calendar days from its receipt of the notice to abate the failure to provide and to notify the department of the corrective action taken by the private provider.
 - (c) In the event the department determines that the failure to provide has not been abated within fourteen (14) calendar days after the initial notice, the commissioner of the Department of Corrections shall hold, or assign the matter to a hearing officer for, a hearing and issue findings of fact, conclusions of law, and a recommended order.
 - (d) Failure to provide services, products, or facilities as required in this agreement shall result in an order to withhold from the contract an amount up to two (2) times the estimated value, as determined after a hearing, per day per inmate for the service, product, or facility during the entire length of time which the failure to provide exists.
 - (e) The withholding shall continue until such time as the failure to provide is corrected in the manner stated in the order.
 - (f) The department and private provider shall in good faith negotiate the actual fair value of the omitted service, product, or facility which shall be subtracted from the amount withheld. The balance of the withholding, if any, shall be promptly returned to the private provider upon final agreement of the department and private provider. Additional withholding from the contract shall be made by the department if an additional amount is due.
 - (g) The provider may appeal, within thirty (30) days, any order of the department to the Franklin Circuit Court.

Section 236. KRS 199.015 is amended to read as follows:

The "Code Adam" safety protocol is hereby established and shall be implemented by all administrators in state buildings in the following manner:

- (1) When a parent, tutor, or guardian notifies any employee of a state building that his or her child is lost or missing, the employee shall obtain from the parent, tutor, or guardian a detailed description of the minor, including but not limited to the name, age, color of eyes, height, weight, clothing, and the shoes the child was wearing at the time the child was last seen before becoming lost or missing;
- (2) From the closest telephone available, the same employee shall alert the state building administrator or the person designated in the state building's "Code Adam" plan, who shall then notify the occupants of the state building through the loudspeaker system or through any other fast and effective means of communication that "Code Adam" has been activated;
- (3) The employee shall escort the parent, tutor, or guardian to the main door of the state building to help in identifying the child;
- (4) Persons designated by the administrator shall monitor all state building exits to ascertain that the minor does not leave the state building without the parent, tutor, or guardian. In addition, two (2) or more employees, as may be necessary, shall be assigned to search the parking areas of the state building. This process shall not entail the closing or locking of any door of the state building;
- (5) Any child, or person with a child, leaving the state building shall be asked to go through the main exit previously designated by the administrator. If, once there, the child or person wishes to leave the state building, he or she shall be allowed to do so after it has been determined that the minor who is leaving is not the child being searched for and that the person with the minor is the parent, tutor, or guardian of the child, and the person presents a government-issued photo identification;
- (6) After "Code Adam" has been announced through the state building's loudspeaker system or through any other fast and effective means of communication, the employees shall search throughout the entire state building, and at least two (2) employees, or more as deemed necessary, shall be assigned to each floor to certify that the minor is not present. Employees who are directly serving a member of the public at that time and employees who have been previously excluded by the administrator shall not be compelled to participate in the search;
- (7) If the minor is found unharmed and appears to have been simply lost or missing in the state building, the child shall be immediately taken to the parent, tutor, or guardian;
- (8) If the minor is found in the company of any person other than the child's parent, tutor, or guardian, any reasonable means shall be taken to delay the exit of the child and the person with whom the child was found from the state building until a peace officer arrives, the child and the person with whom the child is found both are properly identified, and the circumstances of the situation are determined;
- (9) If the minor is not found within a ten (10) minute period, the state building administrator shall notify a state or local law enforcement agency that a child is lost or missing and provide the information then known about the lost or missing child. The law enforcement agency shall respond to the scene and shall take control of the incident. The law enforcement agency may request that the local search and rescue coordinator provide additional resources to search for the lost or missing child. The law enforcement agency and the local dispatch center shall take the actions required by KRS 17.450, 17.460, and 39F.180;
- (10) Upon the location of the lost or missing child or the arrival of a peace officer from the law enforcement agency which was

notified of the lost or missing child, whichever occurs earlier, the state building administrator shall cause an announcement of the ending of the "Code Adam" by the state building loudspeaker or other fast and effective means of communication; and

- (11) Upon the ending of the "Code Adam," the state building administrator shall prepare three (3) copies of a report of the incident, which shall:
 - (a) Be sent within three (3) working days to the secretary of the Finance and Administration Cabinet and the commissioner of the Department of Kentucky State Police; and
 - (b) Be kept in the administrative files of the state building for a period of three (3) years from the date of the incident.

Section 237. KRS 199.017 is amended to read as follows:

The secretary of the Finance and Administration Cabinet, in consultation with the Justice and Public Safety Cabinet through the Department of Kentucky State Police, shall:

- (1) Be responsible for coordinating implementation of the "Code Adam" program throughout the Commonwealth;
- (2) Provide training to administrators of state buildings and employees designated by those administrators in the implementation of the "Code Adam" program;
- (3) Provide training in procedures for the search of state buildings and grounds for lost and missing children;
- (4) Print and distribute signs to each public agency for use in each state building relating to the "Code Adam" program and how to initiate a "Code Adam." The signs shall be not less than twelve (12) inches square and have white letters and a purple background containing the information specified by the cabinet by administrative regulation;
- (5) Provide for annually conducting a "Code Adam" drill at each facility covered by the provisions of KRS 199.013 to 199.019;
- (6) Provide for the collection of statistics from each facility covered by the provisions of KRS 199.013 to 199.019 on each "Code Adam" within the state building;
- (7) Provide an annual report to the Governor, the Department of Kentucky State Police, the Legislative Research Commission, and the General Assembly on each "Code Adam" within the Commonwealth during the previous calendar year and the results of each "Code Adam" incident. The annual report shall be a public record and shall not include the name or other identifying information, other than gender and age, of the child; and
- (8) Promulgate administrative regulations necessary for the implementation of the "Code Adam" program as required by KRS 199.013 to 199.010.

Section 238. KRS 199.019 is amended to read as follows:

The secretary of the Finance and Administration Cabinet, in consultation with the Justice and Public Safety Cabinet through the Department of Kentucky State Police, may exempt any agency or state building which, due to the nature of the services provided by that agency or state building, is not visited by children. The agency or state building shall immediately report to the secretary of the Finance and Administration Cabinet when the agency or state building is likely to be visited by children on a frequent or continuing basis. Upon receipt of the notification from the state building administrator or agency that the state building is being visited by children, the exemption from compliance with the provisions of KRS 199.013 to 199.019 shall expire.

Section 239. KRS 199.462 is amended to read as follows:

- (1) Before an applicant is approved to provide foster care or relative caregiver services to a child, or approved to receive a child for adoption, the Cabinet for Health and Family Services shall:
 - (a) Require a criminal background investigation of the applicant and any of the applicant's adult household members by means of a fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation; or
 - (b) Request from the Justice and Public Safety Cabinet records of all conviction information for the applicant and any of the applicant's adult household members. The Justice and Public Safety Cabinet shall furnish the information to the Cabinet for Health and Family Services and shall also send a copy of the information to the applicant.
- (2) The request for records shall be on a form approved by the Justice and Public Safety Cabinet and the Justice and Public Safety Cabinet may charge a fee to be paid by the applicant for the actual cost of processing the request.
- (3) During a certified adoptive or foster home's annual reevaluation, the Cabinet for Health and Family Services may require a background investigation for each adult household member of the certified adoptive or foster home under subsections (1) and (2) of this section.
- (4) The Cabinet for Health and Family Services shall promulgate an administrative regulation to implement this section.

Section 240. KRS 199.473 is amended to read as follows:

- (1) All persons other than a child-placing agency or institution, the department, or persons excepted by KRS 199.470(4) or (5) who wish to place or receive a child shall make written application to the secretary for permission to place or receive a child.
- (2) Prior to the approval of an application to place or receive a child, the fee required pursuant to subsection (13) of this

section shall be paid and a home study shall be completed. The purpose of the home study shall be to review the background of the applicant and determine the suitability of the applicant to receive a child, taking into account at all times the best interest of the child for whom application to receive has been made.

- (3)
 - (a) The home study shall be made in accordance with administrative regulations promulgated by the cabinet in accordance with KRS Chapter 13A.
 - (b) The cabinet shall conduct the home study for an applicant whose total gross income is equal to or less than two hundred fifty percent (250%) of the federal poverty level guidelines issued each year by the federal government, unless the applicant submits a written request for the home study to be conducted by a licensed child-placing agency or institution. Upon request, the cabinet shall make information available to an applicant who does not meet the requirements of this paragraph to assist the applicant in obtaining a home study from a licensed child-placing agency approved to provide adoption services.
 - (c) A licensed child-placing agency approved to provide adoption services shall conduct the home study for an applicant whose gross total income is more than two hundred fifty percent (250%) of the federal poverty level guidelines issued each year by the federal government.
 - (d) Calculation of family size for this subsection shall include each child requested to be adopted.
 - (e) The portion of the home study pertaining to the home and family background shall be valid for one (1) year following the date of its completion by an adoption worker.
- (4) The adoption worker making the home study shall make a finding in writing recommending either that the application be granted or that the application be denied. The recommendation of the adoption worker shall then be reviewed by the secretary.
- (5) Based on the report and recommendation of the adoption worker making the home study, the secretary shall grant or refuse permission for the applicant to place or receive a child as early as practicable, but, in any case, the decision shall be made within sixty (60) days after the receipt of the application. In reaching a decision, the secretary shall be guided by the ability of the persons wishing to receive the child to give the child a suitable home, and shall at all times consider the best interest of the child from a financial, medical, psychological, and psychiatric standpoint.
- (6) If the application is refused, the secretary shall in general terms furnish in writing the reasons for his or her refusal.
- (7) Any person who seeks temporary custody of a child prior to the secretary's ruling on an application for adoption shall file a petition seeking temporary custody, with a notice of intent to adopt, with the Circuit Court that will have jurisdiction of the adoption proceedings. The clerk of the court shall send a notice of the filing of the petition to the cabinet. A hearing on the petition shall occur no later than seventy-two (72) hours after the filing of the petition, excluding weekends and holidays. Proceedings under this subsection shall be incorporated into the court's adoption file. If the adoption is not finalized within six (6) months of the filing of the petition and notice of intent, the court shall conduct a hearing on the status and custody of the child.
- (8) Upon a finding by the Circuit Court that the child should be placed prior to the secretary's ruling on the application, the Circuit Court may grant the applicant temporary custody of the child pending the decision of the secretary. Temporary custody shall not be granted to an applicant unless a background check, including but not limited to a criminal records check by the Justice and Public Safety Cabinet or the Administrative Office of the Courts and a background check of child abuse and neglect records maintained by the cabinet, has been submitted to and reviewed by the court. The background check required for temporary custody shall be part of the home study required under subsection (2) of this section. If the application is denied by the secretary, the temporary custody order shall be set aside and, upon motion of the cabinet or of the child's parent or parents, the Circuit Court may order the child returned to the biological parent or parents or the child's custody may be awarded to the cabinet, another licensed child-placing agency, or other individuals deemed appropriate by the court. This section shall not be deemed to permit the completion of any adoption proceeding without the approval of the secretary and compliance with KRS 615.030, if required.
- (9) In any case where the cabinet refuses to approve the placement of a child for adoption when requested by the parent or parents of the child, or refuses the request of any person or persons that a child be placed with that person or those persons for adoption, the decision of the secretary in so refusing shall be final unless within ten (10) days after notice of refusal, the biological or proposed adopting parent or parents shall appeal to the Circuit Court of the county in which the adoption is proposed. No placement shall be disapproved on the basis of the religious, ethnic, racial, or interfaith background of the adoptive applicant, if the placement is made with the consent of the parent.
- (10) The cabinet may refuse to approve the placement of a child for adoption if the child's custodial parent is unwilling for the child to be placed for adoption with the proposed adoptive family. The cabinet may approve or deny the placement, in spite of the fact that the custodial parent or parents are unwilling to be interviewed by the cabinet or other approving entity, or if, after diligent efforts have been made, the adoption worker is unable to locate or interview the custodial parent or parents. The cabinet shall be made a party defendant to the appeal. In the hearing of an appeal, the court shall review the findings of the secretary and shall determine if the secretary has acted arbitrarily, unlawfully, or in a manner that constitutes an abuse of discretion.
- (11) If a child who does not fall within the exception provided for in KRS 199.470(4) or (5) is placed or received in a home

without the court's review of the background check required under this section or the permission of the secretary for health and family services, or if permission to receive a child has been denied, a representative of the cabinet shall notify in writing or may petition the juvenile session of District Court of the county in which the child is found setting out the facts concerning the child. When the petition has been filed, the court shall take jurisdiction of the child and shall provide for it as it would provide for a dependent, neglected, or abused child under KRS Chapter 620, except that the child may not be placed in the home of the applicants who are to receive the child unless permission to do so is granted by the secretary or the action is ordered by a Kentucky court of competent jurisdiction.

- (12) When either the custodial parent or parents of the child to be placed or the persons wishing to receive the child reside out-of-state, the requirement of KRS 615.030, Interstate Compact on the Placement of Children, shall be met before the cabinet gives approval for the child's placement.
- (13) The secretary of the Cabinet for Health and Family Services shall be paid a nonrefundable fee of two hundred dollars (\$200) upon the filing of the written application for permission to place or receive a child. Payment shall be made by certified or cashier's check only. All funds collected under this section shall be deposited in a restricted account, which is hereby created, for the purpose of subsidizing an adoptive parent for suitable care of a special-needs child as authorized in KRS 199.555.
- (14) Nothing in this statute shall be construed to limit the authority of the cabinet or a child-placing institution or agency to determine the proper disposition of a child committed to it by the juvenile session of District Court or the Circuit Court, prior to the filing of an application to place or receive.

Section 241. KRS 205.177 is amended to read as follows:

- (1) Notwithstanding any existing state statute or regulation to the contrary, any pertinent information concerning individual clients, patients, or applicants in the possession of the Justice and Public Safety Cabinet, Cabinet for Health and Family Services, Department of Education, or any other state or local governmental agency may be shared with any authorized representative of any other state or local governmental agency of similar function if the agency has a direct, tangible, legitimate interest in the individual concerned or his or her immediate family.
- (2) Any state agency designated in subsection (1) of this section may share pertinent information concerning a client, patient, or applicant with any private or quasi-private agency when such agency has an agreement with that state agency assuring the confidentiality of all such information, and provided that the private or quasi-private agency has a direct, tangible, legitimate interest in the individual concerned or his or her immediate family.

Section 242. KRS 209.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (2) "Cabinet" means the Cabinet for Health and Family Services;
- (3) "Department" means the Department for Community Based Services of the Cabinet for Health and Family Services;
- (4) "Adult" means a person eighteen (18) years of age or older who, because of mental or physical dysfunctioning, is unable to manage his or her own resources, carry out the activity of daily living, or protect himself or herself from neglect, exploitation, or a hazardous or abusive situation without assistance from others, and who may be in need of protective services;
- (5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected, or exploited and to ensure that he or she obtains suitable care in or out of his or her home;
- (6) "Caretaker" means an individual or institution who has been entrusted with or who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person voluntarily or by contract, employment, legal duty, or agreement;
- (7) "Deception" means, but is not limited to:
 - (a) Creating or reinforcing a false impression, including a false impression as to law, value, intention, or other state of mind;
 - (b) Preventing another from acquiring information that would affect his or her judgment of a transaction; or
 - (c) Failing to correct a false impression that the deceiver previously created or reinforced, or that the deceiver knows to be influencing another to whom the person stands in a fiduciary or confidential relationship;
- (8) "Abuse" means the infliction of injury, sexual abuse, unreasonable confinement, intimidation, or punishment that results in physical pain or injury, including mental injury;
- (9) "Exploitation" means obtaining or using another person's resources, including but not limited to funds, assets, or property,

by deception, intimidation, or similar means, with the intent to deprive the person of those resources;

- (10) "Investigation" shall include, but is not limited to:
- (a) A personal interview with the individual reported to be abused, neglected, or exploited. When abuse or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;
 - (b) An assessment of individual and environmental risk and safety factors;
 - (c) Identification of the perpetrator, if possible; and
 - (d) Identification by the Office of Inspector General of instances of failure by an administrator or management personnel of a regulated or licensed facility to adopt or enforce appropriate policies and procedures, if that failure contributed to or caused an adult under the facility's care to be abused, neglected, or exploited;
- (11) "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or herself or others;
- (12) "Emergency protective services" are protective services furnished an adult in an emergency;
- (13) "Protective placement" means the transfer of an adult from his or her present living arrangement to another;
- (14) "Court" means the Circuit Court or the District Court if no judge of that Circuit Court is present in the county;
- (15) "Records" means the medical, mental, health, and financial records of the adult that are in the possession of any hospital, firm, corporation, or other facility, if necessary to complete the investigation mandated in this chapter. These records shall not be disclosed for any purpose other than the purpose for which they have been obtained;
- (16) "Neglect" means a situation in which an adult is unable to perform or obtain for himself or herself the goods or services that are necessary to maintain his or her health or welfare, or the deprivation of services by a caretaker that are necessary to maintain the health and welfare of an adult; and
- (17) "Authorized agency" means:
- (a) The Cabinet for Health and Family Services;
 - (b) A law enforcement agency or the Department of Kentucky State Police;
 - (c) The office of a Commonwealth's attorney or county attorney; or
 - (d) The appropriate division of the Office of the Attorney General.

Section 243. KRS 209A.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Secretary" means the secretary of the Cabinet for Health and Family Services;
- (2) "Cabinet" means the Cabinet for Health and Family Services;
- (3) "Department" means the Department for Community Based Services of the Cabinet for Health and Family Services;
- (4) "Adult" means a person without regard to age who is the victim of abuse or neglect inflicted by a spouse;
- (5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused or neglected. These services may include but are not limited to conducting investigations of complaints of possible abuse or neglect to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action, including action under KRS Chapter 209, and social services aimed at preventing and remedying abuse or neglect;
- (6) "Abuse" means the infliction of injury, unreasonable confinement, intimidation, or punishment resulting in physical harm or pain, including mental injury;
- (7) "Investigation" shall include but is not limited to a personal interview with the individual reported to be abused or neglected. When abuse or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;
- (8) "Records" means the medical or mental health records of the adult that are in the possession of any individual, hospital, firm, corporation, or other facility if necessary to complete the investigation mandated in KRS 209.030(5);
- (9) "Neglect" means a situation in which a person deprives his or her spouse of reasonable services to maintain health and welfare; and
- (10) "Authorized agency" means:
 - (a) The Cabinet for Health and Family Services;
 - (b) A local law enforcement agency or the Department of Kentucky State Police; or
 - (c) The office of a Commonwealth's attorney or county attorney.

Section 244. KRS 210.502 is amended to read as follows:

- (1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. The commission shall consist of:

- (a) The secretary of the Cabinet for Health and Family Services;
 - (b) The secretary of the Justice and Public Safety Cabinet;
 - (c) The commissioner of the Department for Mental Health and Mental Retardation Services;
 - (d) The commissioner of the Department for Medicaid Services;
 - (e) The commissioner of the Department of Corrections;
 - (f) The commissioner of the Department of Juvenile Justice;
 - (g) The commissioner of the Department of Education;
 - (h) The executive director of the Office of Vocational Rehabilitation;
 - (i) The director of the Protection and Advocacy Division of the Department of Public Advocacy;
 - (j) The director of the Division of Family Resource and Youth Services Centers;
 - (k) The director of the Division of Aging Services of the Cabinet for Health and Family Services;
 - (l) The executive director of the Office of Drug Control~~[Kentucky Agency for Substance Abuse]~~ Policy;
 - (m) ~~{The executive director of the Criminal Justice Council;~~
 - ~~(n) —~~ The director of the Administrative Office of the Courts;
 - ~~(n){(e)}~~ The chief executive officer of the Kentucky Housing Corporation;
 - ~~(o){(p)}~~ The executive director of the Office of Transportation Delivery of the Transportation Cabinet;
 - ~~(p){(q)}~~ The commissioner of the Department of Public Health;
 - ~~(q){(r)}~~ Three (3) members of the House of Representatives who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Speaker of the House;
 - ~~(r){(s)}~~ Three (3) members of the Senate who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Senate President;
 - ~~(s){(t)}~~ A chairperson and one (1) alternate who is a chairperson of a regional planning council appointed by the secretary of the Cabinet for Health and Family Services from a list of five (5) chairpersons submitted by the Kentucky Association of Regional Mental Health/Mental Retardation Programs;
 - ~~(t){(u)}~~ A consumer and one (1) alternate who is a consumer of mental health or substance abuse services, who is over age eighteen (18), appointed by the secretary of the Cabinet for Health and Family Services from a list of up to three (3) consumers submitted by any consumer advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506; and
 - ~~(u){(v)}~~ An adult family member and one (1) alternate who is an adult family member of a consumer of mental health or substance abuse services appointed by the secretary of the Cabinet for Health and Family Services from a list of up to three (3) persons submitted by any family advocacy organization operating within Kentucky or submitted by any regional planning council established under KRS 210.506.
- (2) The secretary of the Cabinet for Health and Family Services and one (1) member of the General Assembly appointed to the commission shall serve as co-chairs of the commission.
- (3) Members designated in subsection (1)(a) to ~~(r){(s)}~~ of this section shall serve during their terms of office.
- (4) Members and alternates designated in subsection (1)~~(s){(t)}~~ to ~~(u){(v)}~~ of this section shall serve a term of two (2) years and may be reappointed for one (1) additional term. These members may be reimbursed for travel expenses in accordance with administrative regulations governing reimbursement for travel for state employees.
- Section 245. KRS 213.061 is amended to read as follows:
- (1) Upon notification by the Justice and Public Safety Cabinet that a child born in the Commonwealth is missing, the state registrar of vital statistics shall flag the birth certificate record of the child in such a manner that whenever a copy of the birth certificate or information regarding the birth record is requested, the state registrar shall be alerted to the fact that the certificate is that of a missing child.
 - (2) Upon notification by the Justice and Public Safety Cabinet that a missing child has been recovered, the state registrar shall remove the flag from the child's birth certificate record.
 - (3) In response to any inquiry for a copy of a flagged birth certificate of a missing child, the state registrar shall not provide a copy of the birth certificate except as approved by the Justice and Public Safety Cabinet.
 - (4) When a copy of a flagged birth certificate is requested in person, the state registrar or the designee accepting the request shall inform the person making the request that a copy of a certificate will be mailed to the requester. The state registrar shall, upon the departure of the requesting person, immediately notify the Justice and Public Safety Cabinet as to the request and the information obtained pursuant to this subsection.
 - (5) When a copy of a flagged birth certificate is requested in writing, the state registrar shall immediately notify the Justice and Public Safety Cabinet as to the request and shall provide a copy of the written request.

Section 246. KRS 216.533 is amended to read as follows:

- (1) A long-term care facility owned, managed, or operated by the Department for Mental Health and Mental Retardation Services shall request an in-state criminal background information check from the Justice and Public Safety Cabinet or Administrative Office of the Courts for each applicant recommended for employment. Out-of-state criminal background information checks shall be obtained for any applicant recommended for employment who has resided or been employed outside of the Commonwealth.
- (2) No facility specified in subsection (1) of this section shall knowingly employ any person who has been convicted of a felony offense under:
 - (a) KRS Chapter 209;
 - (b) KRS Chapter 218A;
 - (c) KRS 507.020, 507.030, and 507.040;
 - (d) KRS Chapter 509;
 - (e) KRS Chapter 510;
 - (f) KRS Chapter 511;
 - (g) KRS Chapter 513;
 - (h) KRS 514.030;
 - (i) KRS Chapter 530;
 - (j) KRS Chapter 531;
 - (k) KRS 508.010, 508.020, 508.030, and 508.032;
 - (l) A criminal statute of the United States or another state similar to paragraphs (a) to (k) of this subsection; or
 - (m) A violation of the uniform code of military justice or military regulation similar to paragraphs (a) to (k) of this subsection which has caused the person to be discharged from the Armed Forces of the United States.
- (3) A person who has received a pardon for an offense specified in subsection (2) or has had the record of such an offense expunged may be employed.
- (4) Department for Mental Health and Mental Retardation facilities specified in subsection (1) of this section shall be exempt from the provisions of KRS 216.789(1).

Section 247. KRS 216.787 is amended to read as follows:

- (1) No agency providing services to senior citizens which are funded by the Department for Community Based Services of the Cabinet for Health and Family Services or the Division of Aging Services of the Cabinet for Health and Family Services shall employ persons in a position which involves providing direct services to a senior citizen if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or the commission of a sex crime.
- (2) Operators of service provider agencies may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor.
- (3) Each service provider agency providing direct services to senior citizens as specified under KRS 216.785 to 216.793 shall request all conviction information from the and Public Safety Justice Cabinet for any applicant for employment prior to employing the applicant.

Section 248. KRS 216.789 is amended to read as follows:

- (1) No long-term care facility as defined by KRS 216.535(1), nursing pool providing staff to a nursing facility, or assisted-living community shall knowingly employ a person in a position which involves providing direct services to a resident or client if that person has been convicted of a felony offense related to theft; abuse or sale of illegal drugs; abuse, neglect, or exploitation of an adult; or a sexual crime.
- (2) A nursing facility, nursing pool providing staff to a nursing facility, or assisted-living community may employ persons convicted of or pleading guilty to an offense classified as a misdemeanor if the crime is not related to abuse, neglect, or exploitation of an adult.
- (3) Each long-term care facility as defined by KRS 216.535(1), nursing pool providing staff to a nursing facility, or assisted-living community shall request all conviction information from the Justice and Public Safety Cabinet for any applicant for employment pursuant to KRS 216.793.
- (4) The long-term care facility, nursing pool providing staff to a nursing facility, or assisted-living community may temporarily employ an applicant pending the receipt of the conviction information.

Section 249. KRS 216.793 is amended to read as follows:

- (1) Each application form provided by the employer, or each application form provided by a facility either contracted or operated by the Department for Mental Health and Mental Retardation Services of the Cabinet for Health and Family Services, to the applicant for initial employment in an assisted-living community nursing facility, or nursing pool

providing staff to a nursing facility, or in a position funded by the Department for Community Based Services of the Cabinet for Health and Family Services or the Division of Aging Services, Department for Human Support Services of the Cabinet for Health and Family Services and which involves providing direct services to senior citizens shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

- (2) Any request for criminal records of an applicant as provided under subsection (1) of this section shall be on a form or through a process approved by the Justice and Public Safety Cabinet or the Administrative Office of the Courts. The Justice and Public Safety Cabinet or the Administrative Office of the Courts may charge a fee to be paid by the applicant or state agency in an amount no greater than the actual cost of processing the request.

Section 250. KRS 216B.400 is amended to read as follows:

- (1) Where a person has been determined to be in need of emergency care by any person with admitting authority, no such person shall be denied admission by reason only of his or her inability to pay for services to be rendered by the hospital.
- (2) Every hospital of this state which offers emergency services shall provide that a physician or a sexual assault nurse examiner, who shall be a registered nurse licensed in the Commonwealth and credentialed by the Kentucky Board of Nursing as provided under KRS 314.142, is available on call twenty-four (24) hours each day for the examinations of persons reported to any law enforcement agency to be victims of sexual offenses as defined by KRS 510.010 to 510.140, 530.020, 530.064(1)(a), and 531.310.
- (3) An examination provided in accordance with this section of a victim of a sexual offense may be performed in a sexual assault examination facility as defined in KRS 216B.015. An examination under this section shall apply only to an examination of a victim.
- (4) The physician or sexual assault nurse examiner, acting under a statewide medical protocol which shall be developed by the chief medical examiner, and promulgated by the secretary of justice and public safety pursuant to KRS Chapter 13A shall, upon the request of any peace officer or prosecuting attorney, and with the consent of the reported victim, or upon the request of the reported victim, examine such person for the purpose of gathering physical evidence. This examination shall include but not be limited to:
 - (a) Basic treatment and evidence gathering services; and
 - (b) Laboratory tests, as appropriate.
- (5) Each reported victim shall be informed of available services for treatment of venereal disease, pregnancy, and other medical and psychiatric problems. Pregnancy counseling shall not include abortion counseling or referral information.
- (6) Each reported victim shall be informed of available crisis intervention or other mental health services provided by regional rape crisis centers providing services to victims of sexual assault.
- (7) Notwithstanding any other provision of law, a minor may consent to examination under this section. This consent is not subject to disaffirmance because of minority, and consent of the parents or guardians of the minor is not required for the examination.
- (8)
 - (a) The examinations provided in accordance with this section shall be paid for by the Crime Victims' Compensation Board at a rate to be determined by the administrative regulation promulgated by the board after consultation with the Sexual Assault Response Team Advisory Committee as defined in KRS 403.707.
 - (b) Upon receipt of a completed original claim form supplied by the board and itemized billing for a forensic sexual assault examination, the board shall reimburse the hospital or sexual assault examination facility, and the physician or sexual assault nurse examiner as provided in administrative regulations promulgated by the board pursuant to KRS Chapter 13A. Reimbursement shall be made to an out-of-state nurse who is credentialed in the other state to provide sexual assault examinations, an out-of-state hospital, or an out-of-state physician if the sexual assault occurred in Kentucky.
 - (c) Independent investigation by the Crime Victims' Compensation Board shall not be required for payment of claims under this section; however, the board may require additional documentation or proof that the forensic medical examination was performed.
- (9) No charge shall be made to the victim for sexual assault examinations by the hospital, the sexual assault examination facility, the physician, the sexual assault nurse examiner, the victim's insurance carrier, or the Commonwealth.

Section 251. KRS 217.184 is amended to read as follows:

- (1) All police officers and deputy sheriffs, directly employed full-time by state, county, city, or urban-county governments, the Department of Kentucky State Police, the Cabinet for Health and Family Services, the offices of all city, county, and Commonwealth's attorneys, the Office of the Attorney General, and any of their officers and agents, within their respective jurisdictions, shall enforce KRS 217.207, 217.208, 217.209, 217.181, and 217.182 relating to legend drugs and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to legend drugs.
- (2) Designated agents of the Cabinet for Health and Family Services and the Kentucky Board of Pharmacy are empowered to remove from the files of any pharmacy or other custodian any prescription or other legend drug record upon tendering a

receipt. The receipt shall be sufficiently detailed to accurately identify the record and a copy of the records seized shall be returned to the pharmacist within a reasonable amount of time.

Section 252. KRS 218A.202 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy that has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy.
- (2) A practitioner or a pharmacist shall not have to pay a fee or tax specifically dedicated to the operation of the system.
- (3) Every dispenser within the Commonwealth or any other dispenser who has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy shall report to the Cabinet for Health and Family Services the data required by this section in a timely manner as prescribed by the cabinet except that reporting shall not be required for:
 - (a) A drug administered directly to a patient; or
 - (b) A drug dispensed by a practitioner at a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours.
- (4) Data for each controlled substance that is dispensed shall include but not be limited to the following:
 - (a) Patient identifier;
 - (b) Drug dispensed;
 - (c) Date of dispensing;
 - (d) Quantity dispensed;
 - (e) Prescriber; and
 - (f) Dispenser.
- (5) The data shall be provided in the electronic format specified by the Cabinet for Health and Family Services unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates.
- (6) The Cabinet for Health and Family Services shall be authorized to provide data to:
 - (a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;
 - (b) A Kentucky peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal peace officer whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;
 - (c) A state-operated Medicaid program;
 - (d) A properly convened grand jury pursuant to a subpoena properly issued for the records;
 - (e) A practitioner or pharmacist who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient;
 - (f) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Medical Licensure, for any physician who is:
 1. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing practices;
 2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing may be occurring; or
 3. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing may be occurring in that area;
 - (g) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Nursing, for any advanced registered nurse practitioner who is:
 1. Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper prescribing practices;
 2. Associated in a partnership or other business entity with an advanced registered nurse practitioner who is already under investigation by the Board of Nursing for improper prescribing practices;
 3. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing may be occurring; or

4. In a designated geographic area for which a report on a physician or another advanced registered nurse practitioner in that area indicates a substantial likelihood that inappropriate prescribing may be occurring in that area; or
- (h) A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program.
- (7) The Department for Medicaid Services may use any data or reports from the system for the purpose of identifying Medicaid recipients whose usage of controlled substances may be appropriately managed by a single outpatient pharmacy or primary care physician.
- (8) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except by order of a court of competent jurisdiction, except that:
 - (a) A peace officer specified in subsection (6)(b) of this section who is authorized to receive data or a report may share that information with other peace officers specified in subsection (6)(b) of this section authorized to receive data or a report if the peace officers specified in subsection (6)(b) of this section are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each law enforcement agency engaged in the investigation; and
 - (b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in subsection (6)(a) of this section, or with a law enforcement officer designated in subsection (6)(b) of this section; and
 - (c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.
- (9) The Cabinet for Health and Family Services, all peace officers specified in subsection (6)(b) of this section, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.
- (10) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.
- (11) Knowing failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class A misdemeanor.
- (12) Knowing disclosure of transmitted data to a person not authorized by subsection (6) to subsection (8) of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class D felony.
- (13) The Commonwealth Office of Technology, in consultation with the Cabinet for Health and Family Services, shall submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot project to study a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances. The pilot project shall:
 - (a) Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and
 - (b) Study the use of an interactive system that includes a relational data base with query capability.
- (14) Provisions in this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (13) of this section.
- (15) The Cabinet for Health and Family Services may limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.
- (16)
 - (a) The Cabinet for Health and Family Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.
 - (b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.
 - (c) The cabinet shall work with the Justice *and Public Safety* Cabinet for the development of a continuing education program for law enforcement officers about the purposes and users of the electronic system for monitoring established in this section.

Section 253. KRS 218A.240 is amended to read as follows:

- (1) All police officers and deputy sheriffs directly employed full-time by state, county, city, or urban-county governments, the

Department of Kentucky State Police, the Cabinet for Health and Family Services, their officers and agents, and of all city, county, and Commonwealth's attorneys, and the Attorney General, within their respective jurisdictions, shall enforce all provisions of this chapter and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to controlled substances.

- (2) For the purpose of enforcing the provisions of this chapter, the designated agents of the Cabinet for Health and Family Services shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, to require the production of prescriptions, of books, papers, documents or other evidence, to employ special investigators, and to expend funds for the purpose of obtaining evidence and to use data obtained under KRS 218A.202(7) in any administrative proceeding before the cabinet.
- (3) The Kentucky Board of Pharmacy, its agents and inspectors, shall have the same powers of inspection and enforcement as the Cabinet for Health and Family Services.
- (4) Designated agents of the Cabinet for Health and Family Services and the Kentucky Board of Pharmacy are empowered to remove from the files of a pharmacy or the custodian of records for that pharmacy any controlled substance prescription or other controlled substance record upon tendering a receipt. The receipt shall be sufficiently detailed to accurately identify the record. A receipt for the record shall be a defense to a charge of failure to maintain the record.
- (5) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, any law enforcement authority may maintain, in its own name, an action to restrain or enjoin any violation of this chapter, or to forfeit any property subject to forfeiture under KRS 218A.410, irrespective of whether the owner of the property has been charged with or convicted of any offense under this chapter.
 - (a) Any civil action against any person brought pursuant to this section may be instituted in the Circuit Court in any county in which the person resides, in which any property owned by the person and subject to forfeiture is found, or in which the person has violated any provision of this chapter.
 - (b) A final judgment rendered in favor of the Commonwealth in any criminal proceeding brought under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought pursuant to this section.
 - (c) The prevailing party in any civil proceeding brought pursuant to this section shall recover his or her costs, including a reasonable attorney's fee.
 - (d) Distribution of funds under this section shall be made in the same manner as in KRS 218A.435, except that if the Commonwealth's attorney has not initiated the forfeiture action under this section, his or her percentage of the funds shall go to the agency initiating the forfeiture action.
- (6) The Cabinet for Health and Family Services shall make or cause to be made examinations of samples secured under the provisions of this chapter to determine whether any provision has been violated.
- (7)
 - (a) The Cabinet for Health and Family Services shall use the data compiled in the electronic system created in KRS 218A.202 for investigations, research, statistical analysis, and educational purposes, and shall proactively identify trends in controlled substance usage and other potential problem areas. Only cabinet personnel who have undergone training for the electronic system and who have been approved to use the system shall be authorized access to the data and reports under this subsection. The cabinet shall notify a board responsible for the licensure, regulation, or discipline of each practitioner, pharmacist, or other person who is authorized to prescribe, administer, or dispense controlled substances, if a report or analysis conducted under this subsection indicates that further investigation about inappropriate or unlawful prescribing or dispensing may be necessary by the board.
 - (b) The cabinet shall develop criteria, in collaboration with the Board of Medical Licensure and the Board of Pharmacy, to be used to generate trend reports from the data obtained by the system. Meetings at which the criteria are developed shall be meetings, as defined in KRS 61.805, that comply with the open meetings laws, KRS 61.805 to 61.850.
 - (c) The cabinet shall, on a quarterly basis, publish trend reports from the data obtained by the system.
 - (d) Peace officers authorized to receive data under KRS 218A.202 may request trend reports not specifically published pursuant to paragraph (c) of this subsection. A report under this paragraph may be based upon the criteria developed under paragraph (b) of this subsection or upon any of the data collected pursuant to KRS 218A.202(4), except that the report shall not identify an individual prescriber, dispenser, or patient.
 - (e) No trend report generated under this subsection shall identify an individual prescriber, dispenser, or patient.

Section 254. KRS 218A.435 is amended to read as follows:

- (1) There is created a trust and revolving fund in the executive branch of state government to be known as the "Asset Forfeiture Trust Fund" referred to in this section as the "trust fund."
- (2) The trust fund shall consist of proceeds from sale of property forfeited to the Commonwealth pursuant to KRS 218A.410, any moneys as may be appropriated by the General Assembly, and any investment interest earned on the fund. The moneys in this fund are intended to supplement any funds appropriated by the General Assembly to the agency which will receive

disbursements from the trust fund as provided in this section.

- (3) The trust fund shall be managed by the state Office of Financial Management and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.
- (4) The trust fund shall be administered and audited by the Justice and Public Safety Cabinet. The secretary of justice and public safety or his or her designee shall promulgate administrative regulations necessary to further the purposes of KRS 218A.405 to 218A.460.
- (5) The trust fund shall be disbursed in accordance with the provisions of subsection (6) of this section. All interest accumulated on the fund shall immediately be available for disbursement to the Justice and Public Safety Cabinet for costs associated with administration of the fund.
- (6) The Justice and Public Safety Cabinet shall, upon advice from the Office of Financial Management, allocate the moneys in the fund quarterly, on a percentage basis, as provided in subsection (7) of this section.
- (7) The principal of the trust fund shall be distributed as follows:
 - (a) Eighteen percent (18%) of the funds received in any fiscal year shall be allocated to the unified prosecutorial system to be disbursed by the Attorney General to those Commonwealth's attorneys or county attorneys who have participated in the forfeiture case;
 - (b) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Cabinet for Health and Family Services to be used solely for the purpose of drug and alcohol abuse education, prevention, and treatment;
 - (c) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Department of Corrections to be used solely for programs related to drug enforcement and incarceration; and
 - (d) Ten percent (10%) of the funds received in any fiscal year shall be allocated to the Justice and Public Safety Cabinet to be used solely for the purpose of: training related to asset forfeiture; printing program-related training materials, such as manuals or handbooks; or payments to state or local agencies for programs relative to crime prevention, drug abuse prevention, general law enforcement purposes, or other similar purposes relating to drug enforcement.
- (8) The Attorney General, the secretary of the Cabinet for Health and Family Services, the commissioner of the Department of Corrections, and the secretary of the Justice and Public Safety Cabinet or their designees shall each promulgate administrative regulations which itemize the programs on which the moneys allocated from the trust fund to their respective agencies shall be spent and the method by which those moneys shall be disbursed to local entities.
- (9) On July 13, 1990, each state and local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible for the receipt of grants from the trust fund, adopt policies relating to the seizure, maintenance, storage, and care of property pending forfeiture which are in compliance with or which substantially comply with the model policy for seizure of forfeitable assets by law enforcement agencies published by the Department of Criminal Justice Training. However, a state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.
- (10) On July 13, 1990, each state or local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible to receive grants from the trust fund, have one (1) or more officers currently employed attend asset-forfeiture training as approved by the Kentucky Law Enforcement Council which shall approve a curriculum of study for asset-forfeiture training.
- (11) Other provisions of this section notwithstanding, any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter may be retained by the seizing agency for official use or sold within its discretion. Proceeds from the sale shall remain with the agency and shall not be paid into the trust fund and shall not be considered for purposes of the limits established in subsection (12) of this section. The moneys shall be utilized for purposes consistent with KRS 218A.405 to 218A.460. The seizing agency shall be required to pay any bona fide perfected security interest on any vehicle so forfeited.
- (12) Other provisions of law notwithstanding, the first fifty thousand dollars (\$50,000) of forfeited coin or currency or of the proceeds from sale of any property forfeited pursuant to this chapter which was seized or forfeited by a single order of forfeiture, shall not be paid into the fund but ninety percent (90%) shall be paid to the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes and ten percent (10%) to the office of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding. The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient. In addition, forty-five percent (45%) of all proceeds above fifty thousand dollars (\$50,000) shall not be paid into the fund but shall be retained by the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes.
- (13) When money or property is seized in a joint operation involving more than one (1) law enforcement agency, or prosecutorial office, the apportionment of funds to each pursuant to subsection (7)(a) of this section, or pursuant to subsection (12) of this section, shall be made among the agencies in a manner to reflect the degree of participation of each

agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

Section 255. KRS 218A.440 is amended to read as follows:

- (1) Each law enforcement agency seizing money or property pursuant to KRS 218A.415 shall, at the close of each fiscal year, file a statement with the Auditor of Public Accounts, and with the secretary of justice and public safety containing, a detailed listing of all money and property seized in that fiscal year and the disposition thereof. The listing shall identify all property so seized.
- (2) Any agency failing to report as required by this section shall be liable to the state for the full value of all property and money so seized. The Attorney General shall institute civil actions for recovery of money or property obtained or retained in violation of KRS 218A.405 to 218A.460.
- (3) The Auditor of Public Accounts, the secretary of justice and public safety or the Attorney General may at any time initiate an inquiry to determine that any agency is utilizing proceeds from the fund established in KRS 218A.435 in accordance with law, or an inquiry to determine that property is being forfeited as required by KRS 218A.405 to 218A.460.

Section 256. KRS 222.211 is amended to read as follows:

- (1) The cabinet shall, in conjunction with the Office of Drug Control Policy and KY-ASAP and in furtherance of the strategic plan developed in Section 11 of this Act [KRS 12.332], coordinate matters affecting tobacco addiction and alcohol and other drug abuse in the Commonwealth and shall assure that there is the provision of prevention, intervention, and treatment services for both juveniles and adults to address the problems of tobacco addiction and alcohol and other drug abuse within individuals, families, and communities; that the coordination of these matters shall be done in cooperation with public and private agencies, business, and industry; and that technical assistance, training, and consultation services shall be provided within budgetary limitations when required. The cabinet may promulgate administrative regulations under KRS Chapter 13A to carry out its powers and duties under this chapter. The cabinet shall utilize community mental health centers and existing facilities and services within the private sector when possible. The cabinet shall be responsible for assuring that the following services are available:
 - (a) Primary prevention services directed to the general population and identified target groups for the purposes of avoiding the onset of tobacco addiction and alcohol and other drug abuse related problems and enhancing the general level of health of the target groups. The purpose of the services shall be to provide individuals with the information and skills necessary to make healthy decisions regarding the use or nonuse of tobacco, alcohol, and other drugs as well as to influence environmental factors, such as social policies and norms which will support healthy lifestyle;
 - (b) Intervention services for the purpose of identifying, motivating, and referring individuals in need of tobacco addiction and alcohol and other drug abuse education or treatment services. Services may be provided in settings such as industry and business, schools, health, and social service agencies;
 - (c) Detoxification services on a twenty-four (24) hour basis in or near population centers which meet the immediate medical and physical needs of persons intoxicated from the use of alcohol or drugs, or both, including necessary diagnostic and referral services. The services shall be provided in either a hospital or a licensed alcohol and other drug abuse program;
 - (d) Rehabilitation services offered on an inpatient or outpatient basis for the purposes of treating an individual's alcohol and other drug abuse problem. The services shall be provided in a licensed alcohol and other drug abuse program;
 - (e) Therapeutic services to family members of alcohol and other drug abusers for the purpose of reducing or eliminating dysfunctional behavior that may occur within individuals who are emotionally, socially, and sometimes physically dependent on an alcohol or other drug abuser. The services shall be offered primarily on a outpatient basis;
 - (f) Inpatient psychiatric services for those alcohol and other drug abusers whose diagnosis reflects both serious mental health disturbances as well as alcohol and other drug abuse disorders;
 - (g) Training programs for personnel working in the field of prevention, intervention, and treatment of tobacco addiction and alcohol and other drug abuse problems; and
 - (h) Driving under the influence services to include assessment, education, and treatment for persons convicted of operating a motor vehicle, while under the influence of alcohol or other substance which may impair driving ability, pursuant to KRS Chapter 189A.
- (2) The cabinet shall comply with all policy recommendations of the Office of Drug Control Policy and KY-ASAP, and shall honor requests for information from the Office of Drug Control [Kentucky Agency for Substance Abuse] Policy created under Section 40 of this Act [KRS 12.330].

Section 257. KRS 224.46-560 is amended to read as follows:

The cabinet shall promulgate administrative regulations establishing standards applicable to transporters of hazardous waste

regarding record keeping, notification and compliance with the manifest system. The Transportation Cabinet and the Justice and Public Safety Cabinet shall cooperate with and assist the cabinet in implementing and enforcing the transportation provisions of any state hazardous waste regulations promulgated pursuant to this chapter. The specific nature and details of the assistance effort shall be established by a formal cooperative agreement acceptable to the cabinets.

Section 258. KRS 226.070 is amended to read as follows:

- (1) Every pawnbroker in a city or in the unincorporated area of any county shall by 11 a.m. each day, make available to the chief of police of the city, the chief law enforcement officer of the county, or to the Department of Kentucky State Police, a true and correct written report of all goods received by him or her, whether by pawn or purchase, during the twenty-four (24) hours preceding each report. The report shall describe the goods as accurately as practicable.
- (2) The chief of police of the city, the chief law enforcement officer of the county, or the Department of Kentucky State Police shall furnish blanks for the reports required by subsection (1) of this section.

Section 259. KRS 227.240 is amended to read as follows:

The chief of each fire department, sheriff, or local deputy marshal ordered under KRS 227.230 shall immediately investigate the origin and circumstances of a fire in his or her area and determine the cause of the fire so far as practicable. If it appears that the fire is of suspicious origin he or she shall immediately notify the state fire marshal and the commissioner of the Department of Kentucky State Police.

Section 260. KRS 227.275 is amended to read as follows:

- (1) The commissioner, Department of Kentucky State Police, may designate officers and employees of the Department of Kentucky State Police to investigate and enforce the provisions against arson and arson related offenses occurring within the state and such officers when duly authorized by the commissioner, Department of Kentucky State Police, shall have the general powers of a peace officer for the prevention of other offenses against the Commonwealth.
- (2) Each arson investigator so appointed shall, before entering upon the discharge of his or her various duties, take an oath before a person authorized to administer oaths to faithfully discharge his or her duties, and the oath shall be subscribed by the person taking it and filed in the records of the department.
- (3) Each of said persons shall give such bond as the commissioner, Department of Kentucky State Police, may designate and with such surety as required by the commissioner, Department of Kentucky State Police, conditioned upon faithful performance of his or her duties.

Section 261. KRS 227.290 is amended to read as follows:

If, after an investigation or examination, the commissioner, Department of Kentucky State Police, believes that the evidence concerning a fire indicates that a crime has been committed he or she shall furnish all data of an evidentiary nature in his or her possession to the county attorney of the county in which the fire took place, or the Commonwealth's attorney in that district, and request that such attorney institute such criminal proceeding as the evidence warrants.

Section 262. KRS 230.310 is amended to read as follows:

Every person not required to be licensed under KRS 230.300 who desires to participate in horse racing in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, shall first apply to the authority for a license to participate in the activity on association grounds during a race meeting. No person required to be licensed by this section may participate in any activity required to be licensed on association grounds during a race meeting without a valid license therefor. An applicant for a license shall submit to the authority fingerprints as may be required and other information necessary and reasonable for processing a license application. The authority is authorized to exchange fingerprint data with the Department of Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of an applicant. The authority may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license are consistent with the best interest of racing and the maintenance of the honesty, integrity, and high quality thereof. A license shall be issued for the calendar year in which it is issued and may be renewed by the authority. The license shall be valid at all horse race meetings in the Commonwealth during the period for which it is issued unless suspended or revoked under the administrative regulations promulgated by the authority under this chapter. With respect to horse owners and trainers, the authority may promulgate administrative regulations to facilitate and promote uniform, reciprocal licensing with other states.

Section 263. KRS 235.310 is amended to read as follows:

- (1) The commissioner of the Department of Fish and Wildlife Resources shall designate officers and employees of the department to enforce the provisions of this chapter and these officers when duly authorized by the commissioner shall have the general powers of a peace officer for the enforcement of other offenses against the Commonwealth. In enforcing the provisions of this chapter, these officers and all other peace officers of the Commonwealth and its subdivisions shall have the right to enter upon all waters of this state, either private or public, for the purpose of inspecting certificate of registration and boat numbering, and shall have the right to enter upon all boats on such waters for the purpose of examining their registration documents and inspect their marine sanitation device to determine if it is the proper kind for the water body where the boat is kept or operated and that the device is properly operating. To conduct the marine

sanitation device inspection the department officers and employees may require a motorboat owner to flush a dye through the marine toilet in the presence of the department officers or employees or use other appropriate measures to inspect the device. They may arrest on sight, without warrant, any person detected by them in the act of violating any of the provisions of this chapter. They shall have the same rights as sheriffs to require aid in arresting, with or without process, any person found by them violating any of the provisions of this chapter or other offenses against the Commonwealth.

- (2) The officers designated in subsection (1) of this section shall be authorized to possess and use radio communication equipment capable of receiving and transmitting on state police radio frequency. The Department of Kentucky State Police shall cooperate with the department for the purpose of radio communication of these officers when any assistance is necessary.

Section 264. KRS 237.095 is amended to read as follows:

- (1) Upon receiving notice that a person barred from purchasing a firearm under 18 U.S.C. sec. 922(g)(8) has purchased or attempted to purchase a firearm, any agency with the responsibility of entering domestic violence records into the Law Information Network of Kentucky shall notify:
 - (a) The court in the jurisdiction where the domestic violence order was issued under KRS 403.750; and
 - (b) The law enforcement agencies, as designated by the Department of Kentucky State Police, that have jurisdiction in the county where the domestic violence order was issued and in the county of the victim's residence if different from the county where the domestic violence order was issued.
- (2) The Department of Kentucky State Police shall develop a protocol for providing notice to the required court and law enforcement agencies under subsection (1) of this section. Within the protocol, the Department of Kentucky State Police shall designate which local law enforcement agencies are to receive notice in each county. A minimum of one (1) law enforcement agency shall be designated in each county.
- (3) When a designated law enforcement agency for the county where the domestic violence order was issued or where the victim resides receives notice under subsection (1)(b) of this section, that agency shall make reasonable efforts to ensure that the petitioner who obtained the domestic violence order is notified that the respondent has purchased or attempted to purchase a firearm.
- (4) Any person carrying out responsibilities under this section shall be immune from civil liability for good faith conduct in carrying out those responsibilities.
- (5) This section shall apply only to domestic violence orders issued, or reissued, on or after July 14, 2000, through July 15, 2002.

Section 265. KRS 237.100 is amended to read as follows:

- (1) Upon receipt of notice that a person barred from purchasing a firearm under 18 U.S.C. sec. 922(g)(8) has purchased or attempted to purchase a firearm, the Justice and Public Safety Cabinet shall make a reasonable effort to provide notice to the petitioner who obtained the domestic violence order issued under KRS 403.750 that the respondent to the order has attempted to purchase a firearm. The Justice and Public Safety Cabinet may contract with a private entity in order to provide notification.
- (2) The notification shall be limited to a petitioner who has:
 - (a) Received a domestic violence protective order issued or reissued under KRS 403.750 on or after July 15, 2002;
 - (b) Received a domestic violence protective order that involves a respondent who is prohibited by 18 U.S.C. sec. 922(g)(8) from possessing a firearm; and
 - (c) Provided the Justice and Public Safety Cabinet or the entity with a request for notification.
- (3) Any person carrying out responsibilities under this section shall be immune from civil liability for good faith conduct in carrying out those responsibilities. Nothing in this subsection shall limit liability for negligence.

Section 266. KRS 237.110 is amended to read as follows:

- (1) The Department of Kentucky State Police is authorized to issue and renew licenses to carry concealed firearms or other deadly weapons, or a combination thereof, to persons qualified as provided in this section.
- (2) An original or renewal license issued pursuant to this section shall:
 - (a) Be valid throughout the Commonwealth and, except as provided in this section or other specific section of the Kentucky Revised Statutes or federal law, permit the holder of the license to carry firearms, ammunition, or other deadly weapons, or a combination thereof, at any location in the Commonwealth;
 - (b) Unless revoked as provided by law, be valid for a period of five (5) years from the date of issuance;
 - (c) Authorize the holder of the license to carry a concealed firearm or other deadly weapon, or a combination thereof, on or about his or her person; and
 - (d) Authorize the holder of the license to carry ammunition for a firearm on or about his or her person.
- (3) Prior to the issuance of an original or renewal license to carry a concealed deadly weapon, the Department of Kentucky State Police shall conduct a background check to ascertain whether the applicant is eligible under 18 U.S.C. sec. 922(g)

and (n), any other applicable federal law, and state law to purchase, receive, or possess a firearm or ammunition, or both. The background check shall include:

- (a) A state records check covering the items specified in this subsection, together with any other requirements of this section; and
 - (b) A federal records check, which shall include a National Instant Criminal Background Check System (NICS) check.
- (4) The Department of Kentucky State Police shall issue an original or renewal license if the applicant:
- (a) Is not prohibited from the purchase, receipt, or possession of firearms, ammunition, or both pursuant to 18 U.S.C. 922(g), 18 U.S.C. 922(n), or applicable state law; and
 - (b)
 - 1. Is a citizen of the United States who is a resident of this Commonwealth and has been a resident for six (6) months or longer immediately preceding the filing of the application; or
 - 2. Is a citizen of the United States who is a member of the Armed Forces of the United States who is on active duty, who is at the time of application assigned to a military posting in Kentucky, and who has been assigned to a posting in the Commonwealth for six (6) months or longer immediately preceding the filing of the application; and
 - (c) Is twenty-one (21) years of age or older; and
 - (d) Has not been committed to a state or federal facility for the abuse of a controlled substance, or been convicted of a misdemeanor violation of KRS Chapter 218A or similar laws of any other state relating to controlled substances, within a three (3) year period immediately preceding the date on which the application is submitted; and
 - (e) Does not chronically and habitually use alcoholic beverages as evidenced by the applicant having two (2) or more convictions for violating KRS 189A.010 within the three (3) years immediately preceding the date on which the application is submitted, or having been committed as an alcoholic pursuant to KRS Chapter 222 or similar laws of another state within the three (3) year period immediately preceding the date on which the application is submitted; and
 - (f) Does not owe a child support arrearage which equals or exceeds the cumulative amount which would be owed after one (1) year of nonpayment, if the Department of Kentucky State Police has been notified of the arrearage by the Cabinet for Health and Family Services; and
 - (g) Has complied with any subpoena or warrant relating to child support or paternity proceedings. If the Department of Kentucky State Police has not been notified by the Cabinet for Health and Family Services that the applicant has failed to meet this requirement, the Department of Kentucky State Police shall assume that paternity and child support proceedings are not an issue; and
 - (h) Has not been convicted of a violation of KRS 508.030 or 508.080 within the three (3) years immediately preceding the date on which the application is submitted. The commissioner of the Department of Kentucky State Police may waive this requirement upon good cause shown and a determination that the applicant is not a danger and that a waiver would not violate federal law; and
 - (i) Demonstrates competence with a firearm by successful completion of a firearms safety course offered or approved by the Department of Criminal Justice Training. The firearms safety course shall:
 - 1. Be not more than eight (8) hours in length;
 - 2. Include instruction on handguns, the safe use of handguns, the care and cleaning of handguns, and handgun marksmanship principles;
 - 3. Include actual range firing of a handgun in a safe manner, and the firing of not more than twenty (20) rounds at a full-size silhouette target, during which firing, not less than eleven (11) rounds must hit the silhouette portion of the target; and
 - 4. Include information on and a copy of laws relating to possession and carrying of firearms, as set forth in KRS Chapters 237 and 527, and the laws relating to the use of force, as set forth in KRS Chapter 503.
- (5) A legible photocopy of the certificate of completion issued by the Department of Criminal Justice Training shall constitute evidence of qualification under subsection (4)(i) of this section.
- (6) (a) Peace officers who are currently certified as peace officers by the Kentucky Law Enforcement Council pursuant to KRS 15.380 to 15.404 and peace officers who are retired and are members of the Kentucky Employees Retirement System, State Police Retirement System, or County Employees Retirement System or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be deemed to have met the training requirement.
- (b) Current and retired peace officers of the following federal agencies shall be deemed to have met the training requirement:
- 1. Any peace officer employed by a federal agency specified in KRS 61.365;
 - 2. Any peace officer employed by a federal civilian law enforcement agency not specified above who has successfully completed the basic law enforcement training course required by that agency;

3. Any military peace officer of the United States Army, Navy, Marine Corps, or Air Force, or a reserve component thereof, or of the Army Reserve or Air Force Reserve who has successfully completed the military law enforcement training course required by that branch of the military; and
 4. Any member of the United States Coast Guard serving in a peace officer role who has successfully completed the law enforcement training course specified by the United States Coast Guard.
- (7) The application for a license, or renewal of a license, to carry a concealed deadly weapon shall be obtained from the office of the sheriff in the county in which the person resides. The completed application and all accompanying material plus an application fee or renewal fee, as appropriate, of sixty dollars (\$60) shall be presented to the office of the sheriff of the county in which the applicant resides. A full-time or part-time peace officer who is currently certified as a peace officer by the Kentucky Law Enforcement Council who is authorized by his or her employer or government authority to carry a concealed deadly weapon at all times and all locations within the Commonwealth pursuant to KRS 527.020 or a retired peace officer who is a member of the Kentucky Employees Retirement System, State Police Retirement System, County Employees Retirement System, or other retirement system operated by or for a city, county, or urban-county in Kentucky shall be exempt from paying the application or renewal fees. The sheriff shall transmit the application and accompanying material to the Department of Kentucky State Police within five (5) working days. Twenty dollars (\$20) of the application fee shall be retained by the office of the sheriff for official expenses of the office. Twenty dollars (\$20) shall be sent to the Department of Kentucky State Police with the application. Ten dollars (\$10) shall be transmitted by the sheriff to the Administrative Office of the Courts to fund background checks for youth leaders, and ten dollars (\$10) shall be transmitted to the Administrative Office of the Courts to fund background checks for applicants for concealed weapons. The application shall be completed, under oath, on a form promulgated by the Department of Kentucky State Police by administrative regulation which shall only include:
- (a) The name, address, place and date of birth, gender, and Social Security number of the applicant;
 - (b) A statement that, to the best of his or her knowledge, the applicant is in compliance with criteria contained within subsections (3) and (4) of this section;
 - (c) A statement that the applicant has been furnished a copy of this section and is knowledgeable about its provisions;
 - (d) A statement that the applicant has been furnished a copy of, has read, and understands KRS Chapter 503 as it pertains to the use of deadly force for self-defense in Kentucky; and
 - (e) A conspicuous warning that the application is executed under oath and that a materially false answer to any question, or the submission of any materially false document by the applicant, subjects the applicant to criminal prosecution under KRS 523.030.
- (8) The applicant, if a resident of the Commonwealth, shall submit to the sheriff of the applicant's county of residence:
- (a) A completed application as described in subsection (7) of this section;
 - (b) A recent color photograph of the applicant, as prescribed by administrative regulation; and
 - (c) A photocopy of a certificate or an affidavit or document as described in subsection (5) of this section.
- (9) The Department of Kentucky State Police shall, within ninety (90) days after the date of receipt of the items listed in subsection (8) of this section, either:
- (a) Issue the license; or
 - (b) Deny the application based solely on the grounds that the applicant fails to qualify under the criteria listed in subsection (3) or (4) of this section. If the Department of Kentucky State Police denies the application, it shall notify the applicant in writing, stating the grounds for denial and informing the applicant of a right to submit, within thirty (30) days, any additional documentation relating to the grounds of denial. Upon receiving any additional documentation, the Department of Kentucky State Police shall reconsider its decision and inform the applicant within twenty (20) days of the result of the reconsideration. The applicant shall further be informed of the right to seek de novo review of the denial in the District Court of his or her place of residence within ninety (90) days from the date of the letter advising the applicant of the denial.
- (10) The Department of Kentucky State Police shall maintain an automated listing of license holders and pertinent information, and this information shall be available on-line, upon request, at all times to all Kentucky, federal, and other states' law enforcement agencies. A request for the entire list of licensees, or for all licensees in a geographic area, shall be denied. Only requests relating to a named licensee shall be honored or available on-line. Information on applications for licenses, names and addresses, or other identifying information relating to license holders shall be confidential and shall not be made available except to law enforcement agencies. No request for lists of local or statewide permit holders shall be made to any state or local law enforcement agency, peace officer, or other agency of government other than the Department of Kentucky State Police, and no state or local law enforcement agency, peace officer, or agency of government, other than the Department of Kentucky State Police, shall provide any information not entitled to it by law.
- (11) Within thirty (30) days after the changing of a permanent address, or within thirty (30) days after the loss, theft, or destruction of a license, the licensee shall notify the Department of Kentucky State Police of the loss, theft, or destruction. Failure to notify the Department of Kentucky State Police shall constitute a noncriminal violation with a penalty of twenty-

five dollars (\$25) payable to the clerk of the District Court. No court costs shall be assessed for a violation of this subsection. When a licensee makes application to change his or her residence address or other information on the license, neither the sheriff nor the Department of Kentucky State Police shall require a surrender of the license until a new license is in the office of the applicable sheriff and available for issuance. Upon the issuance of a new license, the old license shall be destroyed by the sheriff.

- (12) If a license is lost, stolen, or destroyed, the license shall be automatically invalid, and the person to whom the same was issued may, upon payment of fifteen dollars (\$15) to the Department of Kentucky State Police, obtain a duplicate, upon furnishing a notarized statement to the Department of Kentucky State Police that the license has been lost, stolen, or destroyed.
- (13) (a) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall revoke the license of any person who becomes permanently ineligible to be issued a license or have a license renewed under the criteria set forth in this section.
- (b) The commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall suspend the license of any person who becomes temporarily ineligible to be issued a license or have a license renewed under the criteria set forth in this section. The license shall remain suspended until the person is again eligible for the issuance or renewal of a license.
- (c) Upon the suspension or revocation of a license, the commissioner of the Department of Kentucky State Police, or his or her designee in writing, shall:
1. Order any peace officer to seize the license from the person whose license was suspended or revoked; or
 2. Direct the person whose license was suspended or revoked to surrender the license to the sheriff of the person's county of residence within two (2) business days of the receipt of the notice.
- (d) If the person whose license was suspended or revoked desires a hearing on the matter, the person shall surrender the license as provided in paragraph (c)2. of this subsection and petition the commissioner of the Department of Kentucky State Police to hold a hearing on the issue of suspension or revocation of the license.
- (e) Upon receipt of the petition, the commissioner of the Department of Kentucky State Police shall cause a hearing to be held in accordance with KRS Chapter 13B on the suspension or revocation of the license. If the license has not been surrendered, no hearing shall be scheduled or held.
- (f) If the hearing officer determines that the licensee's license was wrongly suspended or revoked, the hearing officer shall order the commissioner of the Department of Kentucky State Police to return the license and abrogate the suspension or revocation of the license.
- (g) Any party may appeal a decision pursuant to this subsection to the District Court in the licensee's county of residence in the same manner as for the denial of a license.
- (h) If the license is not surrendered as ordered, the commissioner of the Department of Kentucky State Police shall order a peace officer to seize the license and deliver it to the commissioner.
- (i) Failure to surrender a suspended or revoked license as ordered is a Class A misdemeanor.
- (j) The provisions of this subsection relating to surrender of a license shall not apply if a court of competent jurisdiction has enjoined its surrender.
- (k) When a domestic violence order or emergency protective order is issued pursuant to the provisions of KRS Chapter 403 against a person holding a license issued under this section, the holder of the permit shall surrender the license to the court or to the officer serving the order. The officer to whom the license is surrendered shall forthwith transmit the license to the court issuing the order. The license shall be suspended until the order is terminated, or until the judge who issued the order terminates the suspension prior to the termination of the underlying domestic violence order or emergency protective order, in writing and by return of the license, upon proper motion by the license holder. Subject to the same conditions as above, a peace officer against whom an emergency protective order or domestic violence order has been issued shall not be permitted to carry a concealed deadly weapon when not on duty, the provisions of KRS 527.020 to the contrary notwithstanding.
- (14) (a) Not less than one hundred twenty (120) days prior to the expiration date of the license, the Department of Kentucky State Police shall mail to each licensee a written notice of the expiration and a renewal form prescribed by the Department of Kentucky State Police. The outside of the envelope containing the license renewal notice shall bear only the name and address of the applicant. No other information relating to the applicant shall appear on the outside of the envelope sent to the applicant. The licensee may renew his or her license on or before the expiration date by filing with the sheriff of his or her county of residence the renewal form, a notarized affidavit stating that the licensee remains qualified pursuant to the criteria specified in subsections (3) and (4) of this section, and the required renewal fee. The sheriff shall issue to the applicant a receipt for the application for renewal of the license and shall date the receipt.
- (b) A license which has expired shall be void and shall not be valid for any purpose other than surrender to the sheriff in exchange for a renewal license.

- (c) The license shall be renewed to a qualified applicant upon receipt of the completed renewal application, records check as specified in subsection (3) of this section, determination that the renewal applicant is not ineligible for a license as specified in subsection (4), and appropriate payment of fees. Upon the issuance of a new license, the old license shall be destroyed by the sheriff. A licensee who fails to file a renewal application on or before its expiration date may renew his *or her* license by paying, in addition to the license fees, a late fee of fifteen dollars (\$15). No license shall be renewed six (6) months or more after its expiration date, and the license shall be deemed to be permanently expired six (6) months after its expiration date. A person whose license has permanently expired may reapply for licensure pursuant to subsections (7), (8), and (9) of this section.
- (15) The licensee shall carry the license at all times the licensee is carrying a concealed firearm or other deadly weapon and shall display the license upon request of a law enforcement officer. Violation of the provisions of this subsection shall constitute a noncriminal violation with a penalty of twenty-five dollars (\$25), payable to the clerk of the District Court, but no court costs shall be assessed.
- (16) Except as provided in KRS 527.020, no license issued pursuant to this section shall authorize any person to carry a concealed firearm into:
- (a) Any police station or sheriff's office;
 - (b) Any detention facility, prison, or jail;
 - (c) Any courthouse, solely occupied by the Court of Justice courtroom, or court proceeding;
 - (d) Any meeting of the governing body of a county, municipality, or special district; or any meeting of the General Assembly or a committee of the General Assembly, except that nothing in this section shall preclude a member of the body, holding a concealed deadly weapon license, from carrying a concealed deadly weapon at a meeting of the body of which he *or she* is a member;
 - (e) Any portion of an establishment licensed to dispense beer or alcoholic beverages for consumption on the premises, which portion of the establishment is primarily devoted to that purpose;
 - (f) Any elementary or secondary school facility without the consent of school authorities as provided in KRS 527.070, any child-caring facility as defined in KRS 199.011, any day-care center as defined in KRS 199.894, or any certified family child-care home as defined in KRS 199.8982, except however, any owner of a certified child-care home may carry a concealed firearm into the owner's residence used as a certified child-care home;
 - (g) An area of an airport to which access is controlled by the inspection of persons and property; or
 - (h) Any place where the carrying of firearms is prohibited by federal law.
- (17) The owner, business or commercial lessee, or manager of a private business enterprise, day-care center as defined in KRS 199.894 or certified or licensed family child-care home as defined in KRS 199.8982, or a health-care facility licensed under KRS Chapter 216B, except facilities renting or leasing housing, may prohibit persons holding concealed deadly weapon licenses from carrying concealed deadly weapons on the premises and may prohibit employees, not authorized by the employer, holding concealed deadly weapons licenses from carrying concealed deadly weapons on the property of the employer. If the building or the premises are open to the public, the employer or business enterprise shall post signs on or about the premises if carrying concealed weapons is prohibited. Possession of weapons, or ammunition, or both in a vehicle on the premises shall not be a criminal offense so long as the weapons, or ammunition, or both are not removed from the vehicle or brandished while the vehicle is on the premises. A private but not a public employer may prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employer, but may not prohibit employees or other persons holding a concealed deadly weapons license from carrying concealed deadly weapons, or ammunition, or both in vehicles owned by the employee, except that the Justice *and Public Safety* Cabinet may prohibit an employee from carrying any weapons, or ammunition, or both other than the weapons, or ammunition, or both issued or authorized to be used by the employee of the cabinet, in a vehicle while transporting persons under the employee's supervision or jurisdiction. Carrying of a concealed weapon, or ammunition, or both in a location specified in this subsection by a license holder shall not be a criminal act but may subject the person to denial from the premises or removal from the premises, and, if an employee of an employer, disciplinary measures by the employer.
- (18) All moneys collected by the Department of *Kentucky* State Police pursuant to this section shall be used to administer the provisions of this section and KRS 237.138 to 237.142. By March 1 of each year, the Department of *Kentucky* State Police and the Administrative Office of the Courts shall submit reports to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the amounts of money collected and the expenditures related to this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070, and the administration of the provisions of this section, KRS 237.138 to 237.142, and KRS 237.115, 244.125, 527.020, and 527.070.
- (19) The General Assembly finds as a matter of public policy that it is necessary to provide statewide uniform standards for issuing licenses to carry concealed firearms and to occupy the field of regulation of the bearing of concealed firearms to ensure that no person who qualifies under the provisions of this section is denied his rights. The General Assembly does not delegate to the Department of *Kentucky* State Police the authority to regulate or restrict the issuing of licenses provided for in this section beyond those provisions contained in this section. This section shall be liberally construed to

carry out the constitutional right to bear arms for self-defense.

- (20) (a) A person who has a valid license issued by another state of the United States to carry a concealed deadly weapon in that state may, subject to provisions of Kentucky law, carry a concealed deadly weapon in Kentucky, and his or her license shall be considered as valid in Kentucky.
- (b) The Department of Kentucky State Police shall, not later than thirty (30) days after July 15, 1998, and not less than once every six (6) months thereafter, make written inquiry of the concealed deadly weapon carrying licensing authorities in each other state as to whether a Kentucky resident may carry a concealed deadly weapon in their state based upon having a valid Kentucky concealed deadly weapon license, or whether a Kentucky resident may apply for a concealed deadly weapon carrying license in that state based upon having a valid Kentucky concealed deadly weapon license. The Department of Kentucky State Police shall attempt to secure from each other state permission for Kentucky residents who hold a valid Kentucky concealed deadly weapon license to carry concealed deadly weapons in that state, either on the basis of the Kentucky license or on the basis that the Kentucky license is sufficient to permit the issuance of a similar license by the other state. The Department of Kentucky State Police shall enter into a written reciprocity agreement with the appropriate agency in each state that agrees to permit Kentucky residents to carry concealed deadly weapons in the other state on the basis of a Kentucky-issued concealed deadly weapon license or that will issue a license to carry concealed deadly weapons in the other state based upon a Kentucky concealed deadly weapon license. If a reciprocity agreement is reached, the requirement to recontact the other state each six (6) months shall be eliminated as long as the reciprocity agreement is in force. The information shall be a public record and shall be available to individual requesters free of charge for the first copy and at the normal rate for open records requests for additional copies.
- (21) By March 1 of each year, the Department of Kentucky State Police shall submit a statistical report to the Governor, the President of the Senate, and the Speaker of the House of Representatives, indicating the number of licenses issued, revoked, suspended, and denied since the previous report and in total and also the number of licenses currently valid. The report shall also include the number of arrests, convictions, and types of crimes committed since the previous report by individuals licensed to carry concealed weapons.
- (22) The following provisions shall apply to concealed deadly weapon training classes conducted by the Department of Criminal Justice Training or any other agency pursuant to this section:
- (a) No concealed deadly weapon instructor trainer shall have his or her certification as a concealed deadly weapon instructor trainer reduced to that of instructor or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;
- (b) No concealed deadly weapon instructor shall have his or her certification as a concealed deadly weapon instructor license suspended or revoked except after a hearing conducted pursuant to KRS Chapter 13B in which the instructor is found to have committed an act in violation of the applicable statutes or administrative regulations;
- (c) The department shall not require prior notification that an applicant class or instructor class will be conducted by a certified instructor or instructor trainer;
- (d) Each concealed deadly weapon instructor or instructor trainer who teaches a concealed deadly weapon applicant or concealed deadly weapon instructor class shall supply the Department of Criminal Justice Training with a class roster indicating which students enrolled and successfully completed the class, and which contains the name and address of each student, within five (5) working days of the completion of the class. The information may be sent by mail, facsimile, e-mail, or other method which will result in the receipt of or production of a hard copy of the information. The postmark, facsimile date, or e-mail date shall be considered as the date on which the notice was sent. Concealed deadly weapon class applicant, instructor, and instructor trainer information and records shall be confidential. The department may release to any person or organization the name, address, and telephone number of a concealed deadly weapon instructor or instructor trainer if that instructor or instructor trainer authorizes the release of the information in writing. The department shall include on any application for an instructor or instructor trainer certification a statement that the applicant either does or does not desire the applicant's name, address, and telephone number to be made public;
- (e) An instructor trainer who assists in the conduct of a concealed deadly weapon instructor class or concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her certification. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon instructor or concealed deadly weapon class;
- (f) An instructor who assists in the conduct of a concealed deadly weapon applicant class for more than two (2) hours shall be considered as to have taught a class for the purpose of maintaining his or her license. All class record forms shall include spaces for assistant instructors to sign and certify that they have assisted in the conduct of a concealed deadly weapon class;
- (g) If the Department of Criminal Justice Training believes that a firearms instructor trainer or certified firearms instructor has not in fact complied with the requirements for teaching a certified firearms instructor or applicant

class by not teaching the class as specified in KRS 237.126, or who has taught an insufficient class as specified in KRS 237.128, the department shall send to each person who has been listed as successfully completing the concealed deadly weapon applicant class or concealed deadly weapon instructor class a verification form on which the time, date, date of range firing if different from the date on which the class was conducted, location, and instructor of the class is listed by the department and which requires the person to answer "yes" or "no" to specific questions regarding the conduct of the training class. The form shall be completed under oath and shall be returned to the Department of Criminal Justice Training not later than forty-five (45) days after its receipt. A person who fails to complete the form, to sign the form, or to return the form to the Department of Criminal Justice Training within the time frame specified in this section or who, as a result of information on the returned form, is determined by the Department of Criminal Justice Training, following a hearing pursuant to KRS Chapter 13B, to not have received the training required by law shall have his or her concealed deadly weapon license revoked by the Department of Kentucky State Police, following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B, at which hearing the person is found to have violated the provisions of this section or who has been found not to have received the training required by law;

- (h) The department shall annually, not later than December 31 of each year, report to the Legislative Research Commission:
 - 1. The number of firearms instructor trainers and certified firearms instructors whose certifications were suspended, revoked, denied, or who were otherwise disciplined;
 - 2. The reasons for the imposition of suspensions, revocations, denials, or other discipline; and
 - 3. Suggestions for improvement of the concealed deadly weapon applicant training program and instructor process;
- (i) If a concealed deadly weapon license holder is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon license shall be forthwith revoked by the Department of Kentucky State Police as a matter of law;
- (j) If a concealed deadly weapon instructor or instructor trainer is convicted of, pleads guilty to, or enters an Alford plea to a felony offense, then his or her concealed deadly weapon instructor certification or concealed deadly weapon instructor trainer certification shall be revoked by the Department of Criminal Justice Training as a matter of law; and
- (k) The following shall be in effect:
 - 1. Action to eliminate the firearms instructor trainer program is prohibited. The program shall remain in effect, and no firearms instructor trainer shall have his or her certification reduced to that of certified firearms instructor;
 - 2. The Department of Kentucky State Police shall revoke the concealed deadly weapon license of any person who received no firearms training as required by KRS 237.126 and administrative regulations, or who received insufficient training as required by KRS 237.128 and administrative regulations, if the person voluntarily admits nonreceipt of training or admits receipt of insufficient training, or if either nonreceipt of training or receipt of insufficient training is proven following a hearing conducted by the Department of Criminal Justice Training pursuant to KRS Chapter 13B.

Section 267. KRS 237.130 is amended to read as follows:

- (1) A person is guilty of failure to report nonreceipt of firearms training when he or she receives certification that he or she has successfully completed a firearms instructor trainer, certified firearms instructor, or applicant training course and has not, in fact, received any such training and has not reported the matter in writing to the sheriff, Commonwealth's attorney, or county attorney serving the county in which the training was conducted or has not made a written report to the Department of Kentucky State Police and provided a copy of the certification documents to the agency reported to along with the report. The report shall be made not more than thirty (30) working days after receiving documentation of successful completion of training, unless a request for additional time has been made and has been granted by an officer or agency to which the report shall be made.
- (2) Failure to report nonreceipt of firearms training is a Class A misdemeanor.
- (3) A person who makes a report pursuant to this section within the time frame specified in subsection (1) of this section shall not be prosecuted for a violation of this section and shall be eligible to reenroll in the level of class for which they were originally enrolled.

Section 268. KRS 237.132 is amended to read as follows:

- (1) A person is guilty of failure to report insufficient firearms training when he or she receives certification that he or she has successfully completed a firearms instructor trainer, certified firearms instructor, or applicant training course and has not, in fact received lecture instruction, the showing of a required visual aid, hands-on firearm safety and cleaning training, range instruction and range firing, or has not successfully completed the marksmanship requirement during range firing and has not reported the matter in writing to the sheriff, Commonwealth's attorney, or county attorney serving the county in which the training was conducted or has not made a written report to the Department of Kentucky State Police and

provided a copy of the certification documents to the agency reported to along with the report. The report shall be made not more than thirty (30) working days after receiving documentation of successful completion of training, unless additional time is requested and has been granted by an officer or agency to which a report shall be made.

- (2) Failure to report insufficient firearms training is a Class A misdemeanor.
- (3) A person who makes a report pursuant to this section within the time frame specified in subsection (1) of this section shall not be prosecuted for a violation of this section and shall be eligible to reenroll in the level of class for which the person was originally enrolled.

Section 269. KRS 237.134 is amended to read as follows:

- (1) When a report is made to the Department of Kentucky State Police pursuant to KRS 237.130 or 237.132, the Department of Kentucky State Police shall notify the Commonwealth's attorney and the county attorney for the county in which the training was conducted of the report and shall cooperate with them in the investigation and prosecution of the case.
- (2) When a report is made to a Commonwealth's or county attorney pursuant to KRS 237.130 or 237.132, the Commonwealth's or county attorney shall notify the Department of Kentucky State Police of the report and shall cooperate with them in the investigation and prosecution of the case.
- (3) When a report is made to the Department of Criminal Justice Training alleging a violation of KRS 237.130 or 237.132, the department shall notify the Commonwealth's attorney and county attorney of the county in which the training took place and shall make a notification of the report to the Department of Kentucky State Police.
- (4) The Department of Kentucky State Police shall make an annual report to the Legislative Research Commission, not later than December 31 of each year, detailing each notice received pursuant to this section detailing:
 - (a) The name of the firearms instructor trainer or certified firearms instructor if that instructor trainer or instructor has been arrested or indicted as a result of the notification, otherwise the name shall be omitted;
 - (b) The precise allegation;
 - (c) Whether the allegation resulted in arrest or indictment;
 - (d) Whether the allegation resulted in a trial, and the results of that trial; and
 - (e) If the defendant was found guilty, the punishment imposed.
- (5) In or appended to the report specified in subsection (4) of this section the Department of Kentucky State Police shall report the number of arrests, indictments, trials, convictions, cases which were dismissed, and cases in which the defendant was found not guilty for failure to report nonreceipt of training and failure to report insufficient training.

Section 270. KRS 237.140 is amended to read as follows:

- (1)
 - (a) Certification for a retired peace officer to carry a concealed deadly weapon pursuant to KRS 237.138 to 237.142 shall be administered by the Department of Kentucky State Police.
 - (b) Costs of certification shall be paid for by moneys generated by the concealed deadly weapon license program under KRS 15.383 and collected by the Department of Kentucky State Police pursuant to that section.
 - (c) The Department of Kentucky State Police shall promulgate administrative regulations in accordance with KRS Chapter 13A necessary to implement the provisions of KRS 237.138 to 237.142.
- (2) Each retired peace officer who desires certification to carry a concealed deadly weapon shall annually submit:
 - (a) Evidence of retired status to the commissioner of the Department of Kentucky State Police together with all information required by federal law, this section, and administrative regulations promulgated pursuant to this section;
 - (b) Evidence of successful completion of firearms qualification required under this section; and
 - (c) A notarized statement that he or she is not prohibited by state or federal law from possessing a firearm.
- (3) Each law enforcement agency that employed the retired peace officer, or at which the retired peace officer served in an elected capacity, shall provide to the retired officer and the Department of Kentucky State Police the information required by federal law, this section, and the administrative regulations promulgated pursuant to this section in a prompt and efficient manner, without charge either to the Department of Kentucky State Police or the retiree.
- (4)
 - (a) Each retired peace officer shall annually fire twenty (20) rounds at an adult size silhouette target at a range of twenty-one (21) feet, with a handgun, and shall hit the target not less than eleven (11) times to obtain or maintain certification under KRS 237.138 to 237.142.
 - (b) The rounds fired pursuant to paragraph (a) of this subsection shall be done under the supervision of:
 - 1. A firearms instructor of the retiree's former employing agency;
 - 2. A Department of Criminal Justice Training certified police firearms instructor or instructor trainer; or
 - 3. A Department of Criminal Justice Training certified concealed carry instructor or instructor trainer.
 - (c) A firearms instructor may, if not compensated pursuant to paragraph (d) of this subsection, charge each participant a fee of not more than twenty dollars (\$20), which shall include the cost of the range, firearms instructor, range

personnel, targets, and all other costs associated therewith, but not the cost of ammunition. Ammunition, or the cost of ammunition, shall be provided by the retiree.

- (d) A local or state law enforcement agency that desires to conduct firearms qualification for its retirees shall schedule not less than two (2) dates for firearms qualification per year, and those dates shall be approximately six (6) months apart. The local or state law enforcement agency may charge each participant a fee of not more than twenty dollars (\$20), which shall include the cost of use of the range, firearms instructor, range personnel, targets, and all other costs associated therewith, but not the cost of ammunition. Ammunition, or the cost of ammunition, shall be provided by the retiree.
- (e) No employer or appointing authority of a firearms instructor, Department of Criminal Justice Training certified police firearms instructor or instructor trainer, or Department of Criminal Justice Training certified concealed carry instructor or instructor trainer shall prohibit or in any way limit the instructor from qualifying active or retired peace officers in conformity with KRS 237.138 or 237.142 while that instructor is off duty. No employer or appointing authority of an instructor specified in this paragraph shall be liable in civil damages for the actions or omissions of the instructor during qualification of active or retired peace officers when that instructor is off duty.

Section 271. KRS 237.142 is amended to read as follows:

- (1) The following agencies of the Commonwealth shall make range facilities available not less than four (4) days per year for firearms qualification by retired peace officers seeking certification pursuant to the provisions of KRS 237.138 to 237.142:
 - (a) The Justice and Public Safety Cabinet;
 - (b) The Department of Military Affairs; and
 - (c) The Department of Fish and Wildlife Resources.
- (2) Firearms qualification may be conducted at any location, public or private, at which a handgun may be safely fired. The safety of the location at which firing takes place shall be the responsibility of the instructor conducting the qualification.

Section 272. KRS 238.525 is amended to read as follows:

- (1) Licenses shall be issued by the office on an annual or biennial basis, except as otherwise permitted in KRS 238.530 and 238.545. A license term may be determined by the office in any manner it deems appropriate to facilitate efficient licensing. The office shall charge a renewal fee not to exceed the maximum amounts established in KRS 238.530, 238.535, and 238.555.
- (2) The office may issue a temporary license to an applicant who has met the requirements for a license. A temporary license shall be valid from the date of issuance until the regular license is issued or for a period of sixty (60) days, whichever is shorter. A temporary license shall not be renewed, except for good cause and shall not exceed a total of nine (9) months in length.
- (3) An applicant for any license to be issued under KRS 238.530 and 238.555 shall be subjected to a state and national criminal history background check by the office, with the assistance of the Department of Kentucky State Police and the Federal Bureau of Investigation. An applicant for any license to be issued under KRS 238.535 shall be subjected to a state criminal history background check and may, if deemed reasonably necessary, be subjected to a national criminal history background check by the office with the assistance of the Department of Kentucky State Police and the Federal Bureau of Investigation. The criminal history background check shall apply to the chief executive officer and the chief financial officer or director of an applicant; any employee or member of an applicant who has been designated as chairperson of the charitable gaming activity; the applicant itself; and any individual with a ten percent (10%) or more financial interest in the applicant. The office shall require the fingerprinting of all applicants for licensure under KRS 238.530 and 238.555 and may require, if deemed reasonably necessary, the fingerprints of all applicants for licensure under KRS 238.535, who are natural persons in connection with the national criminal history background check to assure the identity of the applicant or applicants. The office may charge a reasonable fee not to exceed the actual cost of fingerprinting and records searching.
- (4) No applicant shall be licensed and no license holder shall be able to maintain a license if an individual associated with the applicant or license holder in a capacity listed in subsection (3) of this section or the applicant or license holder itself has been convicted of a felony, gambling offense, criminal fraud, forgery, theft, falsifying business records, violation of KRS 238.995(7), or any two (2) misdemeanor crimes in federal court or the courts of any state, the District of Columbia, or any territory, consistent with the provisions of KRS Chapter 335B within ten (10) years preceding the application for licensure.
- (5) No applicant shall be licensed unless all applicants required to be fingerprinted under the provision of subsection (3) of this section have been fingerprinted. The Department of Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for the national criminal history background check. The office may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. 92-544.
- (6) If a change occurs in any information submitted during the license application process, the applicant or licensee shall notify the office in writing within thirty (30) days of the date the change occurred.

Section 273. KRS 244.190 is amended to read as follows:

Any peace officers, state administrators, and field representatives of the office may, upon probable cause, without warrant seize contraband regardless of whether it is in dry territory or not, and hold it subject to the order of the court before which the owner or

one in possession of the contraband has been charged with violation of KRS Chapter 242 or KRS 243.020. Upon conviction of the defendant, the court shall enter an order for the destruction of all contraband property, except firearms or ammunition, included in subsections (1), (2), (3), (4), and (5) of KRS 244.180. Contraband firearms and ammunition shall be transferred to the Department of Kentucky State Police for disposition as provided in KRS 500.090.

Section 274. KRS 244.195 is amended to read as follows:

- (1) Title to contraband included in subsections (1), (2), (3), (4), and (5) of KRS 244.180 seized shall be vested in the appropriate court within whose jurisdiction the seizure occurred, irrespective of whether such contraband was seized by peace officers of the city or county or state administrators or field representatives of the office, notwithstanding the provisions of KRS 242.380.
- (2) The court shall order the sheriff for the county in which such contraband as included in subsection (1) of this section was seized to destroy such contraband, except firearms or ammunition, upon conviction of the defendant.
- (3) Contraband firearms and ammunition shall be transferred to the Department of Kentucky State Police for disposition as provided in KRS 500.090.

Section 275. KRS 247.150 is amended to read as follows:

The State Fair Board may arrange with the county judge/executive or the officer that has charge of the police force of any county or city in which the state fair is held, for the proper policing of the state fairgrounds, and may arrange with the state for the policing of the state fairgrounds by the Department of Kentucky State Police. The State Fair Board may arrange with the mayor or the officer that has charge of the police force of any county or city in which the exhibition center is located for the proper policing of the exhibition center, and may arrange with the state for the policing of the exhibition center by the Department of Kentucky State Police. If the State Fair Board is unable to arrange with a city, county or state authority for police protection, it may appoint, or may delegate to any agent or employee the power to appoint, subject to the approval of the State Fair Board, necessary special police to properly police the state fairgrounds and exhibition center. Such police officers are vested with the powers and charged with the duties of peace officers.

Section 276. KRS 248.764 is amended to read as follows:

- (1) KRS 248.752 and 248.754 shall be enforced by the Attorney General, but at the request of the Attorney General or the Attorney General's duly authorized agent, the Department of Kentucky State Police and all local police authorities shall enforce KRS 248.752 and 248.754. The Attorney General has concurrent powers with prosecuting attorneys of the Commonwealth to enforce KRS 248.754 or 248.756.
- (2) For the purpose of enforcing KRS 248.754 and 248.756, the Attorney General and any agency that the Attorney General shall have delegated enforcement responsibility under subsection (1) of this section may request information from any state or local agency and may share information with and request information from any federal agency and any agency of any other state or any local agency of that state.

Section 277. KRS 260.853 is amended to read as follows:

- (1) The Department of Agriculture shall promote the research and development of markets for Kentucky industrial hemp and hemp products after the selection and establishment of the industrial hemp research program and the Industrial Hemp Commission, and provided that adequate funds are available for these purposes from the industrial hemp program fund. The department shall work cooperatively with selected Kentucky university or universities' agricultural research programs utilizing the expertise of the university or universities in the area of agricultural research.
- (2) The Council on Postsecondary Education shall select a university or universities where the industrial hemp research program is to be established, after proposals are considered from all interested universities with agriculture departments in Kentucky.
- (3) The selected institutions' industrial hemp research program shall undertake research of industrial hemp production in the state. The department shall assist the industrial hemp research program in obtaining the necessary federal permits from the United States Drug Enforcement Agency or appropriate federal agency. In undertaking the industrial hemp research program, the university or universities are authorized to:
 - (a) Grow industrial hemp to conduct agronomy research and analysis of required soils, growing conditions, and harvest methods relating to the production of industrial hemp for commercial products, including, but not limited to, hemp seed, paper, clothing, and oils;
 - (b) Conduct seed research on various types of industrial hemp that are best suited to be grown in Kentucky, including but not limited to seed availability, creation of Kentucky hybrid types, in-the-ground variety trials and seed production;
 - (c) Study the economic feasibility of developing an industrial hemp market in various types of industrial hemp that can be grown in the Commonwealth;
 - (d) Report on the estimated value-added benefits, including environmental benefits, that Kentucky businesses would reap by having an industrial hemp market of Kentucky-grown industrial hemp varieties in the Commonwealth;
 - (e) Study the agronomy research being conducted worldwide relating to industrial hemp varieties, production, and utilization;

- (f) Research and promote Kentucky industrial hemp and hemp seed on the world market that can be grown on farms in the Commonwealth; and
- (g) Study the feasibility of attracting private funding for the Kentucky industrial hemp research program.
- (4) The authorization granted in subsection (3) of this section shall not subject the industrial hemp research program or the selected university or universities where it is located to any criminal liability under the controlled substances laws of the Commonwealth. This exemption from criminal liability is a limited exemption that shall be strictly construed and that shall not apply to any activities of the industrial hemp research program or the selected university or universities that are not expressly permitted in the authorization.
- (5) The authorization granted in subsection (3) of this section shall not alter, amend, or repeal by implication any provision of the Kentucky Revised Statutes relating to controlled substances.
- (6) The selected university or universities of the industrial hemp research program shall notify the headquarters of the Department of Kentucky State Police, the local barracks of the Department of Kentucky State Police, and all other local law enforcement agencies of the duration, size, and location of all industrial hemp plots.
- (7) The Commissioner and the university or universities may cooperatively seek funds from both public and private sources to implement this section. The funds shall be deposited into the industrial hemp program fund.
- (8) By October 1, 2001, and annually thereafter, the university or universities shall report on the status and progress of the industrial hemp research program authorized by this section to the Commissioner, the Industrial Hemp Commission, and the Interim Joint Committee on Agriculture and Natural Resources.

Section 278. KRS 260.857 is amended to read as follows:

The Kentucky Industrial Hemp Commission is created and is attached to the Department of Agriculture for administrative purposes. The membership of the commission shall consist of at least seventeen (17) members as follows:

- (1) The Speaker of the House of Representatives or the Speaker's designee;
- (2) The President of the Senate or the President's designee;
- (3) The chair of the Senate Agriculture and Natural Resources Committee;
- (4) The chair of the House Agriculture and Small Business Committee;
- (5) The Commissioner of the Department of Agriculture or the Commissioner's designee;
- (6) The commissioner of the Department of Kentucky State Police or the commissioner's designee;
- (7) The executive director of the Governor's Office of Agricultural Policy or the executive director's designee;
- (8) The chairs of the agriculture departments at the Kentucky university or universities where the industrial hemp research program is to be established;
- (9) The president of the Kentucky Hemp Growers Cooperative Association;
- (10) The president of the Kentucky Sheriffs' Association;
- (11) The president of the Kentucky Association of Chiefs of Police; and
- (12) Six (6) members, three (3) appointed by the Speaker of the House and three (3) by the President of the Senate, representing the following interests:
 - (a) Kentucky farmers with an interest in growing industrial hemp;
 - (b) Retailers of industrial hemp products;
 - (c) Wholesalers of industrial hemp products; and
 - (d) Manufacturers of industrial hemp products.

Section 279. KRS 281.755 is amended to read as follows:

- (1) ~~The commissioner and representatives of the~~ Department of Kentucky State Police and the Department of Kentucky Vehicle Enforcement may at any time or place make an inspection of any motor vehicle operating under the provisions of this chapter. They may enter into and upon any such motor vehicle for the purpose of ascertaining whether or not any provision of this chapter or any order or rule or regulation of the department relating to such motor vehicles has been violated. Willful refusal to stop any such motor vehicle, when ordered to do so by any representative of the Department of Kentucky State Police or the Department of Kentucky Vehicle Enforcement, or to permit the representative to enter into or upon the motor vehicle for the purpose of inspection, shall be sufficient ground for the revocation or suspension of the certificate or permit of the motor carrier.
- (2) In the event that a peace officer orders a commercial motor vehicle to be taken to a storage or impoundment facility as a result of a violation which requires the vehicle to be moved, the driver of the commercial motor vehicle shall be granted the ability to drive the commercial motor vehicle to the storage or impoundment facility. If the driver elects to drive to the storage or impoundment facility, a peace officer shall escort the vehicle to the facility. This subsection shall not apply if the commercial motor vehicle is required to be impounded as a result of a violation of KRS 281A.210, an out-of-service order as defined in KRS 281A.010(26), or a serious traffic violation as defined in KRS 281A.010(29).

Section 280. KRS 281.757 is amended to read as follows:

- (1) As used in this section:
 - (a) "Lights" means the lighting devices required on commercial vehicles having a declared gross weight in excess of ten thousand (10,000) pounds in accordance with 49 C.F.R. Part 393 and 49 C.F.R. Part 571; and
 - (b) "Reflectors" means the reflex reflectors and retroreflective sheeting required on commercial vehicles having a declared gross weight in excess of ten thousand (10,000) pounds in accordance with 49 C.F.R. Part 393.
- (2) A person shall not operate a commercial motor vehicle if the lights or reflectors are inoperable, missing, or are obscured by dirt, mud, or other debris.
- (3) Law enforcement officers~~[and the Transportation Cabinet]~~ shall enforce violations of this section.

Section 281. KRS 281.770 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:

- (1) The Department of Kentucky Vehicle Enforcement is hereby created as a separate department within the Justice and Public Safety Cabinet.
- (2) The department shall be headed by a commissioner who shall report directly to the Secretary of the Justice and Public Safety Cabinet. The commissioner may commission employees of the department as peace officers for the purpose of enforcing the provisions of KRS Chapter 281. The Department of Kentucky Vehicle Enforcement shall also have the authority to enforce all other state laws and administrative regulations as directed by the Governor or secretary of the Justice and Public Safety Cabinet. Peace officers of the department shall also enforce vehicle licensure, and motor vehicle operator, traffic, and criminal law violations on a highway. Additional jurisdiction may be established by agreement with the chief of police of the municipality or sheriff of the county or the appropriate law enforcement agency in which such highway is located, dependent upon the jurisdiction involved.
- (3) Officers of the department may exercise their powers away from the locations described in subsection (2) of this section only upon the following conditions:
 - (a) When in hot pursuit of an actual or suspected violator of the law;
 - (b) When authorized to do so pursuant to the agreement authorized by subsection (2) of this section;
 - (c) When requested to act by the chief of police of the city or county in which the highway is located;
 - (d) When requested to act by the sheriff of the county in which the highway is located;
 - (e) When requested to act by the commissioner of the Department of Kentucky State Police;
 - (f) When requested to act by the authorized delegates of those persons or agencies listed in paragraphs (c), (d), or (e) of this subsection;
 - (g) When requested to assist a state, county, or municipal police officer, sheriff, or other peace officer in the performance of his lawful duties, or if it appears that the peace officer is unable to request emergency assistance and the circumstances observed by the officer reasonably indicate that emergency assistance is appropriate;
 - (h) When necessary to protect the life or property of the officer or another person from imminent threat of physical harm; or
 - (i) When operating under an interlocal cooperation agreement pursuant to KRS Chapter 65.
- (4) Officers commissioned by the department shall have, in addition to the other powers enumerated in this section, the power to conduct investigations anywhere in this Commonwealth, provided such investigation relates to criminal offenses or violations which occurred on a highway. Where desirable and at the discretion of the commissioner or his or her designee, the department may coordinate these investigations with any law enforcement agency of this Commonwealth or with agencies of the federal government.
- (5) An officer of the department that renders any assistance pursuant to subsection (3) of this section shall be considered performing regular employment for the purpose of compensation, pension, workers' compensation, and other rights and benefits to which the officer may be entitled as incident to regular employment.
- (6) Nothing in this section shall be construed as a diminution or modification of the authority or responsibility of any city or county police department, the Department of Kentucky State Police, a sheriff, a constable, or other peace officer on a highway in their jurisdiction or otherwise.
- (7) The primary responsibility of the department shall be the enforcement of federal, state, and local motor carrier, and for-hire carrier laws, administrative regulations, and ordinances.
- (8) The Department of Kentucky Vehicle Enforcement shall have the following divisions:
 - (a) Division of Field Operations East;
 - (b) Division of Field Operations West;
 - (c) Division of Special Operations; and
 - (d) Division of Administrative Services~~[The commissioner, Department of State Police, is hereby authorized to issue commissions to employees of the department as law enforcement officers, and such employees when so~~

~~commissioned shall have all the powers of peace officers in respect to the enforcement of this chapter and all the statutes and regulations relating to motor vehicles operated as private or for hire carriers.~~

- (2) ~~Peace officers commissioned as provided herein may be assigned additional duties in enforcing other provisions of law for specified limits of time during an emergency or time of special needs as determined by the commissioner in his discretion.~~

Section 282. KRS 281.771 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:

- (1) For the purposes of this section, the term "commissioner" means the commissioner of the Department of Kentucky Motor Vehicle Enforcement~~Regulation~~.
- (2) An employee commissioned pursuant to the provisions of Section 281 of this Act~~KRS 281.770~~ shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.
- (3) Any person may prefer charges against a commissioned employee.
- (4) A charge shall be:
 - (a) In writing;
 - (b) Filed with the office of the commissioner;
 - (c) Signed by the person making the complaint; and
 - (d) Set out with clarity and distinction.
- (5)
 - (a) The commissioner shall review the charges.
 - (b) If the commissioner determines that there is probable cause, he shall file charges against a commissioned employee whom he believes is guilty of misconduct that justifies his removal or discipline.
- (6) Within five (5) days of the filing of the charges, the commissioner shall:
 - (a) Personally deliver a copy of the charges to the commissioned employee; or
 - (b) Send a copy of the charges to the commissioned employee by certified mail, return receipt requested.
- (7) Within five (5) days of receipt of the charges, the commissioned employee may:
 - (a) Demand an administrative hearing; or
 - (b) Admit the truth of the charges in whole or in part.
- (8) If the commissioned employee admits the truthfulness of the charges, the commissioner shall dismiss, demote, suspend, or otherwise penalize the employee as warranted by the seriousness of the charges.
- (9) If the commissioned employee denies the charges and demands a hearing within the time specified in subsection (7) of this section, he shall notify the commissioner in writing.
- (10) Upon receipt of the demand for hearing, the commissioner shall arrange for an administrative hearing before a trial board to be constituted as provided in Section 283 of this Act~~KRS 281.772~~. The hearing shall be conducted in accordance with KRS Chapter 13B.
- (11)
 - (a) If the commissioner has probable cause to believe that a commissioned employee is guilty of misconduct, he may immediately suspend the employee from duty, or from both pay and duty, pending trial.
 - (b) If an employee is suspended, he shall not be returned to duty or be paid until a final order is rendered by the trial board.
- (12) After hearing the charges, the trial board shall fix the punishment of a commissioned employee found guilty of one (1) or more charges, by:
 - (a) Reprimand;
 - (b) Suspension for a period not to exceed six (6) months;
 - (c) Reducing the grade if the commissioned employee's classification warrants it;
 - (d) Combining any two (2) or more of the punishments;
 - (e) Reducing the monthly salary of the commissioned employee by not more than twenty percent (20%) for not more than six (6) months; or
 - (f) Dismissing him from the service of the department.

Section 283. KRS 281.772 is repealed, reenacted as a new section of KRS Chapter 15A, and amended to read as follows:

- (1) For the purpose of hearing charges against any commissioned employee, there is created a trial board, which shall consist of the commissioner of the Department of Kentucky Vehicle Enforcement and a panel of ten (10) commissioned employees appointed by the commissioner. The commissioner shall designate from the panel not less than three (3) nor more than seven (7) members to hear charges against any commissioned employee. Hearings before the trial board shall be conducted in accordance with KRS Chapter 13B.
- (2) The commissioned employees appointed to the trial board shall:
 - (a) Fulfill the duties of the board in addition to their other duties; and

2007 Regular Session

- (b) Be reimbursed for travel and necessary expenses pursuant to the provisions of KRS 18A.200.
- (3) (a) A defendant may, for cause, challenge the right of any member of the trial board to hear charges against him.
- (b) If the other members of the trial board determine that the challenge is justifiable, the trial board member in question shall be:
 - 1. Excused from hearing the charges, and
 - 2. Replaced by another member of the trial board.
- (4) The rights conferred upon a commissioned employee by this section shall not accrue until he has been employed for a period of one (1) year.
- (5) No commissioned employee is entitled to a hearing as provided in this section unless his suspension is for more than twenty (20) days, or his pay is reduced more than ten percent (10%); but if the employee receives more than twenty (20) days suspension or a reduction in salary of more than ten percent (10%) within a period of one (1) year, he shall have the right to a hearing.
- (6) The dismissal, demotion, suspension, or other penalization of a noncommissioned employee shall comply with the provisions of KRS 18A.095 and 18A.100.
- (7) Any commissioned employee found guilty by the trial board of any charge under the provisions of Section 282 of this Act ~~[KRS 281.771]~~ shall have the right to appeal to Franklin Circuit Court in accordance with KRS Chapter 13B.
Section 284. KRS 281.880 is amended to read as follows:
 - (1) The Department of Vehicle Regulation in the Transportation Cabinet shall establish a motor carrier safety management audit program applicable to private or for-hire, intrastate or interstate motor carriers. The Department of Kentucky Vehicle Enforcement may perform safety inspections on vehicles operated by a motor carrier on public highways and may enter onto property owned, leased, controlled, or operated by a motor carrier to inspect any of its vehicles or inspect or copy records relating to vehicle safety, maintenance, or financial responsibility.
 - (2) The department may issue motor carrier safety ratings to any private or for-hire motor carrier which is based in Kentucky, has a terminal in Kentucky, or operates consistently in Kentucky. The safety rating scale and factors determining a carrier's safety rating shall be established by administrative regulation and shall be compatible with the scale and factors established by the Federal Highway Administration in Title 49 of the United States Code of Federal Regulations, Part 385, relating to safety ratings, in effect as of July 13, 1990, or as amended after that date.
 - (3) The department may determine the safety fitness of a motor carrier and may require the maintenance of or upgrade to a satisfactory safety rating.
 Section 285. KRS 281A.010 is amended to read as follows:
 - (1) "Alcohol" means:
 - (a) Beer, ale, port, or stout and other similar fermented beverages, including sake or similar products, of any name or description containing one-half of one percentum (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;
 - (b) Wine of not less than one-half of one percentum (0.5%) of alcohol by volume; or
 - (c) Distilled spirits, which means that substance known as ethyl alcohol, ethanol, or spirits of wine in any form, including all dilutions and mixtures thereof from whatever source or by whatever process produced; or
 - (d) Any substance containing ethyl alcohol, hydrated oxide of ethyl, spirit of wine, or any distilled spirits including, but not limited to, ethanol, methanol, propanol, and isopropanol.
 - (2) "Alcohol concentration" means:
 - (a) The number of grams of alcohol per one hundred (100) milliliters of blood;
 - (b) The number of grams of alcohol per two hundred ten (210) liters of breath; or
 - (c) The number of grams of alcohol per sixty-seven (67) milliliters of urine.
 - (3) "Cabinet" means the Transportation Cabinet of the Commonwealth of Kentucky.
 - (4) "Commerce" means:
 - (a) Any trade, traffic, or transportation within the jurisdiction of the United States between a place in a state and a place outside of the state, including a place outside of the United States; and
 - (b) Trade, traffic, and transportation in the United States that affects any trade, traffic, and transportation described in paragraph (a) of this subsection.
 - (5) "Commercial driver's license," or CDL, means a license issued to an individual in accordance with the requirements of this chapter or, if the license is issued by another state in accordance with the Federal Commercial Motor Vehicle Safety Act, to an individual that authorizes the individual to drive any class of commercial motor vehicle.
 - (6) "Commercial driver's license information system" or CDLIS means the national information system established to serve as a clearinghouse for locating information related to the licensing and identification of commercial motor vehicle drivers.

- (7) "Commercial driver's instruction permit" means a permit issued pursuant to KRS 281A.120.
- (8) "Commercial motor vehicle," or CMV, means a motor vehicle or combination motor vehicle used in commerce that is:
 - (a) Designed to carry property and has a gross vehicle weight rating as determined by federal regulation which has been adopted into cabinet administrative regulations pursuant to KRS Chapter 13A;
 - (b) Designed to transport sixteen (16) or more passengers, including the driver;
 - (c) Transporting hazardous materials and is required to be placarded in accordance with Title 49, Code of Federal Regulations, Part 172; or
 - (d) Any other vehicle that is required by cabinet administrative regulation, pursuant to KRS Chapter 13A, to be operated by a licensed commercial driver.
- (9) "Controlled substance" means any substance so classified under Section 102(6) of the Controlled Substances Act, 21 U.S.C. sec. 802(6), and includes all substances listed on Schedules I through V, of Title 21, Code of Federal Regulations, Part 1308, as adopted by the Transportation Cabinet by administrative regulation pursuant to KRS Chapter 13A. It shall also include those substances defined or listed in KRS Chapter 218A.
- (10) "Conviction" means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or Alford plea entered and accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.
- (11) "Disqualification" means any of the following actions:
 - (a) The suspension, revocation, or cancellation of a CDL by the Commonwealth or the jurisdiction of issuance;
 - (b) Any withdrawal of a person's privilege to drive a commercial motor vehicle by the Commonwealth or another jurisdiction as a result of a violation of state or local law relating to motor vehicle traffic control, other than parking, vehicle weight, or vehicle defect violations; or
 - (c) A determination by the Federal Motor Carrier Safety Administration that a person is not qualified to operate a commercial motor vehicle under 49 C.F.R. pt. 391.
- (12) "Drive" means to drive, operate, or be in physical control of a motor vehicle.
- (13) "Driver" means any person who drives, operates, or is in physical control of a commercial motor vehicle, or who is required to hold a commercial driver's license.
- (14) "Driver's license" means a license issued by a state to an individual that authorizes the individual to drive a motor vehicle.
- (15) "Employee" means any operator of a commercial motor vehicle, including full-time, regularly employed drivers; casual, intermittent, or occasional drivers; leased drivers and independent, owner-operator contractors while in the course of operating a commercial motor vehicle who are either directly employed by, under lease to, or operating in a manner indicating employment to an employer.
- (16) "Employer" means any person, including the United States, a state, or a political subdivision of a state, who owns or leases a commercial motor vehicle, or assigns a person to drive a commercial motor vehicle.
- (17) "Felony" means any offense under state or federal law that is punishable by death or imprisonment for a term exceeding one (1) year.
- (18) "Gross combination weight rating," or GCWR, is the gross vehicle weight rating of power unit plus the gross vehicle weight rating of any towed unit. In the absence of a value specified by the manufacturer, GCWR shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and load therein.
- (19) "Gross vehicle weight rating," or GVWR, means the value specified by the manufacturer as the maximum loaded weight of a single, a combination or an articulated vehicle.
- (20) "Hazardous materials" means the definition found in Section 103 of the Hazardous Materials Transportation Law, 49 U.S.C. sec. 5101 et seq.
- (21) "Highway" shall include any way or place of any nature when any part of it is open to the use of the public as a matter of right, license, or privilege for the use of vehicular traffic.
- (22) "Imminent hazard" means a condition that presents a substantial likelihood that death, serious illness, severe personal injury, or a danger to health, property, or the environment exists.
- (23) "Moped" shall have the same meaning as in KRS 186.010(5).
- (24) "Motor vehicle" means a vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power used on highways, or any other vehicle required to be registered under the laws of this state, but shall not include any vehicle, machine, tractor, trailer, or semitrailers operated exclusively on a rail.
- (25) "NDR" means the national driver register.
- (26) "Out-of-service order" means a declaration by an authorized enforcement officer of a federal, state, Canadian, Mexican, or local jurisdiction that a driver, commercial motor vehicle, or a motor carrier operation is out of service pursuant to 49

C.F.R. sec. 386.72, 392.5, 395.13, or 396.9; comparable laws or regulations; or the North American Uniform Out-of-Service Criteria.

- (27) "Resident" means a person who has established Kentucky as his or her state of domicile. Proof of residency shall include but not be limited to a deed or property tax bill, utility agreement or utility bill, or rental housing agreement.
- (28) "School bus" means a vehicle that meets the specification of KRS 156.153 used to transport preprimary, primary, or secondary school students between school and home, or to and from school-sponsored events. A school bus shall not include a bus used as a common carrier.
- (29) "Serious traffic violation" means a conviction when operating a commercial motor vehicle of:
- (a) Excessive speeding, involving a single charge of any speed fifteen (15) miles per hour or more, above the specified speed limit;
 - (b) Reckless driving, as defined under state or local law, including conviction of driving a commercial motor vehicle in willful or wanton disregard for the safety of persons or property;
 - (c) Improper or erratic traffic lane changes;
 - (d) Following the vehicle ahead too closely;
 - (e) A violation of any state or local law related to motor vehicle traffic control, other than a parking violation, arising in connection with a fatal accident;
 - (f) Driving a commercial motor vehicle without a CDL;
 - (g) Driving a commercial motor vehicle without a CDL in one's possession or refusing to display a CDL upon request;
 - (h) Driving a commercial motor vehicle without the proper class of CDL or endorsements, or both, for the specific vehicle type or types being operated or for the passengers or type or types of cargo being transported; or
 - (i) Any conviction of an offense that requires mandatory suspension under KRS 186.560 or a serious violation as defined by Title 49 of the Code of Federal Regulations Part 383 or as amended by the Federal Highway Administration.
- (30) "State" means a state of the United States and the District of Columbia.
- (31) "State police" means the Department of ~~Kentucky~~ State Police ~~of the Commonwealth of Kentucky~~.
- Section 286. KRS 281A.090 is amended to read as follows:
- (1) Except when driving under a commercial driver's instruction permit and accompanied by the holder of commercial driver's license valid for the vehicle being driven, no person shall drive a commercial motor vehicle on the highways of this state unless the person holds a valid commercial driver's license with applicable endorsements valid for the vehicle he or she is driving.
 - (2) No person shall drive a commercial motor vehicle on the highways of this state while his or her driving privilege for a commercial or noncommercial motor vehicle is suspended, revoked, or canceled, or while he or she is subject to a disqualification, or in violation of an out-of-service order.
 - (3) The licensee shall have in his or her immediate possession at all times when operating a motor vehicle his or her commercial driver's license, and shall display the license upon demand to a circuit clerk, a license examiner, a peace officer, a State Police officer, or an inspector or officer of the Department of Vehicle Regulation or the Department of Kentucky Vehicle Enforcement. It shall be a defense to a violator of this subsection if the person so charged produces in court a commercial driver's license, issued to him or her before his or her arrest or violation and which was valid at that time.
- Section 287. KRS 281A.150 is amended to read as follows:
- (1) Every person seeking a commercial driver's license or a commercial driver's instruction permit shall first apply in person to the circuit clerk of the county in which the applicant resides or in the county where the person is enrolled in a driver training school if the applicant is not a resident. The application shall be in the form prescribed by KRS 281A.140 as provided by the cabinet. Except as provided in KRS 281A.160(6), each time a person applies for a commercial driver's license, an instruction permit, or seeks to upgrade or change his or her commercial driver's license, the person shall be required to:
 - (a) Update the application; and
 - (b) Submit the appropriate fee to the circuit clerk.
 - (2) The cabinet shall set fees by administrative regulation, pursuant to KRS Chapter 13A, for the following applications that shall not exceed:
 - (a) Forty dollars (\$40) for each application for a commercial driver's license. The fee shall be based on the class, type of license, endorsement, restriction, or tests to be taken;
 - (b) Thirty-five dollars (\$35) for each application for a commercial driver's instruction permit;
 - (c) Fifteen dollars (\$15) for each application for a change or addition in class or type of license, endorsement, or restriction;

- (d) Forty dollars (\$40) for each application for a duplicate if it is the first duplicate applied for within the time period for which the original license was issued. Sixty dollars (\$60) for a second or subsequent duplicate applied for within the time period for which the original license was issued. The fees required for a duplicate shall be in addition to fees charged under subsection (2)(c) of this section;
- (e) Thirty-five dollars (\$35) for each application for renewal of a commercial driver's license;
- (f) Sixty dollars (\$60) for each application for a transfer of a commercial driver's license; and
- (g) Twenty dollars (\$20) for each application for a commercial driver's license with an "S" restriction for the following persons:
 - 1. A person who operates a school bus;
 - 2. A person who is employed by a mass transit authority created under the provisions of KRS Chapter 96A;
 - 3. A person who drives a vehicle that is operated under a nonprofit bus certificate established pursuant to KRS 281.619;
 - 4. A person who drives a vehicle registered pursuant to KRS 186.050(6); or
 - 5. A person who drives a fixed route bus system vehicle that is operated by a public entity pursuant to the provisions of KRS Chapter 281.
- (3) All fees remitted to the clerk shall be nonrefundable regardless of whether the applicant completes the requirements for a commercial driver's license or is tested.
- (4) All fees collected for the issuance of a commercial driver's license or a commercial driver's instruction permit shall be deposited into trust and agency accounts to be used exclusively for the administration and implementation of this chapter, except as prescribed in subsection (5) of this section. The accounts shall not lapse but shall be continuing from year to year.
- (5) All fees collected pursuant to this section, shall be allocated between the Transportation Cabinet and Department of Kentucky State Police, except a fifty cent (\$0.50) issuance fee shall be allocated during the first two (2) years following the effective date of January 1, 1991, to the Administrative Office of the Courts in a trust and agency account for the use of the circuit clerks and thereafter allocated to the general fund from issuance of a commercial driver's license permit. A three dollar (\$3) issuance fee shall be allocated during the first two (2) years following the effective date of January 1, 1991, to the Administrative Office of the Courts in a trust and agency account for the use of the circuit clerks and thereafter allocated to the general fund from issuance of a commercial driver's license.
- (6) Any applicant who seeks reinstatement of his or her commercial driving privilege after a suspension, withdrawal, revocation, or disqualification shall pay a reinstatement fee of fifty dollars (\$50) in addition to those fees required by subsection (2) of this section and shall satisfy the requirements of KRS 281A.160. This fee shall not be required if his or her commercial driving privilege was withdrawn only as a result of the withdrawal of his or her privilege to drive a noncommercial motor vehicle.

Section 288. KRS 281A.160 is amended to read as follows:

- (1) (a) Except as provided in subsection (4) of this section, the State Police shall be responsible for administering both the knowledge and skills test required by KRS 281A.130.
- (b) Applicants who fail the written knowledge test shall be permitted to retake the written test on the next day the tests are administered. Applicants who fail the written test six (6) times shall be required to wait three (3) days before taking the knowledge test again. Applicants who subsequently fail the written test three (3) additional times shall be required to wait three (3) days prior to retaking the test.
- (2) (a) Except as provided for in subsection (3) of this section, at the time a CDL permit is issued:
 - 1. An applicant who has held a Kentucky operator's license for thirty (30) days or longer shall pay a skills-testing fee of fifty dollars (\$50); and
 - 2. An applicant who has held a Kentucky operator's license for less than thirty (30) days shall pay a skills-testing fee of one hundred fifty dollars (\$150).
- (b) There is created within the State Treasury a trust fund to be known as the State Police CDL skills-testing fund. The fund shall be administered by the State Police and shall receive all skills-testing and retesting fees collected under subsections (2)(a) and (6)(c) of this section, in addition to any grants, gifts, or appropriations of state or federal moneys and any interest earned on moneys in the fund. Moneys in the fund shall not lapse and shall be carried forward to the next succeeding fiscal year. The State Police CDL skills-testing fund shall be used by the State Police to contract with and train civilian CDL skills examiners and to improve the logistics of the CDL skills-testing process.
- (c) The State Police, upon request of an applicant who has passed both the vision and knowledge tests, may schedule the applicant for the skills test at the first available test date at a test site designated by the State Police but not less than ten (10) days after the applicant has filed the application and been issued a CDL permit. Except in extenuating circumstances, a retest for a failed portion of the skills test shall be given within three (3) days of a request of a

2007 Regular Session

retest.

- (d) An applicant shall provide a class representative commercial vehicle, for the class of CDL for which the applicant is testing, in which to take the skills test. Unless the State Police grant an exemption at the time the application for testing is made, the vehicle supplied under this paragraph shall be unloaded. Upon arrival for the skills test, the applicant shall have in his or her possession a valid Kentucky operator's license, a valid CDL permit, and a current U.S. Department of Transportation physical card. A CDL-licensed driver who is at least twenty-one (21) years old shall accompany the applicant at all times the applicant is in operation of a commercial vehicle.
- (3) A testing fee shall not be charged to an individual applying for a CDL with an "S" restriction as defined in KRS 281A.170.
- (4) The State Police may authorize a third party to administer the skills test specified by this section if:
 - (a) The test is the same that would otherwise be administered by the state; and
 - (b) The third party has entered into an agreement with this Commonwealth which complies with requirements of Title 49, Code of Federal Regulations, Part 383.75, as adopted by the Transportation Cabinet.
- (5) The State Police shall promulgate administrative regulations under KRS Chapter 13A that establish procedures that ensure an arm's-length relationship is maintained between a third-party tester and any owner, officer, or employee of any program offering commercial truck driving under the Kentucky Community and Technical College System or a proprietary school licensed under KRS Chapter 165A.
- (6)
 - (a) Applicants shall be permitted to take the skills test for a particular class vehicle an unlimited number of times; however, an applicant shall not retest more than one (1) time in any twenty-four (24) hour period.
 - (b) The skills test shall consist of three (3) separate portions: pre-trip inspection, basic maneuvering, and road skills. An applicant must achieve a score of at least eighty percent (80%) on each portion of the skills test before a CDL may be issued to the applicant. An applicant who passes one (1) or more portions of the skills test but does not pass all portions of the skills test shall retest only on those portions of the skills test the applicant failed.
 - (c) An applicant who fails any portion of the skills test four (4) times shall be notified by the State Police that the applicant is required to wait one (1) week and pay a retest fee of fifty dollars (\$50) before retaking a portion of this skills test again.
 - (d) Failure of an applicant to notify the State Police prior to missing an appointment for a skills test shall be considered a failure, on all parts of the skills test scheduled to be given, for the purposes of determining number of failures, waiting periods, and retesting fees under paragraph (c) of this subsection for individual applicants. A missed appointment failure under this paragraph shall not be reported as a failure to the board.
 - (e) The provisions of KRS 281A.150 notwithstanding, an application fee shall not be charged for each test that is retaken as a result of a failing score.
- (7) An applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of less than one (1) year shall pay the reinstatement fee as prescribed by KRS 281A.150(6) and shall receive his or her commercial driver's license with all endorsement and restrictions that were in effect at the time of suspension. An applicant who seeks reinstatement of a commercial driver's license after a suspension, withdrawal, revocation, or disqualification of one (1) year or more shall submit to the skills, knowledge, and vision tests.
- (8)
 - (a) The commissioner of the Department of Kentucky State Police shall promulgate administrative regulations pursuant to the provisions of KRS Chapter 13A to implement the provisions of this section.
 - (b) Within ninety (90) days of April 22, 2006, the State Police shall promulgate administrative regulations under KRS Chapter 13A to set forth the qualifications for contract examiners retained under subsection (2)(b) of this section.

Section 289. KRS 281A.300 is amended to read as follows:

- (1) Any person initially applying for, or initially renewing, a Kentucky CDL instruction permit or operator's license, shall be required to undergo a state and national criminal history background check of state and federal wanted or "hot file" records conducted by the ~~Kentucky~~ State Police. All initial and renewal application forms for a Kentucky CDL instruction permit or operator's license shall conspicuously state the following: "STATE LAW REQUIRES A STATE AND NATIONAL CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF APPLYING FOR A KENTUCKY CDL. ANY PERSON WHO REFUSES TO SUBMIT TO A CRIMINAL HISTORY BACKGROUND CHECK SHALL NOT BE ELIGIBLE TO APPLY FOR, OR BE ISSUED, A KENTUCKY CDL."
- (2) The results of the state and national criminal history background checks shall be sent to the cabinet for review within seventy-two (72) hours. An applicant for a CDL instruction permit may enroll in a commercial driver training program under the Kentucky Community and Technical College System or a proprietary school licensed under KRS Chapter 165A, and may be issued a CDL instruction permit upon enrollment, however the status of the applicant retaining the CDL instruction permit shall not be determined until the results of the background checks are made available to the cabinet. The cabinet shall inform the applicant and the circuit clerk of persons who, based upon the criminal history background check, are either eligible or ineligible to be issued a CDL instruction permit or CDL. The cabinet shall promulgate administrative regulations under KRS Chapter 13A to specify conditions that will cause a person to be denied a CDL instruction permit or CDL based upon the person's criminal history background check.

- (3) Any fee charged by the Kentucky State Police to conduct a criminal history background check shall be paid by the applicant and shall not be refundable. Any fee charged to conduct a criminal history background check shall be an amount not greater than the actual cost of processing the request and conducting the search.
- (4) The criminal history background checks required by this section shall be in addition to any type of background check that may be required by federal statute, rule, regulation, or order.

Section 290. KRS 281A.320 is amended to read as follows:

Any person initially renewing a commercial driver's license or adding an endorsement after September 30, 2002, shall apply for the renewal at least thirty (30) days prior to the expiration date of the license. The purpose of the early renewal procedures is to ensure the criminal history background check required under KRS 281A.300 may be completed prior to the expiration date on the license. A person may obtain the information necessary to conduct the criminal history background check from the circuit clerk. If the person has a law enforcement agency other than the ~~Kentucky~~ State Police conduct the background check, the law enforcement agency may charge the person a nonrefundable fee for the service. Any fee charged by any law enforcement agency to conduct a criminal history background check shall be an amount not greater than the actual cost of processing the request and conducting the search.

Section 291. KRS 286.8-285 is amended to read as follows:

- (1) In addition to other duties imposed upon the executive director in this subtitle, the executive director shall be authorized to participate in the establishment and implementation of a multistate automated licensing system for mortgage loan brokers, mortgage loan companies, loan officers, or originators.
 - (a) For such purpose, the executive director is authorized to waive or modify, in whole or in part, by rule or by order, any or all of the requirements of this subtitle and to establish new requirements as reasonably necessary to carry out the purpose of this section.
 - (b) These new requirements shall include the fingerprinting of applicants and the submission of those fingerprints, along with any fee required to perform the criminal background record review, to the Federal Bureau of Investigation and *the Department of* Kentucky State Police or an equivalent state department law enforcement agency for state and national criminal background record review of the applicant.
- (2) The executive director shall not be authorized under this section to require a person or individual who is exempt under KRS 286.8-020(1)(a) or (g) to submit information or participate in the uniform multistate licensing program.

Section 292. KRS 304.20-150 is amended to read as follows:

- (1) As used in KRS 304.20-160 to 304.20-190, "authorized agencies" shall mean:
 - (a) State executive director of insurance;
 - (b) The state fire marshal when authorized or charged with the investigation of fires at the place where the fire actually took place;
 - (c) The state Attorney General when authorized or charged with the investigation of fires at the place where the fire actually took place;
 - (d) The commissioner of the Department of ~~Kentucky~~ State Police;
 - (e) The full-time Commonwealth's or county attorney responsible for prosecutions in the county where the fire occurred;
 - (f) The Federal Bureau of Investigation or any other federal agency having the authority to investigate federal offenses arising from arson; and
 - (g) Any United States' attorney's office authorized or charged with investigation or prosecution of the fire in question or the violation of any statute arising from said fire.
- (2) As used in KRS 304.20-160 to 304.20-190, "relevant" means information having any tendency to make the existence of any fact that is of consequence to the investigation or determination of the issue more probable or less probable than it would be without the evidence.
- (3) For the purposes of KRS 304.20-160 to 304.20-190, information will be "deemed important" if such information is requested by an authorized agency.
- (4) "Insurer," as used in KRS 304.20-160 to 304.20-190, shall be defined in the same manner as it is defined in KRS 304.1-040, and shall include the Kentucky FAIR plan and reinsurance association, and all authorized persons acting on behalf of an insurer.

Section 293. KRS 304.20-190 is amended to read as follows:

The provisions of KRS 304.20-160 to 304.20-180 shall not be construed to affect or repeal any ordinance or resolution of any county or city of any class relating to fire prevention or the control of arson, but the jurisdiction of the state fire marshal and the commissioner of the Department of ~~Kentucky~~ State Police in such county or city is to be concurrent with that of the county and city authorities.

Section 294. KRS 311.565 is amended to read as follows:

(1) The board may:

- (a) Exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy, which shall include but not be limited to promulgation of reasonable administrative regulations enabling the board to regulate the conduct of its licensees;
- (b) Promulgate reasonable administrative regulations establishing moral, physical, intellectual, educational, scientific, technical, and professional qualifications of applicants for licenses and permits that may be issued by the board;
- (c) Issue, deny, suspend, limit, restrict, and revoke any licenses or permits that may be issued by the board, and to reprimand or to place licensees on probation, in compliance with the provisions of KRS 311.530 to 311.620;
- (d) Appoint an executive director and assistant executive directors and fix their compensation. The executive director shall oversee the work of the board, shall be authorized to discharge the duties of the secretary, as provided by KRS 311.530 to 311.620, and shall carry out the duties of the executive director as set forth elsewhere in this chapter;
- (e) Appoint a general counsel and assistant general counsel and fix their compensation;
- (f) Appoint investigatory personnel and fix their compensation;
- (g) Appoint one (1) or more hearing officers, who need not be members of the board, and fix their compensation. Every hearing officer shall be vested with the full and complete power and authority of the board to schedule and conduct hearings on behalf of and in the name of the board on all matters referred for hearing by the board or secretary thereof, including, among other things, proceedings for placing licensees on probation and for limitation, suspension, and revocation of licenses. All administrative hearings conducted by the board, a member of the board, or a hearing officer appointed by the board, shall be conducted in accordance with KRS Chapter 13B. No hearing officer shall be empowered to place any licensee on probation or to issue, refuse, suspend, limit, or revoke any license;
- (h) Appoint committees of licensees, who need not be board members, to review issues of public or medical interest before the board and to make recommendations to the board on the issues;
- (i) Promulgate administrative regulations to promote the efficient and fair conduct of disciplinary proceedings;
- (j) Promulgate a code of conduct governing the practice of medicine and osteopathy, which shall be based upon generally-recognized principles of professional ethical conduct;
- (k) Utilize the services and facilities of professional organizations, and procure and receive the assistance and recommendations of professional organizations in administering KRS 311.530 to 311.620;
- (l) Make its personnel and facilities available to other governmental entities under mutually agreeable terms and conditions;
- (m) Issue regular licenses without further testing by endorsement from another state having qualifications and standards at least as high as those of this state or by endorsement from the National Board of Medical Examiners, the National Board of Examiners for Osteopathic Physicians and Surgeons, the National Joint Committee of Preregistration Physician Training Programs, or any approved successors thereof;
- (n) Issue and renew regular licenses to practice medicine or osteopathy in accordance with KRS 311.530 to 311.620 and any reasonable regulations of the board;
- (o) Issue and renew, or refuse to issue or renew, or cancel and terminate limited licenses pursuant to administrative regulations promulgated by the board; provided however, no person who held a limited license for institutional practice or general practice as of September 1, 1972, shall be denied the renewal of that limited license for nondisciplinary reasons;
- (p) Appoint examiners, who need not be members of the board, and employ or contract with the Federation of State Medical Boards of the United States, Inc., or the National Board of Medical Examiners or other organizations, agencies, or individuals to prepare examination questions and grade examination papers;
- (q) Determine the schools, colleges, universities, institutions, and training acceptable in connection with licensure under KRS 311.530 to 311.620;
- (r) Prescribe the time, place, method, manner, scope, and content of examinations;
- (s) Prescribe all forms which it considers appropriate, and require the submission of photographs, fingerprints, and personal history data;
- (t) Require a criminal background investigation of all persons applying for licensure at the time of initial application, and at other times at the request of the board for good cause shown, by means of a fingerprint check by the Department of Kentucky State Police and Federal Bureau of Investigation;
- (u) Prescribe and collect reasonable fees and charges for examinations, directories, and the issuance and renewal of licenses and permits; and
- (v) Impose fines of not greater than five thousand dollars (\$5,000) per violation and require the licensee to reimburse the board for the costs of the administrative proceedings including consultant fees, upon a finding pursuant to disciplinary proceedings that the licensee has violated any provision of KRS 311.595 to 311.597 or duly-

promulgated disciplinary regulation of the board.

- (2) The board shall develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by a physician licensed by the board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure that the process does not revictimize the alleged victim or cause harm if a physician is falsely accused.
- (3) The board, the hearing officer, and investigators hired by the board shall receive training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedure in sex offense cases, and effective intervention with victims and offenders.

Section 295. KRS 311A.100 is amended to read as follows:

The board may require a criminal background investigation of an applicant for licensure or certification, including by means of a fingerprint check by the Department of Kentucky State Police or the Federal Bureau of Investigation, or both.

Section 296. KRS 314.011 is amended to read as follows:

As used in this chapter, unless the context thereof requires otherwise:

- (1) "Board" means Kentucky Board of Nursing;
- (2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A;
- (3) "Nurse" means a person who is licensed or holds the privilege to practice under the provisions of this chapter as a registered nurse or as a licensed practical nurse;
- (4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:
 - (a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and
 - (b) Planning, implementation, and evaluation based on nationally accepted standards of nursing practice;
- (5) "Registered nurse" means one who is licensed or holds the privilege under the provisions of this chapter to engage in registered nursing practice;
- (6) "Registered nursing practice" means the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:
 - (a) The care, counsel, and health teaching of the ill, injured, or infirm;
 - (b) The maintenance of health or prevention of illness of others;
 - (c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses. Components of medication administration include but are not limited to:
 1. Preparing and giving medications in the prescribed dosage, route, and frequency, including dispensing medications only as defined in subsection (17)(b) of this section;
 2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;
 3. Intervening when emergency care is required as a result of drug therapy;
 4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;
 5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and
 6. Instructing an individual regarding medications;
 - (d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care; and
 - (e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally accepted organizations of registered nurses;
- (7) "Advanced registered nurse practitioner" means one who is registered and designated to engage in advanced registered nursing practice including the nurse anesthetist, nurse midwife, clinical nurse specialist, and nurse practitioner pursuant to KRS 314.042;
- (8) "Advanced registered nursing practice" means the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally established organizations or agencies recognized by the board to

certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include but not be limited to prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for and dispense nonscheduled legend drugs as defined in KRS 217.905 and to issue prescriptions for but not to dispense Schedules II through V controlled substances as classified in KRS 218A.060, 218A.070, 218A.080, 218A.090, 218A.100, 218A.110, 218A.120, and 218A.130, under the conditions set forth in KRS 314.042 and regulations promulgated by the Kentucky Board of Nursing on or before August 15, 2006.

- (a) Prescriptions issued by advanced registered nurse practitioners for Schedule II controlled substances classified under KRS 218A.060 shall be limited to a seventy-two (72) hour supply without any refill. Prescriptions issued under this subsection for psychostimulants may be written for a thirty (30) day supply only by an advanced registered nurse practitioner certified in psychiatric-mental health nursing who is providing services in a health facility as defined in KRS Chapter 216B or in a regional mental health-mental retardation services program as defined in KRS Chapter 210.
- (b) Prescriptions issued by advanced registered nurse practitioners for Schedule III controlled substances classified under KRS 218A.080 shall be limited to a thirty (30) day supply without any refill. Prescriptions issued by advanced registered nurse practitioners for Schedules IV and V controlled substances classified under KRS 218A.100 and 218A.120 shall be limited to the original prescription and refills not to exceed a six (6) month supply.
- (c) Limitations for specific controlled substances which are identified as having the greatest potential for abuse or diversion, based on the best available scientific and law enforcement evidence, shall be established in an administrative regulation promulgated by the Kentucky Board of Nursing. The regulation shall be based on recommendations from the Controlled Substances Formulary Development Committee, which is hereby created. The committee shall be composed of two (2) advanced registered nurse practitioners appointed by the Kentucky Board of Nursing, one (1) of whom shall be designated as a committee co-chair; two (2) physicians appointed by the Kentucky Board of Medical Licensure, one (1) of whom shall be designated as a committee co-chair; and one (1) pharmacist appointed by the Kentucky Board of Pharmacy. The initial regulation shall be promulgated on or before August 15, 2006, and shall be reviewed at least annually thereafter by the committee.

Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation;

- (9) "Licensed practical nurse" means one who is licensed or holds the privilege under the provisions of this chapter to engage in licensed practical nursing practice;
- (10) "Licensed practical nursing practice" means the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:
 - (a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist;
 - (b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board;
 - (c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;
 - (d) Teaching, supervising, and delegating except as limited by the board; and
 - (e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally accepted organizations of licensed practical nurses;
- (11) "School of nursing" means a nursing education program preparing persons for licensure as a registered nurse or a practical nurse;
- (12) "Continuing education" means offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge;
- (13) "Nursing assistance" means the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse;
- (14) "Sexual assault nurse examiner" means a registered nurse who has completed the required education and clinical experience and maintains a current credential from the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the Office of the Kentucky State Medical Examiner pursuant to KRS 216B.400(4);
- (15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the

public's health, safety, and welfare;

- (16) "Credential" means a current license, registration, certificate, or other similar authorization that is issued by the board;
- (17) "Dispense" means:
 - (a) To receive and distribute noncontrolled legend drug samples from pharmaceutical manufacturers to patients at no charge to the patient or any other party; or
 - (b) To distribute noncontrolled legend drugs from a local, district, and independent health department, subject to the direction of the appropriate governing board of the individual health department;
- (18) "Dialysis care" means a process by which dissolved substances are removed from a patient's body by diffusion, osmosis, and convection from one (1) fluid compartment to another across a semipermeable membrane;
- (19) "Dialysis technician" means a person who is not a nurse, a physician assistant, or a physician and who provides dialysis care in a licensed renal dialysis facility under the direct, on-site supervision of a registered nurse or a physician; and
- (20) "Clinical internship" means a supervised nursing practice experience which involves any component of direct patient care.

Section 297. KRS 314.103 is amended to read as follows:

The board may require a criminal background investigation of an applicant for endorsement by means of a fingerprint check by the Department of Kentucky State Police and the Federal Bureau of Investigation.

Section 298. KRS 329.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Detection of deception examiner," referred to in this chapter as "examiner," means any person, other than a trainee, who uses any device or instrument to test or question individuals for the purpose of detecting deception. Before a person may be licensed as an examiner, he or she must have at least one (1) year's experience in detection of deception. Before an examiner may supervise a trainee, he or she must have at least two (2) years' experience in detection of deception.
- (2) "Trainee" means any person who has successfully completed a polygraph examiner's course at a polygraph examiner's school approved by the cabinet, but who has not been awarded the final certificate of proficiency or graduate certificate from the school, or any person, not a licensed examiner, who administers detection of deception examinations under the direct, personal supervision and control of a licensed examiner who is licensed by this state. No examiner may have more than two (2) trainees under his or her supervision and control at any one (1) time.
- (3) "Person" means any natural person, partnership, association, corporation, or trust.
- (4) "Cabinet" means the Justice and Public Safety Cabinet of the Commonwealth of Kentucky.
- (5) "Secretary" means the secretary of the Justice and Public Safety Cabinet of the Commonwealth of Kentucky.
- (6) "Polygraph" means an instrument which records permanently and simultaneously a subject's cardiovascular and respiratory patterns and other physiological changes pertinent to the detection of deception.
- (7) "Polygraph examiner" means the same as detection of deception examiner.

Section 299. KRS 329.030 is amended to read as follows:

- (1) No person shall administer a detection of deception examination, as set forth in KRS 329.010, or any imitation thereof, without first securing a trainee's license or an examiner's license. Each application for a trainee's license shall be made to the cabinet within ten (10) days of the commencement of the trainee's internship, and said application shall contain such information as may be reasonably required by the cabinet. Each application for a trainee license or a renewal or extension shall be accompanied by a fee of twenty-five dollars (\$25), which is nonrefundable. Each application for an examiner's license shall be made to the cabinet in writing on forms provided by the cabinet and shall contain such information as may be required by the cabinet to determine the eligibility of the applicant. Each application for an examiner's license shall be accompanied by a fee of fifty dollars (\$50), which is nonrefundable.
- (2) Each applicant for an examiner's license shall submit his or her fingerprints to the cabinet. The cabinet is authorized to exchange fingerprint data with the Department of Kentucky State Police and the Federal Bureau of Investigation in order to conduct a criminal history background check of the applicant. Each applicant shall also submit a sworn affidavit that said applicant:
 - (a) Is a citizen of the United States;
 - (b) Is at least eighteen (18) years of age;
 - (c) Has administered detection of deception examinations for a period of at least one (1) year using the instrumentation prescribed in KRS 329.020;
 - (d) Has completed a course of formal training in detection of deception in an institution accepted by the cabinet;
 - (e) Has not been convicted of a misdemeanor involving moral turpitude or a felony, or who has not been released or discharged under other than honorable conditions from any of the Armed Services of the United States, or any branch of the state, city or federal government; and
 - (f) Any other information required by the cabinet to determine the examiner's competency to obtain a license to

2007 Regular Session

practice in this state.

- (3) Upon receipt of an application for a trainee's license or for an examiner's license, the secretary shall investigate each application, and no license will be issued until said investigation is complete.
- (4) The cabinet shall establish such reasonable rules and regulations for the trainee during his internship as may be reasonably necessary for the purpose of insuring that the trainee meets adequate professional standards established by the cabinet.
- (5) The cabinet may require applicants for an examiner's license to pass an examination which shall be confined to such knowledge, practical ability and skill as is essential for performing the duties of a detection of deception examiner. The cabinet shall ~~promulgate administrative~~~~make rules and~~ regulations for conducting examinations and shall define the standards to be acquired to constitute passing the examination.
- (6) The cabinet shall ~~promulgate administrative~~~~establish such reasonable rules and~~ regulations~~for the examiner during his period of licensure as may be reasonably necessary~~ for the purpose of insuring that the examiner maintain adequate professional standards established by the cabinet.

Section 300. KRS 329A.040 is amended to read as follows:

- (1) Upon receipt of a license application, accompanied by a nonrefundable, nonproratable fee of not less than one hundred dollars (\$100) and not more than four hundred dollars (\$400), as established by the board by promulgation of administrative regulations, the board shall:
 - (a) Conduct an investigation to determine whether the statements made in the application are true; and
 - (b) Submit the application, including fingerprints as appropriate, to the Department of Kentucky State Police and the Administrative Office of the Courts for a state criminal history background check. The Department of Kentucky State Police may submit fingerprints of any applicant to the Federal Bureau of Investigation for a national criminal history background check. The board may by administrative regulation impose additional qualifications to meet the requirements of Pub. L. No. 92-544. The applicant for licensure shall bear the additional cost, in an amount not to exceed the actual cost, incurred for the criminal background check.
- (2) Following the investigation process, the board shall either deny or approve the application.
 - (a) If the application for a license is denied, the board:
 1. Shall notify the applicant in writing and set forth the grounds for denial. If the grounds are subject to correction by the applicant, the notice of denial shall so state and specify a reasonable period of time within which the applicant must make the correction; and
 2. Shall grant a hearing to the denied applicant in accordance with the provisions of KRS Chapter 13B.
 - (b) If the application for a license is approved, the board shall issue:
 1. A license to be posted conspicuously in the licensee's principal place of business; and
 2. A wallet-sized laminated identification card to each individual licensee to be carried while engaged in private investigation. Information on the card shall include the expiration date of the license and the licensee's:
 - a. Name;
 - b. Photograph;
 - c. Physical characteristics; and
 - d. License number.
- (3) A license or identification card issued under subsection (2) of this section is not assignable and is personal to the licensee.
- (4) For purposes of this section and KRS 329A.035, any company whose workforce is comprised of no more than one (1) private investigator shall only be required to have an individual private investigator's license. If at any time the workforce of such a company increases, the company shall notify the board of the workforce increase and shall seek a company license in addition to the individual private investigator's license.

Section 301. KRS 332.015 is amended to read as follows:

As used in this chapter:

- (1) "Department" means the Department of Kentucky State Police;
- (2) "Commissioner" means the commissioner of the Department of Kentucky State Police;
- (3) "Driver training" means instruction of persons in the operation of motor vehicles which are not commercial motor vehicles;
- (4) "Driver training school" means any person, firm, partnership, association or corporation which offers a course of driver training for which a fee or tuition is charged;
- (5) "Person," when referring to a driver training school, means person, firm, partnership, association, or corporation.

Section 302. KRS 332.095 is amended to read as follows:

- (1) All CDL driver training schools, as defined in KRS 165A.310, shall offer a minimum one hundred sixty (160) hours of

instruction to each student that has never been issued a CDL by any state. Each school shall be required to use the curriculum that has been approved by the State Board for Proprietary Education in consultation with the Department of Kentucky State Police and the Kentucky Community and Technical College System. Each school shall perform an evaluation of each student and determine the student's skill level to operate a commercial motor vehicle as beginner, intermediate, or advanced. The curriculum shall require a minimum number of hours of instruction based upon a student's skill level.

- (2) Each school may provide the one hundred sixty (160) hour approved curriculum in a manner that best utilizes the staff and equipment of the school including, but not limited to, nights, weekends, holidays, and hours of operation.
- (3) All CDL driver training schools, as defined in KRS 165A.310, may offer a refresher course of instruction to a resident who has one (1) year or more verifiable experience operating a commercial motor vehicle. The schools shall verify and maintain records documenting those students attending a refresher course. A refresher course may be offered on an hourly basis.
- (4) The ratio of students to instructors during a one hundred sixty (160) hour course shall not exceed:
 - (a) Thirty (30) students to one (1) instructor during classroom instruction;
 - (b) Six (6) students to one (1) instructor during off-the-road training; and
 - (c) Three (3) students to one (1) instructor during on-the-road training.
- (5) All CDL driver training schools, as defined in KRS 165A.310, shall require each student to undergo a drug test at the time the person applies to enroll in the school.

Section 303. KRS 350.052 is amended to read as follows:

- (1) Any officer appointed by the secretary pursuant to KRS 350.035(2) shall be empowered to arrest, without a warrant, any person detected by him or her to be violating the provisions of this chapter which constitute criminal offenses.
- (2) Any officer appointed by the secretary pursuant to KRS 350.035(2) shall have the authority to use physical force, which he or she believes necessary, in accomplishing any lawful arrest for a criminal offense; however, deadly physical force may be used only when the officer is authorized to make an arrest, the arrest is for a felony involving the threatened use of physical force likely to cause death or serious physical injury, and the officer believes that the person to be arrested is likely to endanger human life unless arrested without delay.
- (3) Any officer appointed by the secretary pursuant to KRS 350.035(2) shall meet the qualifications set forth in KRS 61.300(1), (4), and (5) and shall prior to appointment:
 - (a) Successfully complete not fewer than eighty (80) hours of training in a program provided by the Department of Criminal Justice Training, Justice and Public Safety Cabinet, and dealing comprehensively with the subjects of criminal law and the law of arrest, search and seizure; and
 - (b) Demonstrate in written and practical examinations approved by the Department of Criminal Justice Training, Justice and Public Safety Cabinet, knowledge of and proficiency in firearms safety, range firing, the moral and legal aspects of firearms use, and first aid.

Section 304. KRS 403.700 is amended to read as follows:

- (1) The Council on Domestic Violence and Sexual Assault is created and established for the purpose of planning and direction of legal, protection, and support services related to domestic violence and sexual assault, and to increase the awareness of all Kentuckians regarding the prevalence and impact of these crimes.
- (2) Members of the council shall include:
 - (a) The Attorney General or a designee;
 - (b) The secretary of the Cabinet for Health and Family Services or a designee;
 - (c) The secretary of the Justice and Public Safety Cabinet or a designee;
 - (d) The public advocate or a designee;
 - (e) The executive director of the Division of Child Abuse and Domestic Violence Services;
 - (f) The executive director of the Office of Legislative and Intergovernmental Services of the Justice and Public Safety Cabinet~~[Kentucky Criminal Justice Council]~~;
 - (g) The executive director of the Commission on Women;
 - (h) At the direction of the Chief Justice of the Supreme Court, the director of the Administrative Office of the Courts;
 - (i) One (1) Circuit Court Judge, one (1) family court judge, and one (1) District Court Judge, who shall be appointed by the Chief Justice of the Supreme Court;
 - (j) The executive director of the Kentucky Domestic Violence Association;
 - (k) The president of the Kentucky Domestic Violence Association or a designee;
 - (l) The executive director of the Kentucky Association of Sexual Assault Programs;
 - (m) The president of the Kentucky Association of Sexual Assault Programs or a designee;
 - (n) Two (2) members of the Senate who shall be appointed by the President of the Senate;

- (o) Three (3) members of the House of Representatives who shall be appointed by the Speaker of the House; and
 - (p) The following members, who shall be appointed by the secretary for Health and Family Services. To be eligible for appointment under this paragraph, a person shall have an understanding of, and demonstrated commitment to, addressing crimes involved in domestic or sexual violence:
 - 1. One (1) county attorney;
 - 2. One (1) Commonwealth's attorney;
 - 3. One (1) Circuit Court Clerk;
 - 4. One (1) sheriff;
 - 5. One (1) peace officer;
 - 6. Two (2) representatives of local domestic violence coordinating councils or sexual assault response teams;
 - 7. One (1) advocate for adult victims of domestic or sexual violence;
 - 8. One (1) advocate for child witnesses of domestic or sexual violence;
 - 9. One (1) physician;
 - 10. One (1) sexual assault nurse examiner;
 - 11. One (1) mental health professional with demonstrated expertise in treating offenders;
 - 12. One (1) employee of the Department for Community Based Services who provides direct services to victims of domestic violence;
 - 13. One (1) person employed as a probation or parole officer; and
 - 14. Two (2) citizen at-large members.
 - (3) The secretary of Health and Family Services shall appoint two (2) co-chairs and two (2) vice chairs of the council. One (1) of the vice chairs shall be a council member who is a criminal justice professional. The co-chairs and vice chairs shall serve for a term of one (1) year after which they may be reappointed by the secretary.
 - (4) Council members shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment. Members shall not serve longer than two (2) consecutive four (4) year terms.
 - (5) The council shall establish an executive committee, the membership of which shall be named by the co-chairs of the council.
 - (6) The duties and responsibilities of the council shall include, but not be limited to, the following:
 - (a) Promoting coordination among agencies and officials responsible for addressing domestic violence and sexual assault;
 - (b) Determining the availability of services for victims, children who witness domestic violence or sexual assault, and offenders;
 - (c) Facilitating the development of local domestic violence councils and sexual assault response teams that shall include publication of model protocols, training, and technical assistance;
 - (d) Promoting community awareness and the prevention of domestic and sexual violence;
 - (e) Providing assistance to the Attorney General, the Administrative Office of the Courts, the Justice and Public Safety Cabinet, and the Cabinet for Health and Family Services in the development of training curricula, treatment programs, and model policies related to domestic violence and sexual assault;
 - (f) Reviewing and analyzing data and information relating to domestic violence and sexual assault from existing sources including, but not limited to, the Department of Kentucky State Police, the Cabinet for Health and Family Services, the Department of Corrections, and the Administrative Office of the Courts;
 - (g) Recommending to the appropriate entity changes in state programs, legislation, administrative regulations, policies, budgets, and treatment and service standards relating to domestic violence and sexual assault; and
 - (h) Preparing a biennial report to be submitted no later than July 1 of every odd-numbered year to the Governor, the Legislative Research Commission, and the Chief Justice of the Supreme Court.
 - (7) The council shall establish any committees necessary to carry out its duties.
 - (8) The council shall be attached to the Division of Child Abuse and Domestic Violence Services for administrative purposes. Members of the council shall be eligible to receive actual and reasonable travel expenses.
 - (9) The secretary of the Justice and Public Safety Cabinet and the secretary of the Cabinet for Health and Family Services shall provide the necessary staff to assist the council in carrying out its duties and responsibilities.
- Section 305. KRS 403.707 is amended to read as follows:
- (1) The Council on Domestic Violence and Sexual Assault shall create a Sexual Assault Response Team Advisory Committee.
 - (2) The Sexual Assault Response Team Advisory Committee shall be co-chaired by the executive director of the Kentucky Association of Sexual Assault Programs and the commissioner of the Department of Kentucky State Police or the

commissioner's designee.

- (3) The membership of the Sexual Assault Response Team Advisory Committee shall consist of the following:
 - (a) The executive director of the Kentucky Board of Nursing or the executive director's designee;
 - (b) The executive director of the Kentucky Nurses Association or the executive director's designee;
 - (c) The executive director of the Kentucky Hospital Association or the executive director's designee;
 - (d) The director of the Department of Kentucky State Police Crime Lab;
 - (e) The chief medical examiner or the chief medical examiner's designee;
 - (f) The executive director of the Division of Child Abuse and Domestic Violence Services or the executive director's designee;
 - (g) The director of the Victims' Advocacy Division of the Office of the Attorney General or the director's designee;
 - (h) A sexual assault nurse examiner serving on the Governor's Council on Domestic Violence and Sexual Assault;
 - (i) A representative from a sexual assault response team serving on the Council on Domestic Violence and Sexual Assault;
 - (j) A physician appointed by the co-chairs of the Council on Domestic Violence and Sexual Assault; and
 - (k) A Commonwealth's attorney or an assistant Commonwealth's attorney appointed by the co-chairs of the Council on Domestic Violence and Sexual Assault.
- (4) Members appointed under paragraphs (h) to (k) of subsection (3) shall serve at the pleasure of the appointing authority and shall not serve longer than four (4) years without reappointment.
- (5) The Sexual Assault Response Team Advisory Committee shall:
 - (a) Serve in an advisory capacity to the Kentucky Board of Nursing in accomplishing the duties set forth under KRS 314.142;
 - (b) Serve in an advisory capacity to the chief medical examiner in the development of the statewide sexual assault protocol required under KRS 216B.400(4);
 - (c) Develop a model protocol for the operation of sexual assault response teams which shall include the roles of sexual assault nurse examiners, physicians, law enforcement, prosecutors, and victim advocates;
 - (d) Provide information and recommendations concerning the activities of the agency or organization represented by each individual committee member as related to sexual assault issues and programs within the purview of the agency or organization; and
 - (e) Recommend to the Council on Domestic Violence and Sexual Assault any changes in statute, administrative regulation, training, policy, and budget to promote a multidisciplinary response to sexual assault.

Section 306. KRS 403.737 is amended to read as follows:

All forms, affidavits, emergency protective orders, domestic violence orders, orders amending an existing protective order, or other orders issued pursuant to KRS 403.715 to 403.785, or the laws of another jurisdiction which are entitled to full faith and credit in Kentucky pursuant to the provisions of 18 U.S.C. sec. 2265, which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts after consultation with the Justice and Public Safety Cabinet. If the provisions of a protective order are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.

Section 307. KRS 422.285 is amended to read as follows:

- (1) At any time, a person who was convicted of and sentenced to death for a capital offense and who meets the requirements of this section may request the forensic deoxyribonucleic acid (DNA) testing and analysis of any evidence that is in the possession or control of the court or Commonwealth, that is related to the investigation or prosecution that resulted in the judgment of conviction and that may contain biological evidence.
- (2) After notice to the prosecutor and an opportunity to respond, the court shall order DNA testing and analysis if the court finds that all of the following apply:
 - (a) A reasonable probability exists that the petitioner would not have been prosecuted or convicted if exculpatory results had been obtained through DNA testing and analysis;
 - (b) The evidence is still in existence and is in a condition that allows DNA testing and analysis to be conducted; and
 - (c) The evidence was not previously subjected to DNA testing and analysis or was not subjected to the testing and analysis that is now requested and may resolve an issue not previously resolved by the previous testing and analysis.
- (3) After notice to the prosecutor and an opportunity to respond, the court may order DNA testing and analysis if the court finds that all of the following apply:
 - (a) A reasonable probability exists that either:
 1. The petitioner's verdict or sentence would have been more favorable if the results of DNA testing and

2007 Regular Session

analysis had been available at the trial leading to the judgment of conviction; or

2. DNA testing and analysis will produce exculpatory evidence;

- (b) The evidence is still in existence and is in a condition that allows DNA testing and analysis to be conducted; and
- (c) The evidence was not previously subject to DNA testing and analysis or was not subjected to the testing and analysis that is now requested and that may resolve an issue not previously resolved by the previous testing and analysis.

- (4) If the court orders testing and analysis pursuant to subsection (2) of this section, the court shall order the responsibility for payment, if necessary. If the court orders testing and analysis of this section pursuant to subsection (3) of this section, the court shall require the petitioner to pay the costs of testing and analysis, if required by KRS 17.176. If the court orders testing and analysis under subsection (2) or (3) of this section the court shall appoint counsel to those petitioners who qualify for appointment under KRS Chapter 31.
- (5) If the prosecutor or defense counsel has previously subjected evidence to DNA testing and analysis, the court shall order the prosecutor or defense counsel to provide all the parties and the court with access to the laboratory reports that were prepared in connection with the testing and analysis, including underlying data and laboratory notes. If the court orders DNA testing and analysis pursuant to this section, the court shall order the production of any laboratory reports that are prepared in connection with the testing and analysis and may order the production of any underlying data and laboratory notes.
- (6) If a petition is filed pursuant to this section, the court shall order the state to preserve during the pendency of the proceeding all evidence in the state's possession or control that could be subjected to DNA testing and analysis. The state shall prepare an inventory of the evidence and shall submit a copy of the inventory to the defense and the court. If the evidence is intentionally destroyed after the court orders its preservation, the court may impose appropriate sanctions, including criminal contempt.
- (7) The court may make any other orders that the court deems appropriate, including designating any of the following:
 - (a) The preservation of some of the sample for replicating the testing and analysis; and
 - (b) Elimination samples from third parties.
- (8) If the results of the DNA testing and analysis are not favorable to the petitioner, the court shall dismiss the petition. The court may make further orders as it deems appropriate, including any of the following:
 - (a) Notifying the Department of Corrections and the Parole Board;
 - (b) Requesting that the petitioner's sample be added to the Department of Kentucky State Police database; and
 - (c) Providing notification to the victim or family of the victim.
- (9) In a capital case in which the death penalty has been imposed, notwithstanding any other provision of law that would bar a hearing as untimely, if the results of the DNA testing and analysis are favorable to the petitioner, the court shall order a hearing and make any further orders that are required pursuant to this section or the Kentucky Rules of Criminal Procedure.

Section 308. KRS 422.287 is amended to read as follows:

- (1) When a person is being tried for a capital offense and there is evidence in the case which may be subjected to deoxyribonucleic acid (DNA) testing and analysis, the Commonwealth or the defendant may move to have any item of evidence not previously subjected to DNA testing and analysis tested and analyzed.
- (2) If the court is satisfied that the item of evidence has not been tested and analyzed, that DNA testing and analysis would yield evidence of probative value, and that the item of evidence has not previously been the subject of DNA testing and analysis or that new DNA testing and analysis would yield a more accurate result, the court shall order DNA testing and analysis of the evidence.
- (3) The testing and analysis of the evidence shall be done by the Department of Kentucky State Police laboratory or at another laboratory selected by the Department of Kentucky State Police laboratory.
- (4) DNA testing and analysis results shall be made available to both the Commonwealth and the defendant and either the Commonwealth or the defendant may move that they be admitted at trial.
- (5) If the defendant is convicted of any offense for which DNA test and analysis results are required to be maintained by law, the DNA test and analysis results obtained pursuant to this section shall be utilized for that purpose, whether or not the test and analysis results were introduced in the case.

Section 309. KRS 431.064 is amended to read as follows:

- (1) In making a decision concerning pretrial release of a person who is arrested for a violation of KRS Chapter 508 or 510, or charged with a crime involving a violation of a protective order issued pursuant to KRS 403.740 or 403.750, the court or agency having authority to make a decision concerning pretrial release shall review the facts of the arrest and detention of the person and determine whether the person:
 - (a) Is a threat to the alleged victim or other family or household member; and

- (b) Is reasonably likely to appear in court.
- (2) Before releasing a person arrested for or charged with a crime specified in subsection (1) of this section, the court shall make findings, on the record if possible, concerning the determination made in accordance with subsection (1), and may impose conditions of release or bail on the person to protect the alleged victim of domestic violence or abuse and to ensure the appearance of the person at a subsequent court proceeding. The conditions may include:
 - (a) An order enjoining the person from threatening to commit or committing acts of domestic violence or abuse against the alleged victim or other family or household member;
 - (b) An order prohibiting the person from harassing, annoying, telephoning, contacting, or otherwise communicating with the alleged victim, either directly or indirectly;
 - (c) An order directing the person to vacate or stay away from the home of the alleged victim and to stay away from any other location where the victim is likely to be;
 - (d) An order prohibiting the person from using or possessing a firearm or other weapon specified by the court;
 - (e) An order prohibiting the person from possession or consumption of alcohol or controlled substances;
 - (f) Any other order required to protect the safety of the alleged victim and to ensure the appearance of the person in court; or
 - (g) Any combination of the orders set out in paragraphs (a) to (f).
- (3) If conditions of release are imposed, the court imposing the conditions on the arrested or charged person shall:
 - (a) Issue a written order for conditional release; and
 - (b) Immediately distribute a copy of the order to pretrial services.
- (4) The court shall provide a copy of the conditions to the arrested or charged person upon release. Failure to provide the person with a copy of the conditions of release does not invalidate the conditions if the arrested or charged person has notice of the conditions.
- (5) If conditions of release are imposed without a hearing, the arrested or charged person may request a prompt hearing before the court to review the conditions. Upon request, the court shall hold a prompt hearing to review the conditions.
- (6) The victim, as defined in KRS 421.500, of the defendant's alleged crime, or an individual designated by the victim in writing, shall be entitled to a free certified copy of the defendant's conditions of release, or modified conditions of release, upon request to the clerk of the court which issued the order releasing the defendant. The victim or the victim's designee may personally obtain the document at the clerk's office or may have it delivered by mail.
- (7) The circuit clerk, or the circuit clerk's designee, in cooperation with the court that issued the order releasing the defendant, shall cause the conditions of release to be entered into the computer system maintained by the clerk and the Administrative Office of the Courts within twenty-four (24) hours following its filing, excluding weekends and holidays. Any modification of the release conditions shall likewise be entered by the circuit clerk, or the circuit clerk's designee.
- (8) The information entered under this section shall be accessible to any agency designated by the Department of Kentucky State Police as a terminal agency for the Law Information Network of Kentucky.
- (9) All orders issued under this section which require entry into the Law Information Network of Kentucky shall be entered on forms prescribed by the Administrative Office of the Courts. If the conditions of pretrial release are contained in an order which is narrative in nature, the prescribed form shall be used in addition to the narrative order.
- (10) Any person who violates any condition of an order issued pursuant to this section is guilty of a Class A misdemeanor.

Section 310. KRS 431.105 is amended to read as follows:

Notwithstanding any other statutory provisions to the contrary, all fines and forfeitures recovered in any court as a result of a conviction for the violation of any of the provisions of KRS 189.221, subsection (1) of 189.222, or 189.270, which violation occurred on a state-maintained highway and arrest was made by any peace officer other than a member of the Department of Kentucky State Police, Department of Kentucky Vehicle Enforcement, Department of Highways, or Department of Vehicle Regulation, shall inure to the benefit of the state, shall be paid to the State Treasurer for the use and benefit of the Department of Highways, and no part shall be returned to the local governmental units from which they were sent. These fines and forfeitures shall be paid into the State Treasury by the court collecting same and within thirty (30) days after imposition and collection.

Section 311. KRS 431.450 is amended to read as follows:

- (1) The Department of Kentucky State Police in consultation with the Transportation Cabinet shall design, print, and distribute to all law enforcement agencies in the Commonwealth a uniform citation.
- (2) The citation shall:
 - (a) Be approved by the Supreme Court;
 - (b) Consist of an original document and five (5) copies;
 - (c) Be serially numbered in such a manner that the year of issue and the individual citation number may be readily ascertained; and

- (d) Contain such other information as may be required by the Supreme Court.
- (3) The Circuit Court clerk shall maintain a system of accountability for all citations issued in accordance with rules and regulations issued by the Supreme Court to assure that citations are not wrongfully destroyed, tampered with, or otherwise compromised in any manner.
- (4) All peace officers in the Commonwealth shall use the uniform citation for all violations of the traffic laws and for all felonies, misdemeanors and violations.

Section 312. KRS 431.4505 is amended to read as follows:

The Justice and Public Safety Cabinet shall modify the uniform citation form to include spaces where the peace officer may include:

- (1) The alcohol concentration in cases of violation of KRS 189A.010; and
- (2) Whether the defendant did take, refused to take, or was unable to take for some reason (to be specified on the citation), the alcohol concentration or drug test or tests specified by the peace officer following an arrest for violation of KRS 189A.010.

Section 313. KRS 431.452 is amended to read as follows:

- (1) An offense which is designated as subject to prepayment by specific statutory designation may be prepaid by the violator subject to the terms and conditions of the statute involved.
- (2) When an offense that is not designated as subject to prepayment by specific statutory designation is cited on the same citation with another offense that is subject to prepayment, the officer shall cite the violator to court for all cited offenses. However, if the offense for which prepayment is not allowed is dismissed by the judge prior to the court date listed on the citation, the offense subject to prepayment by specific statutory designation may be prepaid by the violator, and the violator shall not be required to appear in court.
- (3) An offense which is designated as subject to prepayment is subject to the following conditions:
 - (a) Designation as subject to prepayment does not preclude a physical arrest by a peace officer for that offense;
 - (b) Designation as subject to prepayment shall preclude a requirement that the defendant make a court appearance on a uniform citation;
 - (c) Except as provided in KRS 189.990(25), for any offense designated as subject to prepayment, the defendant may elect to pay the minimum fine for the offense plus court costs to the circuit clerk before the date of his trial or be tried in the normal manner, unless the citation is marked for mandatory court appearance pursuant to KRS 431.015 or subsection (2) of this section, except that the fine for violations of KRS 189.221, 189.222, 189.226, 189.270, or 189.271 shall be in accordance with KRS 189.990(2)(a) and the defendant shall not be allowed to pay the minimum fine as otherwise allowed by this paragraph; and
 - (d) Prepayment of the fine and costs shown on the citation or accompanying schedule shall be considered as a plea of guilty for all purposes.
- (4) When a peace officer issues a uniform citation and no physical arrest is made he or she shall, where the citation is designated as subject to prepayment, mark the citation as "PAYABLE", except as provided in KRS 431.015 or subsection (2) of this section.
- (5) The Administrative Office of the Courts, after consultation with the Department of Kentucky State Police, the Transportation Cabinet, the Division of Forestry, the Department of Fish and Wildlife Resources, and a representative of law enforcement shall develop a prepayable fine and cost schedule and a uniform statewide instruction sheet for the Commonwealth.

Section 314. KRS 431.650 is amended to read as follows:

- (1) The Kentucky Multidisciplinary Commission on Child Sexual Abuse is hereby created.
- (2) The commission shall be comprised of the following members:
 - (a) The commissioner of the Department for Community Based Services or a designee;
 - (b) The commissioner of the Department for Mental Health and Mental Retardation Services or a designee;
 - (c) One (1) social service worker who is employed by the Department for Community Based Services to provide child protective services, who shall be appointed by the secretary of the Cabinet for Health and Family Services;
 - (d) One (1) therapist who provides services to sexually abused children, who shall be appointed by the secretary of the Cabinet for Health and Family Services;
 - (e) The commissioner of the Department Kentucky State Police or a designee;
 - (f) One (1) law enforcement officer who is a detective with specialized training in conducting child sexual abuse investigations, who shall be appointed by the secretary of the Justice and Public Safety Cabinet;
 - (g) One (1) employee of the Administrative Office of the Courts appointed by the Chief Justice of the Supreme Court of Kentucky;
 - (h) Two (2) employees of the Attorney General's Office who shall be appointed by the Attorney General;

- (i) One (1) Commonwealth's attorney who shall be appointed by the Attorney General;
 - (j) The commissioner of the Department of Education or a designee;
 - (k) One (1) school counselor, school psychologist, or school social worker who shall be appointed by the commissioner of the Department of Education;
 - (l) The executive director of the Division of Child Abuse and Domestic Violence Services or a designee;
 - (m) One (1) representative of a children's advocacy center who shall be appointed by the Governor;
 - (n) One (1) physician appointed by the Governor; and
 - (o) One (1) former victim of a sexual offense or one (1) parent of a child sexual abuse victim who shall be appointed by the Attorney General.
- (3) Appointees shall serve at the pleasure of the appointing authority but shall not serve longer than four (4) years without reappointment.
 - (4) The commission shall elect a chairperson annually from its membership.

Section 315. KRS 433.234 is amended to read as follows:

- (1) Willful concealment of unpurchased merchandise of any store or other mercantile establishment on the premises of such store shall be prima facie evidence of an intent to deprive the owner of his property without paying the purchase price therefor.
- (2) All city and county law enforcement agencies shall cause to be made a photograph, a set of fingerprints and a general descriptive report of all persons except juveniles arrested for theft through an act of shoplifting. If convicted, two (2) copies of each item shall be forwarded within thirty (30) days to the Department of Kentucky State Police of the Justice and Public Safety Cabinet.

Section 316. KRS 433.753 is amended to read as follows:

- (1) When any paper, waste material, litter or other refuse is thrown or dropped from a motor vehicle, the operator thereof shall be deemed prima facie to be guilty of criminal littering.
- (2) It shall be the duty of the Department of Kentucky State Police, county sheriffs and police officers, solid waste coordinators appointed by a county or waste management district, city police officers, and all other law enforcement and peace officers within their respective jurisdictions, to enforce the criminal littering laws and the provisions of KRS 224.40-100.
- (3) Any city or county may offer and pay rewards for the giving of information leading to the arrest and conviction of any person, firm or corporation for commission of the offense of criminal littering.
- (4) Violators may prepay to the Circuit Court clerk if prepayment is so noted on the citation and if the littering offense is not combined with an offense that is not prepayable.

Section 317. KRS 434.445 is amended to read as follows:

- (1) Any person who knowingly transfers or causes to be transferred any sounds recorded on a phonograph record, disc, wire, tape, film, or other article on which sounds are recorded, with the intent to sell or cause to be sold for profit or used to promote the sale of any product, such article on which sounds are so transferred without the consent of the owner, shall be guilty of a Class D felony. Each individual manufacture of such recorded article shall constitute a separate offense. "Owner," for purposes of this section, means the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film, or other device used for reproducing sounds on phonograph records, discs, tapes, films, or other articles upon which sound is recorded, and from which the transferred recorded sounds are directly derived.
- (2) Any person who knowingly transfers or causes to be transferred to any phonograph record, disc, wire, tape, film, or other article, any performance, whether live before an audience or transmitted by wire or through the air by radio or television, with the intent to sell or cause to be sold for profit or used to promote the sale of any product, such article onto which such performance is or distributes, causes the distribution of, or possesses for one (1) or more of these purposes, to be transferred without the consent of the performer, shall be fined not less than five hundred dollars (\$500) nor more than three thousand dollars (\$3,000) or confined in the penitentiary for not less than one (1) year nor more than five (5) years, or both. Each individual transfer or manufacture of such recorded article shall constitute a separate offense. For purposes of this section, a person who is authorized to maintain custody and control over business records that reflect whether or not the owner of the live performance consented to having the live performance recorded or fixed is a proper witness in a proceeding regarding the issue of consent.
- (3) Any person who knowingly, or with reasonable grounds to know, advertises or offers for sale or resale, or sells or resells, or as a renter, rents or causes the rental of, or distributes or possesses for such purposes any sound recording manufactured without the consent of the owner, as defined in subsection (1) of this section, or any sound recording manufactured without the consent of the performer shall, be guilty of a Class D felony. Possession of five (5) or more duplicate copies or twenty (20) or more individual copies of such recorded articles, produced without the consent of the owner, shall create a rebuttable presumption that such devices are intended for sale or distribution in violation of this section. Each sale or

resale of any such article shall constitute a separate offense.

- (4) Any person who knowingly sells or distributes, offers to sell or distribute, possesses for the purpose of sale or distribution any phonograph record, disc, wire, tape, film, or other article now known or later developed on which sounds, images, or both sounds and images have been transferred unless such phonograph record, disc, wire, tape, film, or other article bears the true name and address of the transferor of the sounds and the name of the actual performer or group in a prominent place on its packaging shall be guilty of a Class D felony. Each sale or distribution of any such article shall constitute a separate offense.
- (5) This section does not apply to any person who transfers or causes to be transferred any such sounds or images intended for or in connection with radio or television broadcast or cable transmission or related uses, or for archival purposes, or solely for the personal use of the person transferring or causing the transfer and without any compensation being derived by the person from the transfer.
- (6) It shall be the duty of all peace officers within the Commonwealth of Kentucky and the Department of Kentucky State Police upon discovery to confiscate the recorded devices produced in violation of this section. Any recorded device produced in violation of this section, which has come into the custody of a peace officer, shall be forfeited and destroyed by the court having jurisdiction. A record of the place where said recorded devices were seized, the kinds and quantities of recorded devices so destroyed, and of the time, place, and manner of the destruction, shall be kept.

Section 318. KRS 439.250 is amended to read as follows:

As used in KRS 439.250 to 439.560, unless the context requires otherwise:

- (1) "Secretary" means the secretary of the Justice and Public Safety Cabinet;
- (2) "Commissioner" means the commissioner of the Department of Corrections;
- (3) "Department" means the Department of Corrections;
- (4) "Deputy commissioner" means the deputy commissioner of the Office~~Division~~ of Adult Institutions or the deputy commissioner of the Office~~Division~~ of Community Services and ~~Local~~ Facilities of the Department of Corrections;
- (5) "Board" means the Parole Board created by KRS 439.320.

Section 319. KRS 439.320 is amended to read as follows:

- (1) The Governor shall appoint a Parole Board consisting of seven (7) full-time members and two (2) part-time members, as described in subsection (7) of this section, to be confirmed by the Senate in accordance with KRS 11.160. Each of the two (2) part-time members shall be from a different political party. The Governor shall make each appointment for full-time and part-time members from a list of three (3) names given to him by the Kentucky State Corrections Commission~~on Correction and Community Service~~. Each member appointed to the board shall have had at least five (5) years of actual experience in the field of penology, correction work, law enforcement, sociology, law, education, social work, medicine, or a combination thereof, or have served at least five (5) years previously on the Parole Board. No more than five (5) board members shall be of the same political party. The board shall be attached to the Justice and Public Safety Cabinet for administrative purposes only; the Department of Corrections shall provide any clerical, stenographic, administrative, and expert staff assistance the board deems necessary to carry out its duties.
- (2) The Governor shall name one (1) full-time member as chairman of the board.
- (3) The full-time members of the board shall give full time to the duties of their office and shall receive necessary traveling expenses and a salary to be determined pursuant to KRS 64.640(2), except the chairman of the board shall receive additional compensation of one thousand dollars (\$1,000) per year for his or her services. Their terms of office shall be four (4) years and until their successors are appointed and have qualified. Their successors shall be appointed thereafter as provided in this section for terms of four (4) years, and a vacancy occurring before expiration of the term of office shall be similarly filled for the unexpired term. The chairman of the board shall serve as such until the expiration of his or her term at which time the Governor shall name his or her successor and designate the chairman of the board. If a vacancy occurs in the chairmanship of the board before the expiration of the term, the Governor may name a successor to serve for the remainder of the unexpired term.
- (4) The organization of the board shall be determined by the chairman and shall be consistent with administrative regulations promulgated pursuant to KRS 439.340. For policy and procedural matters, four (4) members shall constitute a quorum. Parole and final parole revocation hearings may be done by panels of the board, subject to the following requirements:
 - (a) If a two (2) member panel is utilized, both members of the panel shall agree on the decision or the matter shall be referred to the full board;
 - (b) If a three (3) member panel is utilized, two (2) of the three (3) members of the panel shall agree on a decision or the matter shall be referred to the full board; and
 - (c) If a panel of four (4) or more members is utilized, a majority of the panel shall agree on a decision or the matter shall be referred to the full board.
- (5) The Governor may not remove any member of the board except for disability, inefficiency, neglect of duty, or malfeasance in office. Before removal, he or she shall give the member a written copy of the charges against him or her and shall fix the time when he or she can be heard in his or her defense, which shall not be less than ten (10) days thereafter. Upon

removal, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the member and the findings thereupon with a record of the proceedings.

- (6) Upon the expiration of the terms of office of the two (2) full-time board members whose terms expire May 23, 1994, the Governor shall appoint two (2) full-time members to serve terms which will expire June 30, 1995. Thereafter, appointments to these two (2) full-time terms shall be for four (4) years and shall be filled as provided for in subsection (3) of this section. The Governor may reappoint present members if they meet the qualifications set forth in subsection (1) of this section.
- (7) The part-time members may participate in considering the grant or revocation of parole at the request of the chairman. No more than one (1) part-time Parole Board member shall serve on any panel of the board as set forth in subsection (4) of this section. The part-time Parole Board member called upon to serve shall be paid at a per diem rate equal to the per diem rate for the salary of a newly appointed full-time member and shall receive necessary travel expenses. The part-time Parole Board member shall serve for a period of four (4) years from the date of appointment and may be reappointed.
- (8) The office of executive director of the Parole Board is created. The office shall be headed by an executive director who shall be appointed by and directly responsible to the secretary of the Justice and Public Safety Cabinet in matters relating to administration. The executive director shall be responsible for the support services to the Parole Board in the area of financial, personnel, and facilities management; shall provide recommendations on administrative issues affecting the board to the secretary of the Justice and Public Safety Cabinet, the chairman of the Parole Board, and Parole Board members; shall review and draft legislation and promulgate administrative regulations for the board; and shall review parole data and conduct long-range planning as relevant to the planning needs of the board.

Section 320. KRS 439.470 is amended to read as follows:

- (1) The commissioner shall promulgate administrative regulations~~[have the power and duty to make rules]~~ for the conduct of persons placed on probation or parole, except ~~that~~~~[the]~~ commissioner shall not promulgate~~[make]~~ any administrative regulation~~[rule]~~ which conflicts with the conditions of probation imposed by the court or conditions of release imposed by the board.
- (2) The commissioner may utilize an approved monitoring device as defined in KRS 532.200(5) in the supervision of persons placed on probation or parole and to impose a reasonable fee on the probationer or parolee, as a condition of probation or parole, for equipment usage.
- (3) The commissioner, or his or her designee shall:
 - (a) Be responsible for any reports of investigation and supervision as may be requested by the board or the courts;
 - (b) Divide the Commonwealth~~[state]~~ into districts and assign probation and parole officers to serve in the various districts and courts;
 - (c) Direct the work of the officers and other employees assigned to him or her;
 - (d) Formulate methods of investigation, supervision, record keeping, and reports;
 - (e) Conduct training courses for the staff;
 - (f) Negotiate with public or private groups or institutions for further training of employees and authorize the expenditure of funds for that purpose when needed;
 - (g) Develop policies on probation and parole work in the light of other welfare administration policies.

Section 321. KRS 439.483 is amended to read as follows:

- (1) Each probation and parole officer shall be trained in the requirements of the sexual offender registration laws and shall be able to:
 - (a) Register or reregister a sexual offender; and
 - (b) Answer questions about the sexual offender registration law and its requirements.
- (2) The Justice and Public Safety Cabinet shall provide each probation and parole office with sufficient copies of the following documents to handle the expected numbers of registrants:
 - (a) The sexual offender registration statutes and any administrative regulations which are promulgated relating to sexual offender registration;
 - (b) A brochure explaining in lay person's terms the requirements of the sex offender registration laws and administrative regulations;
 - (c) Registration forms;
 - (d) Fingerprint cards; and
 - (e) Other documents and supplies necessary to register a sexual offender.

Section 322. KRS 439.580 is amended to read as follows:

As used in KRS 439.590 to 439.630, unless the context otherwise requires:

- (1) "Secretary" means the secretary of the Justice and Public Safety Cabinet;

- (2) "Commissioner" means the commissioner of the Department of Corrections;
- (3) "Department" means the Department of Corrections;
- (4) "Facility" means the community correctional center; and
- (5) "Relative" means a spouse; child, including step-child, adopted child or child as to whom the prisoner, though not a biological parent, has acted in the place of a parent; parent including a person who, though not a biological parent, has acted in the place of a parent; brother; sister; or grandparents.

Section 323. KRS 441.046 is amended to read as follows:

- (1) All persons arrested or detained in any adult or juvenile detention facility shall be fingerprinted prior to the person's release from custody. A copy of these fingerprints shall be transmitted to the Department of Kentucky State Police for review.
- (2) The jailer shall fingerprint persons for other law enforcement agencies.
- (3) The jailer shall submit the fingerprints to the Department of Kentucky State Police in the manner and at the time required by the Department of Kentucky State Police through administrative regulation.
- (4) The Department of Kentucky State Police shall notify the Department of Corrections and the jailer, in writing, of the intentional failure of a jailer to comply with subsection (1), (2), or (3) of this section. Upon the first receipt of the notification of an intentional failure to comply with subsection (1), (2), or (3) of this section, the Department of Corrections shall issue a formal written warning to the jailer setting forth the consequences of continued intentional failure to comply with subsection (1), (2), or (3) of this section.
- (5) If the jailer intentionally failed to comply with any fingerprinting requirements of subsection (1), (2), or (3) of this section, after being warned of such intentional failure, the Department of Corrections shall have authority to withhold the state contribution under KRS 441.206 and may require the jailer to return the state contribution funds received under KRS 441.206 for any period in which he or she intentionally failed to comply after being warned.

Section 324. KRS 441.115 is amended to read as follows:

- (1) For the purpose of raising the level of competence of jailers and jail personnel, the department shall maintain a jail staff training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. The training program shall include training on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for Health and Family Services. A curriculum advisory committee composed of jailers, their representatives, and recognized professionals in the field of jail administration shall advise the department concerning the training needs of jailers and jail personnel. The jail staff training program shall be directed and staffed, ~~in coordination with the Governmental Services Center at Kentucky State University,~~ by knowledgeable persons who have sufficient experience, training, and education in jail operations. The department shall not charge a fee for training jailers, their deputies, or jailers-elect.
- (2) Beginning in August, 1982, each jailer shall receive an expense allowance to help defray the costs of his participation in the jail staff training program. The expense allowance shall be in the amount of three hundred dollars (\$300) per month payable out of the State Treasury. Expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of the training.
- (3) The allowance authorized in subsections (2) and (4) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.
- (4) In order to receive the expense allowance for their first year in office, jailers who have been elected to office for the first time, shall, before taking office, successfully complete a training program designed for new jailers and conducted by the personnel of the jail staff training program. This provision shall not apply if the jailer-elect is ill and unable to complete the training before taking office. In such cases, the jailer-elect shall successfully complete a new jailer training program during his first year in office in order to receive the expense allowance. The county or urban-county government in which the jailer-elect serves shall pay out of the jail budget, once he takes office, all necessary and reasonable travel expenses incurred by the jailer-elect in attending the new jailer training program.
- (5) All jailers shall successfully complete the training required. If a jailer does not successfully complete the required training within the time specified, he or she shall not receive the expense allowance specified in subsection (2) of this section until he or she successfully completes the required training.

Section 325. KRS 500.090 is amended to read as follows:

- (1) All property which is subject to forfeiture under any section of the Kentucky Penal Code shall be disposed of in accordance with this section.
 - (a) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be destroyed by the sheriff of the county in which the conviction was obtained.
 - (b) Property other than firearms which is forfeited under any section of this code may, upon order of the trial court, be sold at public auction. The expenses of keeping and selling such property and the amount of all valid recorded liens

that are established by intervention as being bona fide shall be paid out of the proceeds of the sale. The balance shall be paid to:

1. The state, if the property was seized by an agency of the state or peace officer thereof;
 2. The county, if the property was seized by the sheriff or an agency or peace officer of the county;
 3. The Department of Fish and Wildlife Resources, if the property was seized by a peace officer of the Department of Fish and Wildlife or was seized by any other officer for violation of KRS Chapter 150;
 4. The city, if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the city property clerk;
 5. The city (ninety percent (90%) of the proceeds) and the sheriff (ten percent (10%) of the proceeds), if the property was seized by the city or by an agency or peace officer thereof and the property was delivered to the sheriff or the county police; or
 6. The state, if the property was seized by any combination of agencies listed above.
- (c) Subject to the duty to return confiscated firearms and ammunition to innocent owners pursuant to this section, all firearms and ammunition confiscated by a state or local law enforcement agency, all firearms ordered forfeited by a court, and all abandoned firearms and ammunition coming into the custody of a state or local law enforcement agency and not retained for official use shall be transferred to the Department of Kentucky State Police for disposition as provided by KRS 16.220. The transfer shall occur not more than ninety (90) days after the abandonment of the firearm or ammunition to the law enforcement agency or not more than ninety (90) days after its confiscation, unless a court requires the firearm or ammunition for use as evidence, in which case it shall be transferred to the Department of Kentucky State Police not more than ninety (90) days following the order of forfeiture by the court or after the court returns the firearm or ammunition from use as evidence. Prior to the sale of any firearm or ammunition, the law enforcement agency shall make a bona fide attempt to determine if the firearm or ammunition to be sold has been stolen or otherwise unlawfully obtained from an innocent owner and return the firearm and ammunition to its lawful innocent owner, unless that person is ineligible to purchase a firearm under federal law. This subsection relating to auction of firearms and ammunition shall not apply to firearms and ammunition auctioned by the Department of Fish and Wildlife that may be sold to individual purchasers residing in Kentucky who are eligible under federal law to purchase firearms and ammunition of the type auctioned.
- (d) If property which is forfeited under any section of this code is determined by the trial court to be worthless, encumbered with liens in excess of its value, or otherwise a burdensome asset, the court may abandon any interest in such property. Property which is abandoned pursuant to this section shall be returned to the lawful claimant upon payment of expenses for keeping the property.
- (e) Property which is forfeited under any section of this code may, upon order of the trial court, be retained for official use in the following manner. Property which has been seized by an agency of the state may be retained for official state use. Property which has been seized by an agency of county, city, or urban-county government may be retained for official use by the government whose agency seized the property or for official state use. Property seized by any other unit of government may be retained only for official state use. The expenses for keeping and transferring such property shall be paid by the unit of government by which the property is retained.
- (2) Money which has been obtained or conferred in violation of any section of this code shall, upon conviction, be forfeited for the use of the state. This subsection shall not apply when, during the course of the proceeding in which the conviction is obtained, the person from whom said money was unlawfully acquired is identified.
- (3) Property forfeited under any section of this code shall be disposed of in accordance with this section only after being advertised pursuant to KRS Chapter 424. This subsection shall not apply to property which is designed and suitable only for criminal use or to money forfeited under subsection (2) of this section.
- (4) The trial court shall remit the forfeiture of property when the lawful claimant:
- (a) Asserts his or her claim before disposition of the property pursuant to this section;
 - (b) Establishes his or her legal interest in the property; and
 - (c) Establishes that the unlawful use of the property was without his or her knowledge and consent. Subsection (4) shall not apply to a lienholder of record when the trial court elects to dispose of the property pursuant to subsection (1)(b) of this section.
- (5) For purposes of this section, "lawful claimant" means owner or lienholder of record.
- (6) Before property which has had its identity obscured in violation of KRS 514.120 may be sold or retained for official use as provided in this section, the court shall cause a serial or other identifying number to be placed thereon and a record of the number assigned shall be placed in the court order authorizing the sale or retention of the property. This number shall be assigned, whenever applicable, in consultation with the Department of Kentucky State Police and any other state or federal regulatory agency. The purchaser of the property shall be given a document stating that the property had been forfeited pursuant to law and that a number, shown on the document, has been assigned which shall be deemed as compliance of the owner with KRS 514.120. When property is returned to an owner pursuant to this section and its

identity has been obscured by another person in violation of KRS 514.120, the court shall provide a document to the owner relieving him or her of liability for its continued possession. This document shall serve as evidence of compliance with KRS 514.120 by the owner or any person to whom he or she lawfully disposes of the property. This section shall not apply to any person after property has been sold or returned in compliance with this section who violates the provisions of KRS 514.120 with respect to that property.

- (7) Before forfeiture of any property under this section, it shall be the duty of the trial court to determine if a lawful owner or claimant to the property has been identified or is identifiable. If a lawful owner or claimant has been identified or is identifiable, the court shall notify the owner or claimant that the property is being held and specify a reasonable period of time during which the claim may be made or may, in lieu thereof, order the return of the property to the lawful owner or claimant. If the lawful owner or claimant does not assert his or her claim to the property after notification or if he or she renounces his or her claim to the property, the property shall be disposed of as provided in this section. It shall be the duty of all peace officers and other public officers or officials having knowledge of the lawful owner or claimant of property subject to forfeiture to report the same to the trial court before the act of forfeiture occurs.

Section 326. KRS 500.093 is amended to read as follows:

No court or law enforcement agency shall retain a firearm or ammunition for official use for the purpose of avoiding transfer of the firearm or ammunition to the Department of Kentucky State Police under KRS 237.090, 500.090, or other statute to avoid its being sold pursuant to KRS 16.220.

Section 327. KRS 514.120 is amended to read as follows:

- (1) A person is guilty of obscuring the identity of a machine or other property when he or she:
- (a) Removes, defaces, covers, alters, destroys, or otherwise obscures the manufacturer's serial number or any other distinguishing identification number or mark, including property marked with a Social Security number or motor vehicle operator's license number for identification purposes, upon any automobile or other propelled vehicle, machine, or electrical or mechanical device, or other property (including any part thereof) with intent to render it or other property unidentifiable; or
 - (b) Possesses any automobile or other propelled vehicle, machine, or electrical or mechanical device, or other property (including any part thereof) knowing that the serial number or other identification number or mark, including property marked with a Social Security number for identification purposes, has been removed, defaced, covered, altered, destroyed, or otherwise obscured.
- (2) Possession of any automobile or other propelled vehicle, machine, or electrical or mechanical device, or other property (including any part thereof) on which the serial number or any other distinguishing identification number or mark, including property marked with a Social Security number or motor vehicle operator's license number for identification purposes, has been removed, defaced, covered, altered, destroyed, or otherwise obscured is prima facie evidence of knowledge of that fact.
- (3) A person in possession of any property which is otherwise in violation of this section may apply in writing to the Department of Kentucky State Police, through any law enforcement agency in the county of his or her residence, for assignment of a number for the property providing he or she can show that he or she is the lawful owner of the property pursuant to the provisions of this section, KRS 16.200, and 500.090. If a number is issued in conformity with the provisions of this section, KRS 16.200, and 500.090, then the person to whom it was issued and any person to whom the property is lawfully disposed of shall not be in violation of these sections. A person lawfully holding a certification issued pursuant to KRS 500.090 shall also be deemed in compliance with this section. This section shall apply only when the application has been filed by the defendant prior to arrest or authorization of a warrant of arrest for the defendant by a court.
- (4) Obscuring the identity of a machine or other property is a Class A misdemeanor unless the value of the property is three hundred dollars (\$300) or more, in which case it is a Class D felony.

Section 328. KRS 524.140 is amended to read as follows:

- (1) As used in this section:
- (a) "Defendant" means a person charged with a:
 - 1. Capital offense, Class A felony, Class B felony, or Class C felony; or
 - 2. Class D felony under KRS Chapter 510; and
 - (b) "Following trial" means after:
 - 1. The first appeal authorized by the Constitution of Kentucky in a criminal case has been decided; or
 - 2. The time for the first appeal authorized by the Constitution of Kentucky in a criminal case has lapsed without an appeal having been filed.
- (2) No item of evidence gathered by law enforcement, prosecutorial, or defense authorities that may be subject to deoxyribonucleic acid (DNA) evidence testing and analysis in order to confirm the guilt or innocence of a criminal defendant shall be disposed of prior to trial of a criminal defendant unless:

- (a) The prosecution has determined that the defendant will not be tried for the criminal offense;
 - (b) The prosecution has made a motion before the court in which the case would have been tried to destroy the evidence; and
 - (c) The court has, following an adversarial proceeding in which the prosecution and the defendant were heard, authorized the destruction of the evidence by court order.
- (3) No item of evidence gathered by law enforcement, prosecutorial, or defense authorities that may be subject to deoxyribonucleic acid (DNA) evidence testing and analysis in order to confirm the guilt or innocence of a criminal defendant shall be disposed of following the trial unless:
- (a) The evidence, together with DNA evidence testing and analysis results, has been presented at the trial, and the defendant has been found guilty, pled guilty, or entered an Alford plea at the trial;
 - (b) The evidence was not introduced at the trial, or if introduced at the trial was not the subject of DNA testing and analysis, and the defendant has been found guilty, pled guilty, or entered an Alford plea at the trial, and the trial court has ordered the destruction of the evidence after an adversarial hearing conducted upon motion of either the prosecution or the defendant;
 - (c) The trial resulted in the defendant being found not guilty or the charges were dismissed after jeopardy attached, whether or not the evidence was introduced at the trial or was subject to DNA testing and analysis or not, and the trial court ordered the destruction of the evidence after an adversarial hearing conducted upon motion of either the prosecution or the defendant; or
 - (d) The trial resulted in the dismissal of charges against the defendant, and the defendant may be subject to retrial, in which event the evidence shall be retained until after the retrial, which shall be considered a new trial for the purposes of this section.
- (4) The burden of proof for a motion to destroy evidence that may be subject to DNA testing and analysis shall be upon the party making the motion, and the court may permit the destruction of the evidence under this section upon good cause shown favoring its destruction.
- (5) It is recognized by the General Assembly that the DNA evidence laboratory testing and analysis procedure consumes and destroys a portion of the evidence or may destroy all of the evidence if the sample is small. The consuming and destruction of evidence during the laboratory analysis process shall not result in liability for its consumption or destruction if the following conditions are met:
- (a) The Department of Kentucky State Police laboratory uses a method of testing and analysis which preserves as much of the biological material or other evidence tested and analyzed as is reasonably possible; or
 - (b) If the Department of Kentucky State Police laboratory knows or reasonably believes that the entire sample of evidence to be tested and analyzed that the laboratory, prior to the testing or analysis of the evidence, notifies in writing the court which ordered the testing and analysis and counsel for all parties:
 - 1. That the entire sample of evidence may be destroyed by the testing and analysis;
 - 2. The possibility that another laboratory may be able to perform the testing and analysis in a less destructive manner with at least equal results;
 - 3. The name of the laboratory capable of performing the testing and analysis, the costs of testing and analysis, the advantages of sending the material to that other laboratory, and the amount of biological material or other evidence which might be saved by alternative testing and analysis; and
 - 4. The Department of Kentucky State Police laboratory follows the directive of the court with regard to the testing and analysis; or
 - (c) If the Department of Kentucky State Police laboratory knows or reasonably believes that so much of the biological material or evidence may be consumed or destroyed in the testing and analysis that an insufficient sample will remain for independent testing and analysis that the laboratory follows the procedure specified in paragraph (b) of this subsection.
- (6) Destruction of evidence in violation of this section shall be a violation of KRS 524.100.
- (7) Subject to KRS 422.285(6), the appropriate governmental entity shall retain any biological material secured in connection with a criminal case for the period of time that any person remains incarcerated in connection with that case. The governmental entity shall have the discretion to determine how the evidence is retained pursuant to this section, provided that the evidence is retained in a condition suitable for DNA testing and analysis.
- Section 329. KRS 527.020 is amended to read as follows:
- (1) A person is guilty of carrying a concealed weapon when he or she carries concealed a firearm or other deadly weapon on or about his or her person.
 - (2) Peace officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

- (3) Policemen directly employed by state, county, city, or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.
- (4) Persons, except those specified in subsection (5) of this section, licensed to carry a concealed deadly weapon pursuant to KRS 237.110 may carry a firearm or other concealed deadly weapon on or about their persons at all times within the Commonwealth of Kentucky, if the firearm or concealed deadly weapon is carried in conformity with the requirements of that section. Unless otherwise specifically provided by the Kentucky Revised Statutes or applicable federal law, no criminal penalty shall attach to carrying a concealed firearm or other deadly weapon with a permit at any location at which an unconcealed firearm or other deadly weapon may be constitutionally carried. No person or organization, public or private, shall prohibit a person licensed to carry a concealed deadly weapon from possessing a firearm, ammunition, or both, or other deadly weapon in his or her vehicle in compliance with the provisions of KRS 237.110 and 237.115. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.
- (5) (a) The following persons, if they hold a license to carry a concealed deadly weapon pursuant to KRS 237.110, may carry a firearm or other concealed deadly weapon on or about their persons at all times and at all locations within the Commonwealth of Kentucky, without any limitation other than as provided in this subsection:
 - 1. A Commonwealth's attorney or assistant Commonwealth's attorney;
 - 2. A county attorney or assistant county attorney;
 - 3. A justice or judge of the Court of Justice; and
 - 4. A retired or senior status justice or judge of the Court of Justice.(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.
- (c) A person specified in this section who is issued a concealed deadly weapon license shall be issued a license which bears on its face the statement that it is valid at all locations within the Commonwealth of Kentucky and may have such other identifying characteristics as determined by the Department of Kentucky State Police.
- (6) (a) Except as provided in this subsection, the following persons may carry concealed deadly weapons on or about their person at all times and at all locations within the Commonwealth of Kentucky:
 - 1. An elected sheriff and full-time and part-time deputy sheriffs certified pursuant to KRS 15.380 to 15.404 when expressly authorized to do so by the unit of government employing the officer;
 - 2. An elected jailer and a deputy jailer who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the jailer; and
 - 3. The department head or any employee of a corrections department in any jurisdiction where the office of elected jailer has been merged with the office of sheriff who has successfully completed Department of Corrections basic training and maintains his or her current in-service training when expressly authorized to do so by the unit of government by which he or she is employed.(b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.
- (7) (a) A full-time paid peace officer of a government agency from another state or territory of the United States or an elected sheriff from another territory of the United States may carry a concealed deadly weapon in Kentucky, on or off duty, if the other state or territory accords a Kentucky full-time paid peace officer and a Kentucky elected sheriff the same rights by law. If the other state or territory limits a Kentucky full-time paid peace officer or elected sheriff to carrying a concealed deadly weapon while on duty, then that same restriction shall apply to a full-time paid peace officer or elected sheriff from that state or territory.
- (b) The provisions of this subsection shall not authorize a person specified in this subsection to carry a concealed deadly weapon in a detention facility as defined in KRS 520.010 or on the premises of a detention facility without the permission of the warden, jailer, or other person in charge of the facility, or the permission of a person authorized by the warden, jailer, or other person in charge of the detention facility to give such permission. As used in this section, "detention facility" does not include courtrooms, facilities, or other premises used by the Court of Justice or administered by the Administrative Office of the Courts.
- (8) A firearm or other deadly weapon shall not be deemed concealed on or about the person if it is located in a glove

compartment, regularly installed in a motor vehicle by its manufacturer, regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism. No person or organization, public or private, shall prohibit a person from keeping a firearm or ammunition, or both, or other deadly weapon in a glove compartment of a vehicle in accordance with the provisions of this subsection. Any attempt by a person or organization, public or private, to violate the provisions of this subsection may be the subject of an action for appropriate relief or for damages in a Circuit Court or District Court of competent jurisdiction.

- (9) Carrying a concealed weapon is a Class A misdemeanor, unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used, or displayed, in which case it is a Class D felony.

Section 330. KRS 620.030 is amended to read as follows:

- (1) Any person who knows or has reasonable cause to believe that a child is dependent, neglected or abused shall immediately cause an oral or written report to be made to a local law enforcement agency or the Department of Kentucky State Police; the cabinet or its designated representative; the Commonwealth's attorney or the county attorney; by telephone or otherwise. Any supervisor who receives from an employee a report of suspected dependency, neglect or abuse shall promptly make a report to the proper authorities for investigation. If the cabinet receives a report of abuse or neglect allegedly committed by a person other than a parent, guardian or person exercising custodial control or supervision, the cabinet shall refer the matter to the Commonwealth's attorney or the county attorney and the local law enforcement agency or the Department of Kentucky State Police. Nothing in this section shall relieve individuals of their obligations to report.
- (2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected or abused, regardless of whether the person believed to have caused the dependency, neglect or abuse is a parent, guardian, person exercising custodial control or supervision or another person, or who has attended such child as a part of his or her professional duties shall, if requested, in addition to the report required in subsection (1) of this section, file with the local law enforcement agency or the Department of Kentucky State Police or the Commonwealth's or county attorney, the cabinet or its designated representative within forty-eight (48) hours of the original report a written report containing:
- (a) The names and addresses of the child and his or her parents or other persons exercising custodial control or supervision;
 - (b) The child's age;
 - (c) The nature and extent of the child's alleged dependency, neglect or abuse (including any previous charges of dependency, neglect or abuse) to this child or his or her siblings;
 - (d) The name and address of the person allegedly responsible for the abuse or neglect; and
 - (e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.
- (3) The cabinet upon request shall receive from any agency of the state or any other agency, institution or facility providing services to the child or his or her family, such cooperation, assistance and information as will enable the cabinet to fulfill its responsibilities under KRS 620.030, 620.040, and 620.050.

Section 331. KRS 620.040 is amended to read as follows:

- (1)
 - (a) Upon receipt of a report alleging abuse or neglect by a parent, guardian, or person exercising custodial control or supervision, pursuant to KRS 620.030(1) or (2), the recipient of the report shall immediately notify the cabinet or its designated representative, the local law enforcement agency or the Department of Kentucky State Police, and the Commonwealth's or county attorney of the receipt of the report unless they are the reporting source.
 - (b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk determined, the cabinet shall investigate the allegation or accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse shall be considered high risk and shall not be referred to any other community agency.
 - (c) The cabinet shall, within seventy-two (72) hours, exclusive of weekends and holidays, make a written report to the Commonwealth's or county attorney and the local enforcement agency or the Department of Kentucky State Police concerning the action that has been taken on the investigation.
 - (d) If the report alleges abuse or neglect by someone other than a parent, guardian, or person exercising custodial control or supervision, the cabinet shall immediately notify the Commonwealth's or county attorney and the local law enforcement agency or the Department of Kentucky State Police.
- (2)
 - (a) Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall immediately notify the cabinet or its designated representative.
 - (b) Based upon the allegation in the report, the cabinet shall immediately make an initial determination as to the risk of harm and immediate safety of the child. Based upon the level of risk, the cabinet shall investigate the allegation or

2007 Regular Session

accept the report for an assessment of family needs and, if appropriate, may provide or make referral to any community-based services necessary to reduce risk to the child and to provide family support. A report of sexual abuse shall be considered high risk and shall not be referred to any other community agency.

- (c) The cabinet need not notify the local law enforcement agency or the Department of Kentucky State Police or county attorney or Commonwealth's attorney of reports made under this subsection.
- (3) If the cabinet or its designated representative receives a report of abuse by a person other than a parent, guardian, or other person exercising custodial control or supervision of a child, it shall immediately notify the local law enforcement agency or the Department of Kentucky State Police and the Commonwealth's or county attorney of the receipt of the report and its contents and they shall investigate the matter. The cabinet or its designated representative shall participate in an investigation of noncustodial physical abuse or neglect at the request of the local law enforcement agency or the Department of Kentucky State Police. The cabinet shall participate in all investigations of reported or suspected sexual abuse of a child.
- (4) School personnel or other persons listed in KRS 620.030(2) do not have the authority to conduct internal investigations in lieu of the official investigations outlined in this section.
- (5)
 - (a) If, after receiving the report, the law enforcement officer, the cabinet, or its designated representative cannot gain admission to the location of the child, a search warrant shall be requested from, and may be issued by, the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected, or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.
 - (b) If a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he or she is returned to the persons having custody of him or her, the physician or hospital administrator may hold the child without court order, provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.
 - (c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision if there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child. The officer or the person to whom the officer entrusts the child shall, within twelve (12) hours of taking the child into protective custody, request the court to issue an emergency custody order.
 - (d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he or she shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.
- (6) To the extent practicable and when in the best interest of a child alleged to have been abused, interviews with the child shall be conducted at a children's advocacy center.
- (7)
 - (a) One (1) or more multidisciplinary teams may be established in every county or group of contiguous counties.
 - (b) Membership of the multidisciplinary team shall include, but shall not be limited to, social service workers employed by the Cabinet for Health and Family Services and law enforcement officers. Additional team members may include Commonwealth's and county attorneys, children's advocacy center staff, mental health professionals, medical professionals, victim advocates, educators, and other related professionals, as deemed appropriate.
 - (c) The multidisciplinary team may review child sexual abuse cases referred by participating professionals, including those in which the alleged perpetrator does not have custodial control or supervision of the child, or is not responsible for the child's welfare. The purpose of the multidisciplinary team shall be to review investigations, assess service delivery, and to facilitate efficient and appropriate disposition of cases through the criminal justice system.
 - (d) The team shall hold regularly scheduled meetings if new reports of sexual abuse are received or if active cases exist. At each meeting, each active case shall be presented and the agencies' responses assessed.
 - (e) The multidisciplinary team shall provide an annual report to the public of nonidentifying case information to allow assessment of the processing and disposition of child sexual abuse cases.
 - (f) Multidisciplinary team members and anyone invited by the multidisciplinary team to participate in a meeting shall not divulge case information, including information regarding the identity of the victim or source of the report. Team members and others attending meetings shall sign a confidentiality statement that is consistent with statutory prohibitions on disclosure of this information.
 - (g) The multidisciplinary team shall, pursuant to KRS 431.600 and 431.660, develop a local protocol consistent with the model protocol issued by the Kentucky Multidisciplinary Commission on Child Sexual Abuse. The local team shall submit the protocol to the commission for review and approval.
 - (h) The multidisciplinary team review of a case may include information from reports generated by agencies,

organizations, or individuals that are responsible for investigation, prosecution, or treatment in the case, KRS 610.320 to KRS 610.340 notwithstanding.

(i) To the extent practicable, multidisciplinary teams shall be staffed by the local children's advocacy center.

Section 332. KRS 620.045 is amended to read as follows:

- (1) The secretaries of the Cabinet for Health and Family Services and the Justice and Public Safety Cabinet are authorized to make state grants and other fund allocations to assist nonprofit corporations in the establishment and operation of regional children's advocacy centers.
- (2) To be eligible for grants from any state government entity, a children's advocacy center shall meet the statutory definition of a children's advocacy center as provided in this chapter and shall operate consistent with administrative regulations promulgated by the Cabinet for Health and Family Services in accordance with KRS Chapter 13A.

Section 333. KRS 635.545 is amended to read as follows:

- (1) The Department of Juvenile Justice shall maintain on file the names and identities of program participants for a period of fifteen (15) years following their participation in the program. The names and identities shall not be disclosed except for the purposes allowed in this section.
- (2) On a biennial basis, the Department of Juvenile Justice shall request from the Administrative Office of the Courts and the Department of Kentucky State Police information concerning whether any of the individuals who participated in the program have been arrested, tried, convicted, or incarcerated for any offense under KRS Chapter 510, KRS 530.020, 530.064(1)(a), 531.310, or any other criminal offense.
- (3) Each two (2) years the Department of Juvenile Justice shall compile the information obtained and present it to the Governor, the Legislative Research Commission, and the Supreme Court. The report shall not contain the names of any of the individual participants but shall contain identifying information which may assist in the evaluation of the program and in determination of whether participants have engaged in further criminal behavior as juveniles or adults.

Section 334. The following KRS sections are repealed:

- 15A.042 Office of Criminal Justice Council -- Divisions -- Duties -- Executive director.
- 15A.050 General counsel.
- 15A.120 Transfer of functions to cabinet.
- 15A.130 Transfer of funds, credits, assets, etc., to cabinet.
- 15A.140 Existing rules and regulations effective until modified or repealed.
- 15A.170 Administrative support services -- Other related programs.
- 15A.180 Retention and protection of reports, documents, records, etc.
- 17.080 Justice Cabinet may make rules and direct proceedings.
- 17.1531 Study on racial bias in capital sentencing.
- 30A.055 Automated warrant system.
- 403.783 Model law enforcement domestic violence policy and procedures manual --Distribution -- Agency submission to Justice Cabinet -- Assistance by cabinet when policy inadequate.
- 439.302 Commission on Correction and Community Service -- Appointment -- Terms -- Expenses.
- 439.304 Meetings, powers, and duties of commission.
- 439.306 Authority of commission and members.

Section 335. In order to reflect the reorganization effectuated by this Act, the reviser of statutes shall replace references in the Kentucky Revised Statutes to the agencies, subagencies, and officers affected by this Act with references to the appropriate successor agencies, subagencies, and officers established by this Act. The reviser of statutes shall base these actions on the functions assigned to the new entities by this Act and may consult with officers of the affected agencies, or their designees, to receive suggestions.

Section 336. KRS 12.028 or any other provision of law to the contrary notwithstanding, the General Assembly confirms the portion of the Governor's Executive Order 2006-496, filed on May 4, 2006, and Executive Order 2006-805, dated July 10, 2006, relating to the Justice and Public Safety Cabinet, to the extent they are not otherwise confirmed or superseded by this Act.

The Committee on State Government reported **SB 197** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 197, AN ACT relating to the establishment of historical commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

WHEREAS, the War of 1812, in the Old Northwest Territory, was fought in large part by Kentucky militiamen, predecessors of today's Kentucky National Guard; and

WHEREAS, during the War of 1812, Kentucky furnished a total of 40 regiments of volunteer militia, as well as a number of battalions and separate companies, more than 25,000 men; and

WHEREAS, these brave men who served their nation deserve to have their service and sacrifice remembered; and

WHEREAS, Americans killed in action during the war totaled 2260, of that total approximately 1,200 were from Kentucky and many of their remains were never recovered nor their final resting places properly marked; and

WHEREAS, not only did Kentucky provide the bulk of men to prosecute the war, but Kentucky caves, Mammoth Cave in particular, were nearly the only source of nitrate used to make gunpowder for the war after England placed an embargo on the United States at the outbreak of the war; and

WHEREAS, June 1, 2012, will mark the 200th Anniversary of the declaration of the war that officially began the War of 1812; and

WHEREAS, efforts are underway in the United States Congress, many states, and in Canada to plan for the commemoration of the War of 1812; and

WHEREAS, it is appropriate for the Commonwealth of Kentucky to plan and carry out its own commemoration of the War of 1812, and to coordinate those activities with those of the federal government; and

WHEREAS, the American Civil War began with the firing on Fort Sumter in April, 1861, and concluded with the surrender at Appomattox Courthouse in April, 1865; and

WHEREAS, several major battles of the war, including Perryville, Cynthiana, Middle Creek, Mill Springs, Munfordville, Richmond, Sacramento, Tebbs Bend, and Paducah, were fought on Kentucky soil; and

WHEREAS, Kentucky was strategically important as a buffer between the strongholds of the Union and Confederate armies and a major provider of both men and supplies; and

WHEREAS, Camp Nelson in Jessamine County served as one of the largest recruiting stations for African-American soldiers for the Union Army; and

WHEREAS, more than 150,000 Kentucky soldiers served in the Union and Confederate Armies; and

WHEREAS, the events of the Civil War caused social, economic, and political upheaval in the Commonwealth that placed community against community and family against family, setting the stage for conflicts that have had lasting effects; and

WHEREAS, both Abraham Lincoln, who served as President of the United States during this national crisis, and Jefferson Davis, who served as President of the Confederate States of America, were native sons of this Commonwealth; and

WHEREAS, from 2011 through 2015, this nation will commemorate the 150th anniversary of the American Civil War; and

WHEREAS, it is appropriate for the Commonwealth of Kentucky to plan and carry out its own commemoration of the anniversary of this war;

NOW THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

There is created the Commonwealth of Kentucky War of 1812 Bicentennial Commission, which shall be attached to the Kentucky Historical Society for administrative purposes. The commission shall be composed of twenty (20) members, as follows:

(1) Two (2) members of the House of Representatives, appointed by the Speaker of the House;

(2) Two (2) members of the Senate, appointed by the President of the Senate;

(3) The Adjutant General, or his or her designee;

(4) The secretary of the Education Cabinet, or his or her designee;

(5) The secretary of the Commerce Cabinet, or his or her designee;

(6) One (1) member from the Tourism Department, appointed by the commissioner of that department;

(7) One (1) member from the Kentucky Historical Society, appointed by the director of that agency;

(8) One (1) member from the Kentucky Heritage Council, appointed by the executive director of that agency;

(9) One (1) member from the Kentucky African-American Heritage Commission, appointed by the head of that agency;

(10) One (1) member from the Kentucky Humanities Council, appointed by the executive director of that agency;

(11) Eight (8) citizen members from the state at large with a demonstrated interest in history and substantial knowledge and appreciation of the War of 1812, appointed by the Governor.

The chair of the commission shall be elected from among the membership by the commission members. Appointments to the commission shall be made no later than November 1, 2007, and the first meeting of the commission shall occur no later than March 30, 2008.

SECTION 2. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

The Commonwealth of Kentucky War of 1812 Bicentennial Commission shall:

- (1) Study and recommend activities that may be carried out by the Commonwealth to honor the Kentuckians that served in the War of 1812;**
- (2) Educate Kentucky residents and the nation about Kentucky's role in the War of 1812;**
- (3) Assist local governments and organizations with planning, preparation, and grant applications for bicentennial events and projects;**
- (4) Coordinate federal, state, and local bicentennial activities occurring in Kentucky;**
- (5) Plan and implement appropriate events, including celebrations and educational initiatives, to commemorate the bicentennial;**
- (6) Perform other duties as necessary to highlight Kentucky's role in the War of 1812;**
- (7) Develop partnerships with Illinois, Indiana, Ohio, Michigan, Louisiana, and Ontario, Canada and other states and countries commemorating the War of 1812 Bicentennial as deemed appropriate by the Commission; and**
- (8) Seek federal grants and philanthropic support for bicentennial activities.**

SECTION 3. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

The Commonwealth of Kentucky War of 1812 Bicentennial Commission shall expire on December 31, 2014.

SECTION 4. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

There is created the Commonwealth of Kentucky Civil War Sesquicentennial Commission, which shall be attached to the Kentucky Historical Society for administrative purposes. The commission shall be composed of twenty-two (22) members as follows:

- (1) Two (2) members of the House of Representatives, appointed by the Speaker of the House;**
- (2) Two (2) members of the Senate, appointed by the President of the Senate;**
- (3) The secretary of the Commerce Cabinet, or his or her designee;**
- (4) One (1) member from the Education Cabinet, appointed by the secretary of that cabinet;**
- (5) One (1) member from the Kentucky Historical Society, appointed by the executive director of that agency;**
- (6) One (1) member from the Department of Tourism, appointed by the commissioner of that agency;**
- (7) One (1) member from the Department of Parks, appointed by the commissioner of that agency;**
- (8) One (1) member from the Kentucky Heritage Council, appointed by the executive director of that agency;**
- (9) One (1) member from the Kentucky Arts Council, appointed by the executive director of that agency;**
- (10) One (1) member from the Kentucky African-American Heritage Commission, appointed by the head of that agency;**
- (11) One (1) member from the Kentucky Humanities Council, appointed by the executive director of that agency;**
- (12) One (1) member from the Department of Veterans' Affairs, appointed by the commissioner of that agency;**
- (13) The adjutant general of the Commonwealth of Kentucky or his designee;**
- (14) Two (2) members of the Kentucky Civil War Sites Association, appointed by the head of that agency;**
- (15) The state historian; and**
- (16) Four (4) citizen members from the state at large with a demonstrated interest in history and substantial knowledge of the Civil War, appointed by the Governor.**

The chair of the commission shall be elected from among the membership by the commission members. Appointments to the commission shall be made no later than November 1, 2007, and the first meeting of the commission shall occur no later than March 30, 2008.

SECTION 5. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

The Commonwealth of Kentucky Civil War Sesquicentennial Commission shall:

- (1) Study and recommend activities that may be carried out by the Commonwealth of Kentucky to commemorate the role that the Commonwealth and its citizens played in the Civil War;**
- (2) Educate Kentucky residents and the nation about the Civil War in Kentucky;**
- (3) Assist local governments and organizations with planning, preparation, and grant applications for sesquicentennial events and projects;**
- (4) Coordinate federal, state, and local sesquicentennial activities occurring in Kentucky;**
- (5) Plan and implement appropriate events, including commemorations and educational initiatives, to mark the sesquicentennial;**
- (6) Perform other duties as necessary to highlight Kentucky's role in the Civil War; and**
- (7) Seek federal grants and philanthropic support for the sesquicentennial activities.**

SECTION 6. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

The Commonwealth of Kentucky Civil War Sesquicentennial Commission shall expire on December 31, 2015.

The Committee on Judiciary reported **HB 528, SB 34**, with Committee Substitute and Committee Amendment attached thereto, **SB 88**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 528, AN ACT relating to sexual offenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 510.320 is amended to read as follows:

- (1) For purposes of this section, "human immunodeficiency virus test" means a test of an individual for presence of human immunodeficiency virus, or for antibodies or antigens that result from human immunodeficiency virus infection, or for any other substance specifically indicating human immunodeficiency virus infection.
- (2) A defendant charged with an offense pursuant to this chapter which has sexual intercourse or deviate sexual intercourse as an element, or has sexual contact as an element when the circumstances of the case demonstrate a possibility of transmission of human immunodeficiency virus, shall be subject to~~upon initial court appearance on the charge, be informed by the judge of the availability of~~ human immunodeficiency virus testing as set out in this subsection.
 - (a) Upon the defendant's initial appearance on the charge, the judge shall inform the defendant of the provisions of this section, and~~The judge~~ shall also notify the victim of the offense, or parent or guardian of the victim, that the defendant has been so notified.
 - (b) At any point after a finding of probable cause against the defendant following a preliminary hearing or the issuance of an indictment, if the court has received a request from the victim of the offense, or parent or guardian of the victim for testing, the court shall compel the defendant to undergo a human immunodeficiency virus test, under the direction of the Cabinet for Health and Family Services, no later than forty eight (48) hours after the request of the victim of the offense, or parent or guardian of the victim. The judge shall also order any follow-up tests as may be medically appropriate.
 - (c) If the defendant is convicted of the offense, the court shall, if testing has not already occurred under this section, compel the defendant to undergo a human immunodeficiency virus test, under the direction of the Cabinet for Health and Family Services, regardless of whether a request for testing has been made by the victim of the offense, or parent or guardian of the victim.
- ~~(3) [When a defendant has been convicted of any offense in subsection (2) of this section, other provisions of law to the contrary notwithstanding, the sentencing court, regardless of any prior human immunodeficiency virus test, shall order the defendant to undergo a human immunodeficiency virus test, under the direction of the Cabinet for Health and Family Services.~~
- ~~(4)~~
 - (a) The result of any human immunodeficiency virus test conducted pursuant to this section shall not be a public record for purposes of KRS Chapter 61.
 - (b) The result of any human immunodeficiency virus test conducted pursuant to this section shall only be made available by the Cabinet for Health and Family Services to the victim, or the parent or guardian of a victim who is a minor or is mentally retarded or mentally incapacitated, the defendant, the court issuing the order for testing, and to any other agency as directed pursuant to KRS Chapter 214.
 - (c) The Cabinet for Health and Family Services shall immediately provide to the victim the results of any human immunodeficiency virus test conducted under this section.
 - (d) In addition, the Cabinet for Health and Family Services shall provide to the Department of Corrections the result of any human immunodeficiency virus test conducted pursuant to this section which indicates that the defendant is infected with the human immunodeficiency virus. The Department of Corrections shall use this information solely for the purpose of providing medical treatment to the defendant while incarcerated in a state penitentiary or correctional institution or county jail.
- ~~(4)(5)~~ If the human immunodeficiency virus test indicates the presence of human immunodeficiency virus infection, the Cabinet for Health and Family Services shall provide counseling to the victim and the defendant regarding human immunodeficiency virus disease, and referral for appropriate health-care and support services.
- ~~(5)(6)~~ The cost of testing under this section shall be paid by the defendant tested, unless the court has determined the defendant to be indigent.
- ~~(6)(7)~~ Filing of a notice of appeal shall not automatically stay an order that the defendant submit to a human immunodeficiency virus test.

SB 34, AN ACT relating to crimes and punishments.

WHEREAS, a number of ongoing and new substance abuse initiatives from the legislative, executive, and judicial

branches of government, including the "Recovery Kentucky" initiative, drug courts, and jail and prison treatment initiatives, will soon be bringing over forty million dollars in drug abuse treatment facilities and infrastructure online and available for the intensive treatment of persons suffering from substance abuse within the Commonwealth; and

WHEREAS, with the upcoming availability of new treatment facilities and programs and with the experience gained from drug courts, the Commonwealth is prepared to implement a more aggressive and effective response to the threat to public health and safety created by persons with severe substance abuse addictions; and

WHEREAS, over 80% of the persons involved in the Kentucky Criminal Justice System are there as a result either directly or indirectly of drug abuse;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

- (1) The department shall develop an intensive secured substance abuse recovery program to house and care for persons suffering from substance abuse who have been charged with a felony offense.
- (2) The program shall accept persons referred to it under Sections 4 and 5 of this Act.
- (3) Persons may be voluntarily ordered into the program for a period of not less than ninety (90) days and not more than three hundred sixty-five (365) days. No person shall be involuntarily ordered into this program, and persons in the program may leave the program at any time. However, that departure shall constitute a material breach of the person's abeyance agreement or pretrial diversion agreement.
- (4) The department shall locate the program in a secure facility with security standards comparable to those found in a minimum security penal facility operated by the department.
- (5) The program shall be capable of concurrently housing no fewer than two hundred (200) persons. The department shall have regulatory authority, when the program is at or near capacity, to prioritize admissions to the program.
- (6) The program's recovery component shall be designed to serve the committed person's substance abuse condition, and to provide the person with the skills and training needed to prevent the person from engaging in substance abuse upon release from the program. The program shall provide each person leaving the program with an aftercare plan, which shall include a referral to a local substance abuse provider possessing the capability of providing a level of continuing substance abuse care appropriate to the released person's needs. In designing the program, the department shall consult with and may contract with the Division of Mental Health and Substance Abuse Services.

Section 2. KRS 431.515 is amended to read as follows:

- (1) All trial courts in this Commonwealth having jurisdiction of criminal causes shall provide such pretrial release investigation and services as necessary to effectuate the purposes of KRS 431.510 to 431.550, including the provisions of Section 3 of this Act, and, where practical, to assist in the earliest possible determination of whether a person is a needy person under KRS Chapter 31.
- (2) The Supreme Court may by appropriate rule or order establish and provide for such pretrial investigation and release services including, where practical, the taking of financial statements, and the court's determination of whether a person is a needy person as provided in KRS 31.120.

SECTION 3. A NEW SECTION OF KRS 431.510 TO 431.550 IS CREATED TO READ AS FOLLOWS:

When considering the pretrial release of a person charged with a felony offense under KRS Chapter 218A or a person charged with a felony offense where the person's record indicates a history of substance abuse, the court considering the release shall cause the court's pretrial release investigation and services office to have the person assessed for substance abuse risk factors. If this assessment indicates the presence of substance abuse risk factors, the court may order as a condition of eventual release that the person:

- (1) Undertake any testing ordered by the court under KRS 431.520 or 431.525;
- (2) Participate in an additional assessment of the person's condition by appropriate court personnel;
- (3) Participate in a treatment or recovery program if one is identified as appropriate to the person as a result of the person's initial assessment or an additional assessment performed under subsection (2) of this section; and
- (4) Appear at any subsequent hearing ordered by the court where the person's conditions of pretrial release may be reviewed and modified as the result of any testing performed under subsection (1) of this section, any additional assessment performed under subsection (2) of this section, or the person's compliance with any treatment or recovery plan ordered by the court under subsection (3) of this section.

SECTION 4. A NEW SECTION OF KRS 533.250 TO 533.260 IS CREATED TO READ AS FOLLOWS:

- (1) Every pretrial diversion program shall set as a condition precedent for entry into the program that any defendant charged with a felony offense under KRS Chapter 218A and any defendant charged with a felony offense whose record indicates a history of substance abuse participate in and demonstrate suitable compliance with the terms of a substance abuse treatment or recovery program, if space is available in a treatment or recovery program suitable for that defendant. The substance abuse treatment or recovery program shall be appropriate to the defendant's needs, and may

include commitment to an intensive outpatient program, to a residential substance abuse treatment or recovery facility, or to the intensive secured drug abuse treatment program created in Section 1 of this Act. The pretrial diversion program may consider in whole or in part, a defendant's participation in drug monitoring or a substance abuse treatment or recovery plan ordered under Section 3 of this Act as evidence of suitable compliance under this section.

- (2) The court shall continue in effect any nonfinancial conditions of pretrial release imposed under KRS 431.520 or 431.525 and may hold the case in abeyance during the period of time the defendant is attempting treatment or recovery prior to diversion under subsection (1) of this section.
- (3) The pretrial diversion program may allow a person charged with a Class C felony to attempt to demonstrate suitable participation in and compliance with the terms of a substance abuse treatment or recovery program under subsection (1) of this section. If the person is successful, the person shall be eligible for entry into the pretrial diversion program under the same terms, conditions, and limitations as a Class D felon. This provision waves the Class D felony limitation contained in subsection (1)(a) of Section 5 of this Act, but does not waive any other precondition or requirement for entry, including the ten (10) year look-back provision of that same subsection.

Section 5. KRS 533.250 is amended to read as follows:

- (1) A pretrial diversion program shall be operated in each judicial circuit. The chief judge of each judicial circuit, in cooperation with the Commonwealth's attorney, shall submit a plan for the pretrial diversion program to the Supreme Court for approval on or before December 1, 1999. The pretrial diversion program shall contain the following elements:
- (a) The program may be utilized for a person charged with a Class D felony offense who has not, within ten (10) years immediately preceding the commission of this offense, been convicted of a felony under the laws of this state, another state, or of the United States, or has not been on probation or parole or who has not been released from the service of any felony sentence within ten (10) years immediately preceding the commission of the offense.
 - (b) The program shall not be utilized for persons charged with offenses for which probation, parole, or conditional discharge is prohibited under KRS 532.045.
 - (c) No person shall be eligible for pretrial diversion more than once in a five (5) year period.
 - (d) No person shall be eligible for pretrial diversion who has committed a sex crime as defined in KRS 17.500. A person who is on pretrial diversion on July 12, 2006, may remain on pretrial diversion if the person continues to meet the requirements of the pretrial diversion and the registration requirements of KRS 17.510.
 - (e) Any person charged with an offense not specified as precluding a person from pretrial diversion under paragraph (b) of this subsection may apply in writing to the trial court and the Commonwealth's attorney for entry into a pretrial diversion program.
 - (f) Any person shall be required to enter an Alford plea or a plea of guilty as a condition of pretrial diversion.
 - (g) Prior to entry into the program, defendants who have been charged with a felony offense under KRS Chapter 218A or who have been charged with a felony offense and whose record indicates a history of substance abuse shall demonstrate suitable compliance with the terms of a substance abuse treatment or recovery program.
 - (h) The program may include as a component referral to the intensive secure substance abuse treatment program created under Section 1 of this Act for persons charged with a felony offense under KRS Chapter 218A and persons charged with a felony offense whose record indicates a history of substance abuse who have not previously been referred to the program under Section 4 of this Act.
- (2) The Commonwealth's attorney shall make a recommendation upon each application for pretrial diversion to the Circuit Judge in the court in which the case would be tried. The court may approve or disapprove the diversion.
- (3) The court shall assess a diversion supervision fee of a sufficient amount to defray all or part of the cost of participating in the diversion program. Unless the fee is waived by the court in the case of indigency, the fee shall be assessed against each person placed in the diversion program. The fee may be based upon ability to pay.

Section 6. KRS 532.120 is amended to read as follows:

- (1) An indeterminate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the Department of Corrections. When a person is under more than one (1) indeterminate sentence, the sentences shall be calculated as follows:
- (a) If the sentences run concurrently, the maximum terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or
 - (b) If the sentences run consecutively, the maximum terms are added to arrive at an aggregate maximum term equal to the sum of all the maximum terms.
- (2) A definite sentence of imprisonment commences when the prisoner is received in the institution named in the commitment. When a person is under more than one (1) definite sentence, the sentences shall be calculated as follows:
- (a) If the sentences run concurrently, the terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or
 - (b) If the sentences run consecutively, the terms are added to arrive at an aggregate term and are satisfied by discharge

of the aggregate term.

- (3) Time spent in custody prior to the commencement of a sentence as a result of the charge that culminated in the sentence shall be credited by the court imposing sentence toward service of the maximum term of imprisonment. If the sentence is to an indeterminate term of imprisonment, the time spent in custody prior to the commencement of the sentence shall be considered for all purposes as time served in prison.
- (4) If a person has been in custody due to a charge that culminated in a dismissal, acquittal, or other disposition not amounting to a conviction, the amount of time that would have been credited under subsection (3) of this section if the defendant had been convicted of that charge shall be credited as provided in subsection (3) of this section against any sentence based on a charge for which a warrant or commitment was lodged during the pendency of that custody.
- (5) If a person serving a sentence of imprisonment escapes from custody, the escape shall interrupt the sentence. The interruption shall continue until the person is returned to the institution from which he escaped or to an institution administered by the Department of Corrections. Time spent in actual custody prior to return under this subsection shall be credited against the sentence if custody rested solely on an arrest or surrender for the escape itself.
- ~~(6) As used in subsections (3) and (4) of this section, time spent in custody shall include time spent in the intensive secured substance abuse recovery program created in Section 1 of this Act and may include, at the discretion of the sentencing court, time spent in a different residential substance abuse treatment or recovery facility pursuant to Section 3 or 4 of this Act if, under each option allowed by this subsection, the person has successfully completed the program offered by the intensive secured substance abuse recovery program or the residential substance abuse treatment or recovery facility.~~

Section 7. Whereas the citizens of Kentucky face a present and ongoing danger as the result of substance abuse-driven crime and the provisions of this Act offer relief from that danger, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The House Committee Substitute to SB 34 is as follows:

SB 34, AN ACT relating to crimes and punishments.

WHEREAS, a number of ongoing and new substance abuse initiatives from the legislative, executive, and judicial branches of government, including the "Recovery Kentucky" initiative, drug courts, and jail and prison treatment initiatives, will soon be bringing over forty million dollars in drug abuse treatment facilities and infrastructure online and available for the intensive treatment of persons suffering from substance abuse within the Commonwealth; and

WHEREAS, with the upcoming availability of new treatment facilities and programs and with the experience gained from drug courts, the Commonwealth is prepared to implement a more aggressive and effective response to the threat to public health and safety created by persons with severe substance abuse addictions; and

WHEREAS, over 80% of the persons involved in the Kentucky Criminal Justice System are there as a result either directly or indirectly of drug abuse;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

- ~~(1) The department shall develop an intensive secured substance abuse recovery program to house and care for persons suffering from substance abuse who have been charged with a felony offense.~~
- ~~(2) The program shall accept persons referred to it under Sections 4 and 5 of this Act.~~
- ~~(3) Persons may be voluntarily ordered into the program for a period of not less than ninety (90) days and not more than three hundred sixty-five (365) days. No person shall be involuntarily ordered into this program, and persons in the program may leave the program at any time. However, that departure shall constitute a material breach of the person's abeyance agreement or pretrial diversion agreement.~~
- ~~(4) The department shall locate the program in a secure facility with security standards comparable to those found in a minimum security penal facility operated by the department.~~
- ~~(5) The program shall be capable of concurrently housing no fewer than two hundred (200) persons. The department shall have regulatory authority, when the program is at or near capacity, to prioritize admissions to the program.~~
- ~~(6) The program's recovery component shall be designed to serve the committed person's substance abuse condition, and to provide the person with the skills and training needed to prevent the person from engaging in substance abuse upon release from the program. The program shall provide each person leaving the program with an aftercare plan, which shall include a referral to a local substance abuse provider possessing the capability of providing a level of continuing substance abuse care appropriate to the released person's needs. In designing the program, the department shall consult with and may contract with the Division of Mental Health and Substance Abuse Services.~~

Section 2. KRS 431.515 is amended to read as follows:

- (1) All trial courts in this Commonwealth having jurisdiction of criminal causes shall provide such pretrial release

investigation and services as necessary to effectuate the purposes of KRS 431.510 to 431.550, including the provisions of Section 3 of this Act, and, where practical, to assist in the earliest possible determination of whether a person is a needy person under KRS Chapter 31.

- (2) The Supreme Court may by appropriate rule or order establish and provide for such pretrial investigation and release services including, where practical, the taking of financial statements, and the court's determination of whether a person is a needy person as provided in KRS 31.120.

SECTION 3. A NEW SECTION OF KRS 431.510 TO 431.550 IS CREATED TO READ AS FOLLOWS:

When considering the pretrial release of a person charged with a felony offense under KRS Chapter 218A or a person charged with a felony offense where the person's record indicates a history of substance abuse, the court's pretrial release investigation and services office shall assess the person for substance abuse risk factors. If this assessment indicates the presence of substance abuse risk factors, the court may order as a condition of release that the person:

- (1) Undertake any testing ordered by the court under KRS 431.520 or 431.525;
- (2) Participate in an additional assessment of the person's condition by appropriate court personnel;
- (3) Participate in a treatment or recovery program if one is identified as appropriate to the person as a result of the person's initial assessment or an additional assessment performed under subsection (2) of this section; and
- (4) Appear at any subsequent hearing ordered by the court where the person's conditions of pretrial release may be reviewed and modified as the result of any testing performed under subsection (1) of this section, any additional assessment performed under subsection (2) of this section, or the person's compliance with any treatment or recovery plan ordered by the court under subsection (3) of this section.

SECTION 4. A NEW SECTION OF KRS 533.250 TO 533.260 IS CREATED TO READ AS FOLLOWS:

- (1) Every pretrial diversion program shall set as a condition precedent for entry into the program that any defendant charged with a felony offense under KRS Chapter 218A and any defendant charged with a felony offense whose record indicates a history of substance abuse participate in and demonstrate suitable compliance with the terms of a substance abuse treatment or recovery program, if space is available in a treatment or recovery program suitable for that defendant. The substance abuse treatment or recovery program shall be appropriate to the defendant's needs, and may include commitment to an intensive outpatient program, to a residential substance abuse treatment or recovery facility, or to the intensive secured drug abuse treatment program created in Section 1 of this Act. The pretrial diversion program may consider in whole or in part, a defendant's participation in drug monitoring or a substance abuse treatment or recovery plan ordered under Section 3 of this Act as evidence of suitable compliance under this section.
- (2) The court shall continue in effect any nonfinancial conditions of pretrial release imposed under KRS 431.520 or 431.525 and may hold the case in abeyance during the period of time the defendant is attempting treatment or recovery prior to diversion under subsection (1) of this section.
- (3) The pretrial diversion program may allow a person charged with a Class C felony to attempt to demonstrate suitable participation in and compliance with the terms of a substance abuse treatment or recovery program under subsection (1) of this section. If the person is successful, the person shall be eligible for entry into the pretrial diversion program under the same terms, conditions, and limitations as a Class D felon. This provision waves the Class D felony limitation contained in subsection (1)(a) of Section 5 of this Act, but does not waive any other precondition or requirement for entry, including the ten (10) year look-back provision of that same subsection.

Section 5. KRS 533.250 is amended to read as follows:

- (1) A pretrial diversion program shall be operated in each judicial circuit. The chief judge of each judicial circuit, in cooperation with the Commonwealth's attorney, shall submit a plan for the pretrial diversion program to the Supreme Court for approval on or before December 1, 1999. The pretrial diversion program shall contain the following elements:
 - (a) The program may be utilized for a person charged with a Class D felony offense who has not, within ten (10) years immediately preceding the commission of this offense, been convicted of a felony under the laws of this state, another state, or of the United States, or has not been on probation or parole or who has not been released from the service of any felony sentence within ten (10) years immediately preceding the commission of the offense.
 - (b) The program shall not be utilized for persons charged with:
 1. Sex crimes as defined in KRS 17.500. A person who is on pretrial diversion on July 12, 2006, may remain on pretrial diversion if the person continues to meet the requirements of the pretrial diversion and the registration requirements of KRS 17.510; or
 2. Class C felony offenses when the offense is committed against a person, except for offenses under KRS Chapter 218A; or
 3. Offenses for which probation, parole, or conditional discharge is prohibited under KRS 532.045.
 - (c) No person shall be eligible for pretrial diversion more than once in a five (5) year period.
 - ~~(d) No person shall be eligible for pretrial diversion who has committed a sex crime as defined in KRS 17.500. A person who is on pretrial diversion on July 12, 2006, may remain on pretrial diversion if the person continues to meet the requirements of the pretrial diversion and the registration requirements of KRS 17.510.~~

(e)} Any person charged with an offense not specified as precluding a person from pretrial diversion under paragraph (b) of this subsection may apply in writing to the trial court and the Commonwealth's attorney for entry into a pretrial diversion program.

~~(e)(f)}~~ Any person shall be required to enter an Alford plea or a plea of guilty as a condition of pretrial diversion.

(f) Prior to entry into the program, defendants who have been charged with a felony offense under KRS Chapter 218A or who have been charged with a felony offense and whose record indicates a history of substance abuse shall demonstrate suitable compliance with the terms of a substance abuse treatment or recovery program.

(g) The program may include as a component referral to the intensive secure substance abuse treatment program created under Section 1 of this Act for persons charged with a felony offense under KRS Chapter 218A and persons charged with a felony offense whose record indicates a history of substance abuse who have not previously been referred to the program under Section 4 of this Act.

- (2) The Commonwealth's attorney shall make a recommendation upon each application for pretrial diversion to the Circuit Judge in the court in which the case would be tried. The court may approve or disapprove the diversion.
- (3) The court shall assess a diversion supervision fee of a sufficient amount to defray all or part of the cost of participating in the diversion program. Unless the fee is waived by the court in the case of indigency, the fee shall be assessed against each person placed in the diversion program. The fee may be based upon ability to pay.

Section 6. KRS 532.120 is amended to read as follows:

- (1) An indeterminate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the Department of Corrections. When a person is under more than one (1) indeterminate sentence, the sentences shall be calculated as follows:
 - (a) If the sentences run concurrently, the maximum terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or
 - (b) If the sentences run consecutively, the maximum terms are added to arrive at an aggregate maximum term equal to the sum of all the maximum terms.
- (2) A definite sentence of imprisonment commences when the prisoner is received in the institution named in the commitment. When a person is under more than one (1) definite sentence, the sentences shall be calculated as follows:
 - (a) If the sentences run concurrently, the terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or
 - (b) If the sentences run consecutively, the terms are added to arrive at an aggregate term and are satisfied by discharge of the aggregate term.
- (3) Time spent in custody prior to the commencement of a sentence as a result of the charge that culminated in the sentence shall be credited by the court imposing sentence toward service of the maximum term of imprisonment. If the sentence is to an indeterminate term of imprisonment, the time spent in custody prior to the commencement of the sentence shall be considered for all purposes as time served in prison.
- (4) If a person has been in custody due to a charge that culminated in a dismissal, acquittal, or other disposition not amounting to a conviction, the amount of time that would have been credited under subsection (3) of this section if the defendant had been convicted of that charge shall be credited as provided in subsection (3) of this section against any sentence based on a charge for which a warrant or commitment was lodged during the pendency of that custody.
- (5) If a person serving a sentence of imprisonment escapes from custody, the escape shall interrupt the sentence. The interruption shall continue until the person is returned to the institution from which he escaped or to an institution administered by the Department of Corrections. Time spent in actual custody prior to return under this subsection shall be credited against the sentence if custody rested solely on an arrest or surrender for the escape itself.
- (6) As used in subsections (3) and (4) of this section, time spent in custody shall include time spent in the intensive secured substance abuse recovery program created in Section 1 of this Act and may include, at the discretion of the sentencing court, time spent in a different residential substance abuse treatment or recovery facility pursuant to Section 3 or 4 of this Act if, under each option allowed by this subsection, the person has successfully completed the program offered by the intensive secured substance abuse recovery program or the residential substance abuse treatment or recovery facility.

SECTION 7. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

- (1) Any person who has been convicted of a Class D felony or a series of Class D felonies arising from a single incident may petition the court in which he or she was convicted for expungement of his or her felony record. The person shall be informed of the right at the time of adjudication.
- (2) The petition shall be filed no sooner than ten (10) years after the time of adjudication. The petition shall specify the name and address of any identified victim of the crime, if any, or, if the victim of the crime is deceased or otherwise unavailable, the name and address of a member of the victim's family. Inability to locate the victim shall not delay the proceedings in the case or preclude the holding of a hearing or the issuance of an order of expungement.
- (3) Upon the filing of a petition, the court shall set a date for a hearing and shall mail a copy of the petition to the

Commonwealth's attorney and to each victim or family member identified in the petition together with a notice stating:

- (a) That a petition for expungement has been filed;
 - (b) That the person named in the petition has been identified as a victim of the offense or as a family member of a victim of the offense;
 - (c) That the person has the right to consult with and be interviewed by the Commonwealth's attorney on the question of whether the request for expungement should be granted, and that the Commonwealth's attorney may communicate the person's opinion on the expungement petition to the court; and
 - (d) The date, time, and place that the court has set the petition for a hearing.
- (4) When considering an application for felony expungement, the Commonwealth's attorney shall:
- (a) Have a criminal record check made to ascertain whether the person is eligible for felony expungement;
 - (b) Interview and consult with any victim of the crime or a member of the victim's family if an interview or consultation is requested by that person; and
 - (c) Conduct any other investigation the Commonwealth's attorney determines may be necessary with regard to the petitioner and the circumstances of the crime so as to enable him or her to make an informed decision whether to recommend felony expungement.
- (5) The result of any interview and recommendations of the victim of the crime or the victim's family member under subsection (4) of this section may be presented to the court when it considers an application for felony expungement.
- (6) The Commonwealth's attorney shall make a recommendation upon each application for felony expungement to the court. If the Commonwealth's attorney recommends against granting the petition for felony expungement, he or she shall set forth, with specificity and in detail, the reasons for opposing the petition. A recommendation against granting the petition for felony expungement shall be filed with the court and shall be a public record.
- (7) If the application for felony expungement is approved by the court, the approval shall be in open court and open to the public and the Commonwealth's attorney shall take reasonable steps to notify the victim and the victim's family of the time, date, and location of the hearing.
- (8) The court shall order all records in the custody of the court and any records in the custody of any other agency sealed, if, at the hearing, the court finds that:
- (a) The offense was not a sex offense, an offense committed against a minor, or a felony offense in KRS Chapter 209, 507, or 508;
 - (b) The person had no previous felony conviction;
 - (c) The person has not, since the time of the conviction in question, been convicted of a felony or misdemeanor;
 - (d) The person is not currently charged with a felony or a misdemeanor;
 - (e) The person has successfully completed any sentence of incarceration, probation, or conditional discharge;
 - (f) The person has paid all restitution ordered by a court; and
 - (g) The offense was an offense against the Commonwealth of Kentucky.
- (9) (a) Except as provided in Section 10 of this Act, upon entry of an order to seal the records, and payment to the circuit clerk's office of three hundred dollars (\$300), all proceedings in the case shall be deemed never to have occurred; all index references shall be deleted; the person and the court may properly reply that no record exists with respect to the petitioner; and the petitioner shall not have to disclose facts relating to the record on an application for employment, credit, or any other type of application. The fee collected pursuant to this subsection shall be deposited into a trust and agency account for deputy clerks.
- (b) The circuit clerk shall remit or retain the following portions of the fee collected pursuant to this section:
- 1. Ninety-five dollars (\$95) of the fee shall be retained by the clerk for use in processing the application and expunging the records;
 - 2. One hundred twenty-five dollars (\$125) of the fee shall be forwarded to the Department of Kentucky State Police for use in processing the application and in expunging the records; and
 - 3. Eighty dollars (\$80) of the fee shall be forwarded to the Department of Corrections for use in processing the application and in expunging the records.
- (10) Copies of the order of expungement shall be sent to each agency or official holding records of the proceedings in question.
- (11) Except as provided in Section 10 of this Act, inspection of records included in the order of expungement may thereafter be permitted by the court only upon petition by the person who is the subject of the records and only to those persons named in the petition.
- (12) This section shall be deemed to be retroactive.

Section 8. KRS 431.078 is amended to read as follows:

- (1) Any person who has been convicted of a misdemeanor or a violation, or a series of misdemeanors or violations arising from a single incident, may petition the court in which he was convicted for expungement of his misdemeanor or violation record. The person shall be informed of the right at the time of adjudication.
- (2) The petition shall be filed no sooner than five (5) years after the time of adjudication~~[completion of the person's sentence or five (5) years after the successful completion of the person's probation, whichever occurs later]~~.
- (3) Upon the filing of a petition, the court shall set a date for a hearing and shall notify the county attorney; the victim of the crime, if there was an identified victim; and any other person whom the person filing the petition has reason to believe may have relevant information related to the expungement of the record. Inability to locate the victim shall not delay the proceedings in the case or preclude the holding of a hearing or the issuance of an order of expungement.
- (4) The court shall order sealed all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if at the hearing the court finds that:
 - (a) The offense was not a sex offense or an offense committed against a child;
 - (b) The person had no previous felony conviction;
 - (c) The person had not been convicted of any other misdemeanor or violation offense in the five (5) years prior to the conviction sought to be expunged;
 - (d) The person had not since the time of the conviction sought to be expunged been convicted of a felony, a misdemeanor, or a violation;
 - (e) No proceeding concerning a felony, misdemeanor, or violation is pending or being instituted against him; and
 - (f) The offense was an offense against the Commonwealth of Kentucky.
- (5) Upon the entry of an order to seal the records, and payment to the circuit clerk of fifty~~[twenty-five]~~ dollars (\$50)~~(\$25)~~, the proceedings in the case shall be deemed never to have occurred; all index references shall be deleted; the persons and the court may properly reply that no record exists with respect to the persons upon any inquiry in the matter; and the person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application. The fee collected pursuant to this subsection shall be deposited into a trust and agency account for deputy clerks.
- (6) Copies of the order shall be sent to each agency or official named therein.
- (7) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of the records and only to those persons named in the petition.
- (8) This section shall be deemed to be retroactive, and any person who has been convicted of a misdemeanor prior to July 14, 1992, may petition the court in which he was convicted, or if he was convicted prior to the inception of the District Court to the District Court in the county where he now resides, for expungement of the record of one (1) misdemeanor offense or violation or a series of misdemeanor offenses or violations arising from a single incident, provided that the offense was not one specified in subsection (4) and that the offense was not the precursor offense of a felony offense for which he was subsequently convicted. This section shall apply only to offenses against the Commonwealth of Kentucky.

Section 9. KRS 527.040 is amended to read as follows:

- (1) A person is guilty of possession of a firearm by a convicted felon when he possesses, manufactures, or transports a firearm when he has been convicted of a felony, as defined by the laws of the jurisdiction in which he was convicted, in any state or federal court and has not:
 - (a) Been granted a full pardon by the Governor or by the President of the United States;
 - (b) Been granted relief by the United States Secretary of the Treasury pursuant to the Federal Gun Control Act of 1968, as amended; or
 - (c) Had his record expunged by any court of the Commonwealth of Kentucky.
- (2) Possession of a firearm by a convicted felon is a Class D felony unless the firearm possessed is a handgun in which case it is a Class C felony.
- (3) The provisions of this section shall apply to any youthful offender convicted of a felony offense under the laws of this Commonwealth. The exceptions contained in KRS 527.100 prohibiting possession of a handgun by a minor shall not apply to this section.
- (4) The provisions of this section with respect to handguns, shall apply only to persons convicted after January 1, 1975, and with respect to other firearms, to persons convicted after July 15, 1994.

SECTION 10. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

The Administrative Office of the Courts shall retain an index of expungement orders entered under Section 7 of this Act. The index shall only be accessible to persons preparing a presentence investigation under KRS 532.050. If the index indicates that the defendant for whom the presentence investigation is being prepared has had a prior felony expunged under Section 7 of this Act, the person preparing the report may, notwithstanding the provisions of Section 7 of this Act, both access the expunged record and include information from the expunged record in the presentence investigation report.

Section 11. Whereas the citizens of Kentucky face a present and ongoing danger as the result of substance abuse-driven crime and the provisions of this Act offer relief from that danger, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The House Committee Amendment No. 1 Title to **SB 34** is as follows:

SB 34, By amending the title to read as follows: "AN ACT relating to criminal procedure and declaring an emergency."

SB 88, AN ACT relating to drugs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.010 is amended to read as follows:

As used in this chapter:

- (1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
 - (a) A practitioner or by his authorized agent under his immediate supervision and pursuant to his order; or
 - (b) The patient or research subject at the direction and in the presence of the practitioner.
- (2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids.
- (3) "Cabinet" means the Cabinet for Health and Family Services.
- (4) "Child" means any person under the age of majority as specified in KRS 2.015.
- (5) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue.
- (6) (a) "Controlled substance analogue", except as provided in subparagraph (b), means a substance:
 1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
 2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
 3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.(b) Such term does not include:
 1. Any substance for which there is an approved new drug application;
 2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
 3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance.
- (7) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.
- (8) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.
- (9) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user.
- (10) "Distribute" means to deliver other than by administering or dispensing a controlled substance.
- (11) "Drug" means:
 - (a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
 - (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or

animals;

- (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
- (d) Substances intended for use as a component of any article specified in this subsection.

It does not include devices or their components, parts, or accessories.

- (12) **"Good faith prior examination" means an in-person medical examination of the patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at which time the patient is physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations authorized under KRS 11.550 or any other substantially similar program instituted pursuant to KRS 11.550.**
- (13) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:
- (a) Poses an explosion hazard;
 - (b) Poses a fire hazard; or
 - (c) Is poisonous or injurious if handled, swallowed, or inhaled.
- (14){(13)} "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture.
- (15){(14)} "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine.
- (16){(15)} "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer.
- (17){(16)} "Manufacture", except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:
- (a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or
 - (b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or
 - (c) By a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.
- (18){(17)} "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances.
- (19) **"Medical history" means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background.**
- (20) **"Medical order" means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order.**
- (21) **"Medical record" means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship.**
- (22){(18)} "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers.
- (23){(19)} "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
- (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
 - (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;
 - (c) Opium poppy and poppy straw;
 - (d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of

ecgonine or their salts have been removed;

- (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
- (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
- (g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection.

~~(24)~~~~(20)~~ "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

~~(25)~~~~(21)~~ "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds.

~~(26)~~~~(22)~~ "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

~~(27)~~~~(23)~~ "Physical injury" has the same meaning it has in KRS 500.080.

~~(28)~~~~(24)~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

~~(29)~~~~(25)~~ "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.

~~(30)~~~~(26)~~ "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced registered nurse practitioner as authorized under KRS 314.011, or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, veterinarian, or advanced registered nurse practitioner authorized under KRS 314.011 who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail.

~~(31)~~ "Practitioner-patient relationship" means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his designee has conducted at least one (1) good faith prior examination.

~~(32)~~~~(27)~~ "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropractic, veterinarian, optometric practitioner, or advanced registered nurse practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals.

~~(33)~~~~(28)~~ "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216.

~~(34)~~~~(29)~~ "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

~~(35)~~~~(30)~~ "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter.

~~(36)~~~~(31)~~ "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution.

~~(37)~~~~(32)~~ "Serious physical injury" has the same meaning it has in KRS 500.080.

~~(38)~~ "Telehealth" has the same meaning it has in KRS 311.550.

~~(39)~~~~(33)~~ "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant *Cannabis*, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

1. Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
2. Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
3. Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

~~(40)~~~~(34)~~ "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance.

~~(41)~~~~(35)~~ "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.

~~(42)~~~~(36)~~ "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

Section 2. KRS 218A.140 is amended to read as follows:

- (1) (a) No person shall obtain or attempt to obtain a prescription for a controlled substance by knowingly misrepresenting to, or knowingly withholding information from, a practitioner.
- (b) No person shall procure or attempt to procure the administration of a controlled substance by knowingly misrepresenting to, or withholding information from, a practitioner.
- (c) No person shall obtain or attempt to obtain a controlled substance or procure or attempt to procure the administration of a controlled substance by the use of a false name or the giving of a false address.
- (d) No person shall knowingly make a false statement regarding any prescription, order, report, or record required by this chapter.
- (e) No person shall, for the purpose of obtaining a controlled substance, falsely assume the title of or represent himself to be a manufacturer, wholesaler, distributor, repacker, pharmacist, practitioner, or other authorized person.
- (f) In order to obtain a controlled substance, no person shall present a prescription for a controlled substance that was obtained in violation of this chapter.
- (g) No person shall affix any false or forged label to a package or receptacle containing any controlled substance.
- (2) No person shall possess, manufacture, sell, dispense, prescribe, distribute, or administer any counterfeit substance.
- (3) No person shall obtain or attempt to obtain a prescription for a controlled substance without having formed a valid practitioner-patient relationship with the practitioner or his or her designee from whom the person seeks to obtain the prescription.
- (4) No person shall knowingly assist a person in obtaining or attempting to obtain a prescription in violation of this chapter.
- (5) Any person who violates any subsection of this section shall be guilty of a Class D felony for a first offense and a Class C felony for subsequent offenses.

Section 3. KRS 218A.1402 is amended to read as follows:

Any person who commits a criminal conspiracy as defined in KRS 506.040 to commit any offense in this chapter~~traffic in a controlled substance or a controlled substance analogue~~ shall be subject to the same penalties as provided for the underlying offense~~for trafficking in that controlled substance or a controlled substance analogue~~ as specified in this chapter.

Section 4. KRS 218A.1404 is amended to read as follows:

- (1) No person shall traffic in any controlled substance except as authorized by law.
- (2) No person shall possess any controlled substance except as authorized by law.
- (3) No person shall dispense, prescribe, distribute, or administer any controlled substance except as authorized by law.
- (4) Unless another specific penalty is provided in this chapter, any person who violates the provisions of ~~subsection (1) or (3) of~~ this section shall be guilty of a Class D felony for the first offense and a Class C felony for subsequent offenses~~and any person who violates the provisions of subsection (2) of this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses~~.

Section 5. KRS 218A.1446 is amended to read as follows:

- (1) Any nonprescription compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall be dispensed, sold, or distributed only by a registered pharmacist, a pharmacy intern, or a pharmacy technician.
- (2) Any person purchasing, receiving, or otherwise acquiring any nonprescription compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall:
 - (a) Produce a government issued photo identification showing the date of birth of the person; and
 - (b) Sign a written log or record showing the:
 1. Date of the transaction;
 2. Name, date of birth, and address of the person making the purchase; and
 3. The amount and name of the compound, mixture, or preparation.

An electronic recordkeeping mechanism may be used in lieu of the written log or record described in paragraph (b) of this subsection, provided the mechanism is approved by the Office of Drug Control Policy.

- (3) A log, as described in subsection (2) of this section, shall be kept of each day's transactions. The registered pharmacist, a pharmacy intern, or a pharmacy technician shall initial the entry of each sale in the log, evidencing completion of each transaction. The log shall be:
 - (a) Kept for a period of two (2) years; and
 - (b) Subject to random and warrantless inspection by city, county, or state law enforcement officers.

- (4) (a) Intentional failure of a registered pharmacist, a pharmacy intern, or a pharmacy technician to make an accurate entry of a sale of a product or failure to maintain the log records as required by this section may subject him or her to a fine of not more than one thousand dollars (\$1,000) for each violation and may be evidence of a violation of KRS 218A.1438.
- (b) If evidence exists that the pharmacist's, the pharmacy intern's, or the pharmacist technician's employer fails, neglects, or encourages incorrect entry of information by improper training, lack of supervision or oversight of the maintenance of logs, or other action or inaction, the employer shall also face liability under this section and any other applicable section of this chapter.
- (c) It shall be a defense to a violation of this section that the person proves that circumstances beyond the control of the registered pharmacist, pharmacy intern, or pharmacy technician delayed or prevented the making of the record or retention of the record as required by this section. Examples of circumstances beyond the control of the registered pharmacist, pharmacy intern, or pharmacy technician include but are not limited to:
1. Fire, natural or manmade disaster, loss of power, and similar events;
 2. Robbery, burglary, shoplifting, or other criminal act by a person on the premises;
 3. A medical emergency suffered by the registered pharmacist, pharmacy intern, or pharmacy technician, another employee of the establishment, a customer, or any other person on the premises; or
 4. Some other circumstance that establishes that an omission was inadvertent.
- (5) No person shall purchase, receive, or otherwise acquire any product, mixture, or preparation or combinations of products, mixtures, or preparations containing more than nine (9) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers within any thirty (30) day period provided this limit shall not apply to any quantity of product, mixture or preparation dispensed pursuant to a valid prescription. In addition to the nine (9) gram restriction, no person shall purchase, receive, or otherwise acquire more than three (3) packages of any product, mixture, or preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers during each transaction.
- (6) A person under eighteen (18) years of age shall not purchase or attempt to purchase any quantity of a ephedrine, pseudoephedrine, or phenylpropanolamine product as described in subsection (1) of this section. No person shall aid or assist a person under eighteen (18) years of age in purchasing any quantity of a ephedrine, pseudoephedrine, or phenylpropanolamine product as described in subsection (1) of this section.
- (7) The requirements of this section shall not apply to any compounds, mixtures, or preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers which are in liquid, liquid capsule, or gel capsule form or to any compounds, mixtures, or preparations containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts or optical isomers which are deemed to be not subject to abuse upon joint review and agreement of the Office of Drug Control Policy, the Board of Pharmacy, and the Cabinet for Health and Family Services.
- (8) The provisions of this section shall not apply to a:
- (a) Licensed manufacturer manufacturing and lawfully distributing a product in the channels of commerce;
 - (b) Wholesaler lawfully distributing a product in the channels of commerce;
 - (c) A pharmacy with a valid permit from the Kentucky Board of Pharmacy~~[Licensed pharmacy]~~;
 - (d) Health care facility licensed pursuant to KRS Chapter 216B;
 - (e) Licensed long-term care facility;
 - (f) Government-operated health department;
 - (g) Physician's office;
 - (h) Publicly operated prison, jail, or juvenile correctional facility, or a private adult or juvenile correctional facility under contract with the Commonwealth;
 - (i) Public or private educational institution maintaining a health care program; or
 - (j) Government-operated or industrial medical facility serving its own employees.
- (9) The provisions of this section shall supersede and preempt all local laws, ordinances, and regulations pertaining to the sale of any compounds, mixtures, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers.

Section 6. KRS 218A.202 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy that has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy.
- (2) A practitioner or a pharmacist shall not have to pay a fee or tax specifically dedicated to the operation of the system.

- (3) Every dispenser within the Commonwealth or any other dispenser who has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy shall report to the Cabinet for Health and Family Services the data required by this section in a timely manner as prescribed by the cabinet except that reporting shall not be required for:
- (a) A drug administered directly to a patient; or
 - (b) A drug dispensed by a practitioner at a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours.
- (4) Data for each controlled substance that is dispensed shall include but not be limited to the following:
- (a) Patient identifier;
 - (b) Drug dispensed;
 - (c) Date of dispensing;
 - (d) Quantity dispensed;
 - (e) Prescriber; and
 - (f) Dispenser.
- (5) The data shall be provided in the electronic format specified by the Cabinet for Health and Family Services unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates.
- (6) The Cabinet for Health and Family Services shall be authorized to provide data to:
- (a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;
 - (b) A Kentucky peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal peace officer whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;
 - (c) A state-operated Medicaid program;
 - (d) A properly convened grand jury pursuant to a subpoena properly issued for the records;
 - (e) A practitioner or pharmacist who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient;
 - (f) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Medical Licensure, for any physician who is:
 - 1. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing practices;
 - 2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing may be occurring; or
 - 3. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing may be occurring in that area;
 - (g) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Nursing, for any advanced registered nurse practitioner who is:
 - 1. Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper prescribing practices;
 - 2. Associated in a partnership or other business entity with an advanced registered nurse practitioner who is already under investigation by the Board of Nursing for improper prescribing practices;
 - 3. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing may be occurring; or
 - 4. In a designated geographic area for which a report on a physician or another advanced registered nurse practitioner in that area indicates a substantial likelihood that inappropriate prescribing may be occurring in that area; or
 - (h) A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program.
- (7) The Department for Medicaid Services may use any data or reports from the system for the purpose of identifying Medicaid recipients whose usage of controlled substances may be appropriately managed by a single outpatient pharmacy

or primary care physician.

- (8) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except by order of a court of competent jurisdiction, except that:
- (a) A peace officer specified in subsection (6)(b) of this section who is authorized to receive data or a report may share that information with other peace officers specified in subsection (6)(b) of this section authorized to receive data or a report if the peace officers specified in subsection (6)(b) of this section are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each law enforcement agency engaged in the investigation; and
 - (b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in subsection (6)(a) of this section, or with a law enforcement officer designated in subsection (6)(b) of this section; and
 - (c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.
- (9) The Cabinet for Health and Family Services, all peace officers specified in subsection (6)(b) of this section, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.
- (10) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.
- (11) ~~Intentional~~~~[Knowing]~~ failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
- (12) ~~Intentional~~~~[Knowing]~~ disclosure of transmitted data to a person not authorized by subsection (6) to subsection (8) of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class D felony for the first offense and a Class C felony for each subsequent offense.
- (13) The Commonwealth Office of Technology, in consultation with the Cabinet for Health and Family Services, shall submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot project to study a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances. The pilot project shall:
- (a) Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and
 - (b) Study the use of an interactive system that includes a relational data base with query capability.
- (14) Provisions in this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (13) of this section.
- (15) The Cabinet for Health and Family Services may limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.
- (16) (a) The Cabinet for Health and Family Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.
- (b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.
- (c) The cabinet shall work with the Justice Cabinet for the development of a continuing education program for law enforcement officers about the purposes and users of the electronic system for monitoring established in this section.

SECTION 7. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of criminal possession of a medical record when he or she possesses a medical record with the intent to obtain a controlled substance by:
- (a) Falsifying, altering, or creating a medical record; or
 - (b) Selling or unlawfully transferring the medical record to another person.
- (2) Any person who violates any subsection of this section shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense.

SECTION 8. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of theft of a medical record when he or she unlawfully takes or exercises control over a medical record belonging to another person with intent to violate this chapter.

- (2) Any person who violates any subsection of this section shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense.**

SECTION 9. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of criminal falsification of a medical record when he or she knowingly and unlawfully falsifies, alters, or creates a medical record for the purpose of obtaining or attempting to obtain a controlled substance with intent to violate this chapter.**
- (2) Any person who violates any subsection of this section shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense.**

Section 10. KRS 315.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Administer" means the direct application of a drug to a patient or research subject by injection, inhalation, or ingestion, whether topically or by any other means;
- (2) "Association" means the Kentucky Pharmacists Association;
- (3) "Board" means the Kentucky Board of Pharmacy;
- (4) "Collaborative care agreement" means a written agreement between a specifically identified individual practitioner and a pharmacist who is specifically identified, whereby the practitioner outlines a plan of cooperative management of a specifically identified individual patient's drug-related health care needs that fall within the practitioner's statutory scope of practice. The agreement shall be limited to specification of the drug-related regimen to be provided and any tests which may be necessarily incident to its provisions; stipulated conditions for initiating, continuing, or discontinuing drug therapy; directions concerning the monitoring of drug therapy and stipulated conditions which warrant modifications to dose, dosage regimen, dosage form, or route of administration;
- (5) "Compound" or "compounding" means the preparation or labeling of a drug pursuant to or in anticipation of a valid prescription drug order including, but not limited to, packaging, intravenous admixture or manual combination of drug ingredients. Compounding, as used in this chapter, shall not preclude simple reconstitution, mixing, or modification of drug products prior to administration by nonpharmacists;
- (6) "Confidential information" means information which is accessed or maintained by a pharmacist in a patient's record, or communicated to a patient as part of patient counseling, whether it is preserved on paper, microfilm, magnetic media, electronic media, or any other form;
- (7) "Continuing education unit" means ten (10) contact hours of board approved continuing pharmacy education. A "contact hour" means fifty (50) continuous minutes without a break period;
- (8) "Dispense" or "dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug;
- (9) "Drug" means any of the following:
 - (a) Articles recognized as drugs or drug products in any official compendium or supplement thereto; or
 - (b) Articles, other than food, intended to affect the structure or function of the body of man or other animals; or
 - (c) Articles, including radioactive substances, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; or
 - (d) Articles intended for use as a component of any articles specified in paragraphs (a) to (c) of this subsection;
- (10) "Drug regimen review" means retrospective, concurrent, and prospective review by a pharmacist of a patient's drug-related history, including but not limited to, the following areas:
 - (a) Evaluation of prescription drug orders and patient records for:
 1. Known allergies;
 2. Rational therapy contraindications;
 3. Appropriate dose and route of administration;
 4. Appropriate directions for use; or
 5. Duplicative therapies.
 - (b) Evaluation of prescription drug orders and patient records for drug-drug, drug-food, drug-disease, and drug-clinical laboratory interactions;
 - (c) Evaluation of prescription drug orders and patient records for adverse drug reactions; or
 - (d) Evaluation of prescription drug orders and patient records for proper utilization and optimal therapeutic outcomes;
- (11) **"Good faith prior examination" means the same as defined in KRS 218A.010;**
- (12) "Immediate supervision" means under the physical and visual supervision of a pharmacist;

- ~~{(12)}~~ "Incidental" as used in ~~KRS 315.0351(1)~~ means dispensing fewer than twenty-five ~~(25)~~ prescriptions in a calendar month;
- (13) "Manufacturer" means any person, except a pharmacist compounding in the normal course of professional practice, within the Commonwealth engaged in the commercial production, preparation, propagation, compounding, conversion or processing of a drug, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis, or both, and includes any packaging or repackaging of a drug or the labeling or relabeling of its container;
- (14) **"Medical history" means the same as defined in KRS 218A.010;**
- ~~(15)~~ "Medical order" means a lawful order of a specifically-identified practitioner for a specifically-identified patient for the patient's health care needs. "Medical order" may or may not include a prescription drug order;
- ~~(16){(15)}~~ **"Medical record" means the same as defined in KRS 218A.010;**
- ~~(17)~~ "Nonprescription drugs" means nonnarcotic medicines or drugs which may be sold without a prescription and are prepackaged and labeled for use by the consumer in accordance with the requirements of the statutes and regulations of this state and the federal government;
- ~~(18){(16)}~~ "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;
- ~~(19){(17)}~~ "Pharmacist intern" means a natural person who is:
- (a) Currently certified by the board to engage in the practice of pharmacy under the direction of a licensed pharmacist and who satisfactorily progresses toward meeting the requirements for licensure as a pharmacist;
 - (b) A graduate of an approved college or school of pharmacy or a graduate who has established educational equivalency by obtaining a Foreign Pharmacy Graduate Examination Committee (FPGEC) certificate, who is currently licensed by the board for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist;
 - (c) A qualified applicant awaiting examination for licensure as a pharmacist or the results of an examination for licensure as a pharmacist; or
 - (d) An individual participating in a residency or fellowship program approved by the board for internship credit;
- ~~(20){(18)}~~ "Pharmacy" means every place where:
- (a) Drugs are dispensed under the direction of a pharmacist;
 - (b) Prescription drug orders are compounded under the direction of a pharmacist; or
 - (c) A registered pharmacist maintains patient records and other information for the purpose of engaging in the practice of pharmacy, whether or not prescription drug orders are being dispensed;
- ~~(21)~~ **"Pharmacy-related primary care" means the pharmacists' activities in patient education, health promotion, and assistance in the selection and use of over-the-counter drugs and appliances for the treatment of common diseases and injuries, as well as those other activities falling within their statutory scope of practice;**
- ~~(22){(19)}~~ "Pharmacy technician" means a natural person who works under the immediate supervision, or general supervision if otherwise provided for by statute or administrative regulation, of a pharmacist for the purpose of assisting a pharmacist with the practice of pharmacy;
- ~~(23){(20)}~~ "Practice of pharmacy" means interpretation, evaluation, and implementation of medical orders and prescription drug orders; responsibility for dispensing prescription drug orders, including radioactive substances; participation in drug and drug-related device selection; administration of medications or biologics in the course of dispensing or maintaining a prescription drug order; the administration of adult immunizations pursuant to prescriber-approved protocols; drug evaluation, utilization, or regimen review; maintenance of patient pharmacy records; and provision of patient counseling and those professional acts, professional decisions, or professional services necessary to maintain and manage all areas of a patient's pharmacy-related care, including pharmacy-related primary care as defined in this section;
- ~~(24){(21)}~~ "Practitioner" has the same meaning given in KRS 217.015(35);
- ~~(25){(22)}~~ **"Practitioner-patient relationship" means the same as defined in KRS 218A.010.**
- ~~(26)~~ "Prescription drug" means a drug which:
- (a) Under federal law is required to be labeled with either of the following statements:
 - 1. "Caution: Federal law prohibits dispensing without prescription"; or
 - 2. "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian"; or
 - 3. **"Rx Only"; or**
 - 4. **"Rx"; or**
 - (b) Is required by any applicable federal or state law or administrative regulation to be dispensed only pursuant to a prescription drug order or is restricted to use by practitioners;
- ~~(27){(23)}~~ "Prescription drug order" means an original or new order from a practitioner for drugs, drug-related devices or treatment for a human or animal, including orders issued through collaborative care agreements. Lawful prescriptions

result from a valid practitioner-patient relationship, are intended to address a legitimate medical need, and fall within the prescribing practitioner's scope of professional practice;

~~[(24)] "Pharmacy-related primary care" means the pharmacists' activities in patient education, health promotion, assistance in the selection and use of over-the-counter drugs and appliances for the treatment of common diseases and injuries as well as those other activities falling within their statutory scope of practice;]~~

~~[(28)]~~~~[(25)]~~ "Society" means the Kentucky Society of Health-Systems Pharmacists;

~~[(29)]~~~~[(26)]~~ "Supervision" means the presence of a pharmacist on the premises to which a pharmacy permit is issued, who is responsible, in whole or in part, for the professional activities occurring in the pharmacy; and

~~[(30)]~~~~[(27)]~~ "Wholesaler" means any person who legally buys drugs for resale or distribution to persons other than patients or consumers.

Section 11. KRS 315.035 is amended to read as follows:

- (1) No person shall operate a pharmacy within this Commonwealth, physically or by means of the Internet, facsimile, phone, mail, or any other means, without having first obtained a permit as provided for in KRS Chapter 315. An application for a permit to operate a pharmacy shall be made to the board upon forms provided by it and shall contain such information as the board requires, which may include affirmative evidence of ability to comply with such reasonable standards and rules and regulations as may be prescribed by the board. Each application shall be accompanied by a reasonable permit fee to be set by administrative regulation promulgated by the board pursuant to KRS Chapter 13A, not to exceed two hundred fifty dollars (\$250).
- (2) Upon receipt of an application of a permit to operate a pharmacy, accompanied by the permit fee not to exceed two hundred fifty dollars (\$250), the board shall issue a permit if the pharmacy meets the standards and requirements of KRS Chapter 315 and the rules and regulations of the board. The board shall refuse to renew any permit to operate unless the pharmacy meets the standards and requirements of KRS Chapter 315 and the rules and regulations of the board. The board shall act upon an application for a permit to operate within thirty (30) days after the receipt thereof; provided, however, that the board may issue a temporary permit to operate in any instance where it considers additional time necessary for investigation and consideration before taking final action upon the application. In such event, the temporary permit shall be valid for a period of thirty (30) days, unless extended.
- (3) A separate permit to operate shall be required for each pharmacy.
- (4) Each permit to operate a pharmacy, unless sooner suspended or revoked, shall expire on June 30 following its date of issuance and be renewable annually thereafter upon proper application accompanied by such reasonable renewal fee as may be set by administrative regulation of the board, not to exceed two hundred fifty dollars (\$250) nor to increase more than twenty-five dollars (\$25) per year. An additional fee not to exceed the annual renewal fee may be assessed and set by administrative regulation as a delinquent renewal penalty for failure to renew by June 30 of each year.
- (5) Permits to operate shall be issued only for the premises and persons named in the application and shall not be transferable; provided however, that a buyer may operate the pharmacy under the permit of the seller pending a decision by the board of an application which shall be filed by the buyer with the board at least five (5) days prior to the date of sale.
- (6) The board may promulgate rules and regulations to assure that proper equipment and reference material is on hand considering the nature of the pharmaceutical practice conducted at the particular pharmacy and to assure reasonable health and sanitation standards for areas within pharmacies which are not subject to health and sanitation standards promulgated by the Kentucky Cabinet for Health and Family Services or a local health department.
- (7) Each pharmacy shall comply with KRS 218A.202.
- (8) Any pharmacy within the Commonwealth that dispenses more than twenty-five percent (25%) of its total prescription volume as a result of an original prescription order received or solicited~~[doing business primarily or exclusively]~~ by use of the Internet, including but not limited to electronic mail, shall, prior to obtaining a permit, receive and display in every medium in which it advertises itself a seal of approval for the National Association of Boards of Pharmacy certifying that it is a Verified Internet Pharmacy Practice Site (VIPPS) or a seal certifying approval of a substantially similar program approved by the Kentucky Board of Pharmacy. VIPPS, or any other substantially similar program approved by the Kentucky Board of Pharmacy, accreditation~~[certification]~~ shall be maintained and remain current.
- (9) Any pharmacy within the Commonwealth doing business~~[primarily or exclusively]~~ by use of the Internet shall certify the percentage of its annual business conducted via the Internet and submit such supporting documentation as requested by the board, and in a form or application required by the board, when it applies for permit or renewal.

Section 12. KRS 315.0351 is amended to read as follows:

- (1) Every person or pharmacy located outside this Commonwealth which~~[, other than on an incidental basis,]~~ does business, physically or by means of the Internet, facsimile, phone, mail, or any other means, inside this Commonwealth within the meaning of KRS Chapter 315, shall hold a current pharmacy permit as provided in KRS 315.035(1) and (4) issued by the Kentucky Board of Pharmacy. The pharmacy shall be designated an "out-of-state pharmacy" and the permit shall be designated an "out-of-state pharmacy permit." The fee for the permit shall not exceed the current in-state pharmacy permit fee as provided under KRS 315.035.

- (2) Every out-of-state pharmacy granted an out-of-state pharmacy permit by the board shall disclose to the board the location, names, and titles of all principal corporate officers and all pharmacists who are dispensing prescription drugs to residents of the Commonwealth. A report containing this information shall be made to the board on an annual basis and within thirty (30) days after any change of office, corporate officer, or pharmacist.
- (3) Every out-of-state pharmacy granted an out-of-state pharmacy permit shall comply with all statutorily-authorized directions and requests for information from any regulatory agency of the Commonwealth and from the board in accordance with the provisions of this section. The out-of-state pharmacy shall maintain at all times a valid unexpired permit, license, or registration to conduct the pharmacy in compliance with the laws of the jurisdiction in which it is a resident. As a prerequisite to seeking a permit from the Kentucky Board of Pharmacy, the out-of-state pharmacy shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the jurisdiction in which it is located. Thereafter, the out-of-state pharmacy granted a permit shall submit to the Kentucky Board of Pharmacy a copy of any subsequent inspection report on the pharmacy conducted by the regulatory or licensing body of the jurisdiction in which it is located.
- (4) Every out-of-state pharmacy granted an out-of-state pharmacy permit by the board shall maintain records of any controlled substances or dangerous drugs or devices dispensed to patients in the Commonwealth so that the records are readily retrievable from the records of other drugs dispensed.
- (5) Records for all prescriptions delivered into Kentucky shall be readily retrievable from the other prescription records of the out-of-state pharmacy.
- (6) Each out-of-state pharmacy shall, during its regular hours of operation, but not less than six (6) days per week and for a minimum of forty (40) hours per week, provide a toll-free telephone service directly to the pharmacist in charge of the out-of-state pharmacy and available to both the patient and each licensed and practicing in-state pharmacist for the purpose of facilitating communication between the patient and the Kentucky pharmacist with access to the patient's prescription records. A toll-free number shall be placed on a label affixed to each container of drugs dispensed to patients within the Commonwealth.
- (7) Each out-of-state pharmacy shall have a pharmacist in charge who is licensed to engage in the practice of pharmacy by the Commonwealth that shall be responsible for compliance by the pharmacy with the provisions of this section.
- (8) Each out-of-state pharmacy shall comply with KRS 218A.202.
- (9) Any out-of-state pharmacy that dispenses more than twenty-five percent (25%) of its total prescription volume as a result of an original prescription order received or solicited~~[doing business, primarily or exclusively]~~ by use of the Internet, including but not limited to electronic mail, shall~~[, prior to obtaining a permit,]~~ receive and display in every medium in which it advertises itself a seal of approval for the National Association of Boards of Pharmacy certifying that it is a Verified Internet Pharmacy Practice Site (VIPPS) or a seal certifying approval of a substantially similar program approved by the Kentucky Board of Pharmacy. VIPPS, or any other substantially similar accreditation~~[certification]~~ shall be maintained and remain current.
- (10) Any out-of-state pharmacy doing business in the Commonwealth of Kentucky~~[primarily or exclusively by use of the Internet]~~ shall certify the percentage of its annual business conducted via the Internet and electronic mail and submit such supporting documentation as requested by the board, and in a form or application required by the board, when it applies for permit or renewal.
- (11) Any pharmacy doing business within the Commonwealth of Kentucky shall use the address on file with the Kentucky Board of Pharmacy as the return address on the labels of any package shipped into or within the Commonwealth. The return address shall be placed on the package in a clear and prominent manner.
- (12) The Kentucky Board of Pharmacy may waive the permit requirements of this chapter for an out-of-state pharmacy that only does business within the Commonwealth of Kentucky in limited transactions.

Section 13. KRS 315.320 is amended to read as follows:

- (1) A person or pharmacy is guilty of a Class C felony if the person or pharmacy, located inside or outside this Commonwealth, is not licensed by the Commonwealth of Kentucky to engage in the practice of pharmacy and knowingly:
 - (a) Communicates~~[Uses or attempts to use the Internet, in whole or in part, to communicate]~~ with a~~[or obtain information from another]~~ person in this Commonwealth; and
 - (b) Uses or attempts to use such communication or information, in whole, or in part, to:
 - 1. Fill or refill a prescription for a prescription drug for the other person; or
 - 2. Deliver, cause, allow, or aid in the delivery of a controlled substance, imitation controlled substance, counterfeit substance or prescription drug to the other person.
- (2) A person or pharmacy is guilty of a Class B felony if the substance or drug dispensed in subsection (1) of this section:
 - (a) Is classified in Schedule I; or
 - (b) Proximately causes serious physical injury or the death of the intended recipient of the substance or drug or any other person.

- (3) The court shall not grant probation to or suspend the sentence of a person punished pursuant to subsection (2) of this section.
- (4) A person who knowingly aids another in any act or transaction that violates the provisions of subsection (1) of this section is guilty of a Class C felony.
- (5) A person who knowingly aids another in any act or transaction that violates the provisions of subsection (2) of this section is guilty of a Class B felony.
- (6) A person or pharmacy may be prosecuted, convicted, and punished for a violation of this section whether or not the person is prosecuted, convicted, or punished for a violation of any other statute based upon the same act or transaction.
- (7) This section shall not apply to a licensed pharmacist or permitted pharmacy that inadvertently allows its license or permit issued by the Kentucky Board of Pharmacy, ~~issued by a board of pharmacy~~, to lapse for a period of less than thirty (30) days.
- (8) This section shall not apply to authorized agents of a pharmacy with a valid permit issued by the Kentucky Board of Pharmacy.**
- (9) This section shall not apply to an authorized agent of a pharmacy that inadvertently allows its permit issued by the Kentucky Board of Pharmacy, to lapse for period of less than thirty (30) days.**
- (10) Unless a more specific penalty applies within this chapter, anyone who uses the Internet to communicate and facilitate the sale of controlled substances, except as specifically provided for in this chapter, may be prosecuted under KRS Chapter 218A.**

Section 14. KRS 218A.435 is amended to read as follows:

- (1) There is created a trust and revolving fund in the executive branch of state government to be known as the "Asset Forfeiture Trust Fund" referred to in this section as the "trust fund."
- (2) The trust fund shall consist of proceeds from forfeited coin or currency forfeited to the Commonwealth pursuant to KRS 218A.410, or the sale of property forfeited to the Commonwealth pursuant to KRS 218A.410, any moneys as may be appropriated by the General Assembly, and any investment interest earned on the fund. The moneys in this fund are intended to supplement any funds appropriated by the General Assembly to the agency which will receive disbursements from the trust fund as provided in this section.
- (3) The trust fund shall be managed by the state Office of Financial Management and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.
- (4) The trust fund shall be administered and audited by the Justice Cabinet. The secretary of justice or his designee shall promulgate administrative regulations necessary to further the purposes of KRS 218A.405 to 218A.460.
- (5) The trust fund shall be disbursed in accordance with the provisions of subsection (6) of this section. All interest accumulated on the fund shall immediately be available for disbursement to the Justice Cabinet for costs associated with administration of the fund.
- (6) The Justice Cabinet shall, upon advice from the Office of Financial Management, allocate the moneys in the fund quarterly, on a percentage basis, as provided in subsection (7) of this section.
- (7) The principal of the trust fund shall be distributed as follows:

- (a) Eighty percent (80%) shall be paid to the law enforcement agency or agencies which seized the property, to be used for direct law enforcement purposes;**
- (b) Fifteen percent (15%) shall be paid to the Office of the Attorney General, Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding; and**
- (c) Five percent (5%) to the Justice Cabinet to be used solely for the purpose of: training related to asset forfeiture; printing program-related training materials, such as manuals or handbooks; or payments to state or local agencies for programs relative to drug abuse prevention, treatment, and education or other similar purposes relating to drug abuse and prevention.**

The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient.~~{(a) Eighteen percent (18%) of the funds received in any fiscal year shall be allocated to the unified prosecutorial system to be disbursed by the Attorney General to those Commonwealth's attorneys or county attorneys who have participated in the forfeiture case;}~~

- ~~(b) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Cabinet for Health and Family Services to be used solely for the purpose of drug and alcohol abuse education, prevention, and treatment;~~
- ~~(c) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Department of Corrections to be used solely for programs related to drug enforcement and incarceration; and~~
- ~~(d) Ten percent (10%) of the funds received in any fiscal year shall be allocated to the Justice Cabinet to be used solely for the purpose of: training related to asset forfeiture; printing program-related training materials, such as manuals or handbooks; or payments to state or local agencies for programs relative to crime prevention, drug abuse~~

~~prevention, general law enforcement purposes, or other similar purposes relating to drug enforcement.]~~

- (8) ~~The [Attorney General, the secretary of the Cabinet for Health and Family Services, the commissioner of the Department of Corrections, and the] secretary of the Justice Cabinet [or their designees] shall [each] promulgate administrative regulations which itemize the programs on which the moneys allocated from the trust fund to each agency [their respective agencies] shall be spent and the method by which those moneys shall be disbursed to local entities.~~
- (9) On July 13, 1990, each state and local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible for the receipt of grants from the trust fund, adopt policies relating to the seizure, maintenance, storage, and care of property pending forfeiture which are in compliance with or which substantially comply with the model policy for seizure of forfeitable assets by law enforcement agencies published by the Department of Criminal Justice Training. However, a state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.
- (10) On July 13, 1990, each state or local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible to receive grants from the trust fund, have one (1) or more officers currently employed attend asset-forfeiture training as approved by the Kentucky Law Enforcement Council which shall approve a curriculum of study for asset-forfeiture training.
- (11) Other provisions of this section notwithstanding, any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter may be retained by the seizing agency for official use or sold within its discretion. Proceeds from the sale shall remain with the agency and shall not be paid into the trust fund ~~[and shall not be considered for purposes of the limits established in subsection (12) of this section]~~. The moneys shall be utilized for purposes consistent with KRS 218A.405 to 218A.460. The seizing agency shall be required to pay any bona fide perfected security interest on any vehicle so forfeited.
- (12) ~~[Other provisions of law notwithstanding, the first fifty thousand dollars (\$50,000) of forfeited coin or currency or of the proceeds from sale of any property forfeited pursuant to this chapter which was seized or forfeited by a single order of forfeiture, shall not be paid into the fund but ninety percent (90%) shall be paid to the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes and ten percent (10%) to the office of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding. The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any recipient. In addition, forty-five percent (45%) of all proceeds above fifty thousand dollars (\$50,000) shall not be paid into the fund but shall be retained by the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes.~~
- (13) ~~[When money or property is seized in a joint operation involving more than one (1) law enforcement agency, or prosecutorial office, the apportionment of funds to each pursuant to subsection (7)(a) of this section [or pursuant to subsection (12) of this section], shall be made among the agencies in a manner to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.~~

Section 15. KRS 218A.1446 is amended to read as follows:

- (1) Any nonprescription compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall be dispensed, sold, or distributed only by a registered pharmacist, a pharmacy intern, or a pharmacy technician.
- (2) Any person purchasing, receiving, or otherwise acquiring any nonprescription compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall:
- (a) Produce a government issued photo identification showing the date of birth of the person; and
 - (b) Sign a written log or record showing the:
 1. Date of the transaction;
 2. Name, date of birth, and address of the person making the purchase; and
 3. The amount and name of the compound, mixture, or preparation.

An electronic recordkeeping mechanism may be used in lieu of the written log or record described in paragraph (b) of this subsection, provided the mechanism is approved by the Office of Drug Control Policy.

- (3) A log, as described in subsection (2) of this section, shall be kept of each day's transactions. The registered pharmacist, a pharmacy intern, or a pharmacy technician shall initial the entry of each sale in the log, evidencing completion of each transaction. The log shall be:
- (a) Kept for a period of two (2) years; ~~[and]~~
 - (b) Subject to random and warrantless inspection by city, county, or state law enforcement officers; and
 - (c) An electronic recordkeeping mechanism may be required in lieu of the written log or record described in

paragraph 2 of this subsection provided the cost of establishing and maintaining the mechanism are borne by the Commonwealth of Kentucky. Pursuant to administrative regulations promulgated by the Drug Enforcement and Professional Standards Branch and the Office of Drug Control Policy, pharmacies requesting an exemption to electronic reporting may file an exemption request to the above listed agencies. Any exemption may be granted upon a showing of imposition of additional cost by the pharmacy.

- (4)
 - (a) Intentional failure of a registered pharmacist, a pharmacy intern, or a pharmacy technician to make an accurate entry of a sale of a product or failure to maintain the log records as required by this section may subject him or her to a fine of not more than one thousand dollars (\$1,000) for each violation and may be evidence of a violation of KRS 218A.1438.
 - (b) If evidence exists that the pharmacist's, the pharmacy intern's, or the pharmacist technician's employer fails, neglects, or encourages incorrect entry of information by improper training, lack of supervision or oversight of the maintenance of logs, or other action or inaction, the employer shall also face liability under this section and any other applicable section of this chapter.
 - (c) It shall be a defense to a violation of this section that the person proves that circumstances beyond the control of the registered pharmacist, pharmacy intern, or pharmacy technician delayed or prevented the making of the record or retention of the record as required by this section. Examples of circumstances beyond the control of the registered pharmacist, pharmacy intern, or pharmacy technician include but are not limited to:
 - 1. Fire, natural or manmade disaster, loss of power, and similar events;
 - 2. Robbery, burglary, shoplifting, or other criminal act by a person on the premises;
 - 3. A medical emergency suffered by the registered pharmacist, pharmacy intern, or pharmacy technician, another employee of the establishment, a customer, or any other person on the premises; or
 - 4. Some other circumstance that establishes that an omission was inadvertent.
- (5) No person shall purchase, receive, or otherwise acquire any product, mixture, or preparation or combinations of products, mixtures, or preparations containing more than nine (9) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers within any thirty (30) day period provided this limit shall not apply to any quantity of product, mixture or preparation dispensed pursuant to a valid prescription. In addition to the nine (9) gram restriction, no person shall purchase, receive, or otherwise acquire more than three (3) packages of any product, mixture, or preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers during each transaction.
- (6) A person under eighteen (18) years of age shall not purchase or attempt to purchase any quantity of a ephedrine, pseudoephedrine, or phenylpropanolamine product as described in subsection (1) of this section. No person shall aid or assist a person under eighteen (18) years of age in purchasing any quantity of a ephedrine, pseudoephedrine, or phenylpropanolamine product as described in subsection (1) of this section.
- (7) The requirements of this section shall not apply to any compounds, mixtures, or preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers which are in liquid, liquid capsule, or gel capsule form or to any compounds, mixtures, or preparations containing ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts or optical isomers which are deemed to be not subject to abuse upon joint review and agreement of the Office of Drug Control Policy, the Board of Pharmacy, and the Cabinet for Health and Family Services.
- (8) The provisions of this section shall not apply to a:
 - (a) Licensed manufacturer manufacturing and lawfully distributing a product in the channels of commerce;
 - (b) Wholesaler lawfully distributing a product in the channels of commerce;
 - (c) Licensed pharmacy;
 - (d) Health care facility licensed pursuant to KRS Chapter 216B;
 - (e) Licensed long-term care facility;
 - (f) Government-operated health department;
 - (g) Physician's office;
 - (h) Publicly operated prison, jail, or juvenile correctional facility, or a private adult or juvenile correctional facility under contract with the Commonwealth;
 - (i) Public or private educational institution maintaining a health care program; or
 - (j) Government-operated or industrial medical facility serving its own employees.
- (9) The provisions of this section shall supersede and preempt all local laws, ordinances, and regulations pertaining to the sale of any compounds, mixtures, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers.

The House Committee Substitute to **SB 88** is as follows:

SB 88, AN ACT relating to drugs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.010 is amended to read as follows:

As used in this chapter:

- (1) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion, or any other means, to the body of a patient or research subject by:
 - (a) A practitioner or by his authorized agent under his immediate supervision and pursuant to his order; or
 - (b) The patient or research subject at the direction and in the presence of the practitioner.
- (2) "Anabolic steroid" means any drug or hormonal substance chemically and pharmacologically related to testosterone that promotes muscle growth and includes those substances listed in KRS 218A.090(5) but does not include estrogens, progestins, and anticosteroids.
- (3) "Cabinet" means the Cabinet for Health and Family Services.
- (4) "Child" means any person under the age of majority as specified in KRS 2.015.
- (5) "Controlled substance" means methamphetamine, or a drug, substance, or immediate precursor in Schedules I through V and includes a controlled substance analogue.
 - (a) "Controlled substance analogue", except as provided in subparagraph (b), means a substance:
 1. The chemical structure of which is substantially similar to the structure of a controlled substance in Schedule I or II; and
 2. Which has a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II; or
 3. With respect to a particular person, which such person represents or intends to have a stimulant, depressant, or hallucinogenic effect on the central nervous system that is substantially similar to or greater than the stimulant, depressant, or hallucinogenic effect on the central nervous system of a controlled substance in Schedule I or II.
 - (b) Such term does not include:
 1. Any substance for which there is an approved new drug application;
 2. With respect to a particular person, any substance if an exemption is in effect for investigational use for that person pursuant to federal law to the extent conduct with respect to such substance is pursuant to such exemption; or
 3. Any substance to the extent not intended for human consumption before the exemption described in subparagraph 2. of this paragraph takes effect with respect to that substance.
- (7) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization, bears the trademark, trade name, or other identifying mark, imprint, number, or device, or any likeness thereof, of a manufacturer, distributor, or dispenser other than the person who in fact manufactured, distributed, or dispensed the substance.
- (8) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery.
- (9) "Dispenser" means a person who lawfully dispenses a Schedule II, III, IV, or V controlled substance to or for the use of an ultimate user.
- (10) "Distribute" means to deliver other than by administering or dispensing a controlled substance.
- (11) "Drug" means:
 - (a) Substances recognized as drugs in the official United States Pharmacopoeia, official Homeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them;
 - (b) Substances intended for use in the diagnosis, care, mitigation, treatment, or prevention of disease in man or animals;
 - (c) Substances (other than food) intended to affect the structure or any function of the body of man or animals; and
 - (d) Substances intended for use as a component of any article specified in this subsection.

It does not include devices or their components, parts, or accessories.
- (12) **"Good faith prior examination" means an in-person medical examination of the patient conducted by the prescribing practitioner or other health-care professional routinely relied upon in the ordinary course of his or her practice, at**

which time the patient is physically examined and a medical history of the patient is obtained. "In-person" includes telehealth examinations authorized under KRS 11.550 or any other substantially similar program instituted pursuant to KRS 11.550.

- (13) "Hazardous chemical substance" includes any chemical substance used or intended for use in the illegal manufacture of a controlled substance as defined in this section or the illegal manufacture of methamphetamine as defined in KRS 218A.1431, which:
- (a) Poses an explosion hazard;
 - (b) Poses a fire hazard; or
 - (c) Is poisonous or injurious if handled, swallowed, or inhaled.
- ~~(14)~~[(13)] "Immediate precursor" means a substance which is the principal compound commonly used or produced primarily for use, and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance or methamphetamine, the control of which is necessary to prevent, curtail, or limit manufacture.
- ~~(15)~~[(14)] "Intent to manufacture" means any evidence which demonstrates a person's conscious objective to manufacture a controlled substance or methamphetamine. Such evidence includes but is not limited to statements and a chemical substance's usage, quantity, manner of storage, or proximity to other chemical substances or equipment used to manufacture a controlled substance or methamphetamine.
- ~~(16)~~[(15)] "Isomer" means the optical isomer, except as used in KRS 218A.050(3) and 218A.070(1)(d). As used in KRS 218A.050(3), the term "isomer" means the optical, positional, or geometric isomer. As used in KRS 218A.070(1)(d), the term "isomer" means the optical or geometric isomer.
- ~~(17)~~[(16)] "Manufacture", except as provided in KRS 218A.1431, means the production, preparation, propagation, compounding, conversion, or processing of a controlled substance, either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis, and includes any packaging or repackaging of the substance or labeling or relabeling of its container except that this term does not include activities:
- (a) By a practitioner as an incident to his administering or dispensing of a controlled substance in the course of his professional practice; or
 - (b) By a practitioner, or by his authorized agent under his supervision, for the purpose of, or as an incident to, research, teaching, or chemical analysis and not for sale; or
 - (c) By a pharmacist as an incident to his dispensing of a controlled substance in the course of his professional practice.
- ~~(18)~~[(17)] "Marijuana" means all parts of the plant Cannabis sp., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin or any compound, mixture, or preparation which contains any quantity of these substances.
- ~~(19)~~ "Medical history" means an accounting of a patient's medical background, including but not limited to prior medical conditions, prescriptions, and family background.
- ~~(20)~~ "Medical order" means a lawful order of a specifically identified practitioner for a specifically identified patient for the patient's health-care needs. "Medical order" may or may not include a prescription drug order.
- ~~(21)~~ "Medical record" means a record, other than for financial or billing purposes, relating to a patient, kept by a practitioner as a result of the practitioner-patient relationship.
- ~~(22)~~[(18)] "Methamphetamine" means any substance that contains any quantity of methamphetamine, or any of its salts, isomers, or salts of isomers.
- ~~(23)~~[(19)] "Narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:
- (a) Opium and opiate, and any salt, compound, derivative, or preparation of opium or opiate;
 - (b) Any salt, compound, isomer, derivative, or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (a) of this subsection, but not including the isoquinoline alkaloids of opium;
 - (c) Opium poppy and poppy straw;
 - (d) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivatives of ecgonine or their salts have been removed;
 - (e) Cocaine, its salts, optical and geometric isomers, and salts of isomers;
 - (f) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; and
 - (g) Any compound, mixture, or preparation which contains any quantity of any of the substances referred to in paragraphs (a) to (f) of this subsection.
- ~~(24)~~[(20)] "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or

being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under KRS 218A.030, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

~~(25)~~~~(21)~~ "Opium poppy" means the plant of the species *papaver somniferum* L., except its seeds.

~~(26)~~~~(22)~~ "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

~~(27)~~~~(23)~~ "Physical injury" has the same meaning it has in KRS 500.080.

~~(28)~~~~(24)~~ "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

~~(29)~~~~(25)~~ "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy.

~~(30)~~~~(26)~~ "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator, optometrist as authorized in KRS 320.240, advanced registered nurse practitioner as authorized under KRS 314.011, or other person licensed, registered, or otherwise permitted by state or federal law to acquire, distribute, dispense, conduct research with respect to, or to administer a controlled substance in the course of professional practice or research in this state. "Practitioner" also includes a physician, dentist, podiatrist, veterinarian, or advanced registered nurse practitioner authorized under KRS 314.011 who is a resident of and actively practicing in a state other than Kentucky and who is licensed and has prescriptive authority for controlled substances under the professional licensing laws of another state, unless the person's Kentucky license has been revoked, suspended, restricted, or probated, in which case the terms of the Kentucky license shall prevail.

~~(31)~~ **"Practitioner-patient relationship" means a medical relationship that exists between a patient and a practitioner or the practitioner's designee, after the practitioner or his designee has conducted at least one (1) good faith prior examination.**

~~(32)~~~~(27)~~ "Prescription" means a written, electronic, or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, signed or given or authorized by a medical, dental, chiropody, veterinarian, optometric practitioner, or advanced registered nurse practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals.

~~(33)~~~~(28)~~ "Prescription blank," with reference to a controlled substance, means a document that meets the requirements of KRS 218A.204 and 217.216.

~~(34)~~~~(29)~~ "Production" includes the manufacture, planting, cultivation, growing, or harvesting of a controlled substance.

~~(35)~~~~(30)~~ "Second or subsequent offense" means that for the purposes of this chapter an offense is considered as a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter, or under any statute of the United States, or of any state relating to substances classified as controlled substances or counterfeit substances, except that a prior conviction for a nontrafficking offense shall be treated as a prior offense only when the subsequent offense is a nontrafficking offense. For the purposes of this section, a conviction voided under KRS 218A.275 or 218A.276 shall not constitute a conviction under this chapter.

~~(36)~~~~(31)~~ "Sell" means to dispose of a controlled substance to another person for consideration or in furtherance of commercial distribution.

~~(37)~~~~(32)~~ "Serious physical injury" has the same meaning it has in KRS 500.080.

~~(38)~~ **"Telehealth" has the same meaning it has in KRS 311.550.**

~~(39)~~~~(33)~~ "Tetrahydrocannabinols" means synthetic equivalents of the substances contained in the plant, or in the resinous extractives of the plant *Cannabis*, sp. or synthetic substances, derivatives, and their isomers with similar chemical structure and pharmacological activity such as the following:

1. Delta 1 cis or trans tetrahydrocannabinol, and their optical isomers;
2. Delta 6 cis or trans tetrahydrocannabinol, and their optical isomers; and
3. Delta 3, 4 cis or trans tetrahydrocannabinol, and its optical isomers.

~~(40)~~~~(34)~~ "Traffic," except as provided in KRS 218A.1431, means to manufacture, distribute, dispense, sell, transfer, or possess with intent to manufacture, distribute, dispense, or sell a controlled substance.

~~(41)~~~~(35)~~ "Transfer" means to dispose of a controlled substance to another person without consideration and not in furtherance of commercial distribution.

~~(42)~~~~(36)~~ "Ultimate user" means a person who lawfully possesses a controlled substance for his own use or for the use of a member of his household or for administering to an animal owned by him or by a member of his household.

Section 2. KRS 218A.140 is amended to read as follows:

- (1) (a) No person shall obtain or attempt to obtain a prescription for a controlled substance by knowingly misrepresenting to, or knowingly withholding information from, a practitioner.
- (b) No person shall procure or attempt to procure the administration of a controlled substance by knowingly misrepresenting to, or withholding information from, a practitioner.
- (c) No person shall obtain or attempt to obtain a controlled substance or procure or attempt to procure the

administration of a controlled substance by the use of a false name or the giving of a false address.

- (d) No person shall knowingly make a false statement regarding any prescription, order, report, or record required by this chapter.
- (e) No person shall, for the purpose of obtaining a controlled substance, falsely assume the title of or represent himself to be a manufacturer, wholesaler, distributor, repacker, pharmacist, practitioner, or other authorized person.
- (f) In order to obtain a controlled substance, no person shall present a prescription for a controlled substance that was obtained in violation of this chapter.
- (g) No person shall affix any false or forged label to a package or receptacle containing any controlled substance.
- (2) No person shall possess, manufacture, sell, dispense, prescribe, distribute, or administer any counterfeit substance.
- (3) **No person shall knowingly obtain or attempt to obtain a prescription for a controlled substance without having formed a valid practitioner-patient relationship with the practitioner or his or her designee from whom the person seeks to obtain the prescription.**
- (4) **No person shall knowingly assist a person in obtaining or attempting to obtain a prescription in violation of this chapter.**
- (5) Any person who violates any subsection of this section shall be guilty of a Class D felony for a first offense and a Class C felony for subsequent offenses.

Section 3. KRS 218A.1402 is amended to read as follows:

Any person who commits a criminal conspiracy as defined in KRS 506.040 to **commit any offense in this chapter**~~traffic in a controlled substance or a controlled substance analogue~~ shall be subject to the same penalties **as provided for the underlying offense**~~for trafficking in that controlled substance or a controlled substance analogue~~ as specified in this chapter.

Section 4. KRS 218A.1404 is amended to read as follows:

- (1) No person shall traffic in any controlled substance except as authorized by law.
- (2) No person shall possess any controlled substance except as authorized by law.
- (3) No person shall dispense, prescribe, distribute, or administer any controlled substance except as authorized by law.
- (4) Unless another specific penalty is provided in this chapter, any person who violates the provisions of ~~subsection (1) or (3) of this section shall be guilty of a Class D felony for the first offense and a Class C felony for subsequent offenses~~ **and any person who violates the provisions of subsection (2) of this section shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses**.

Section 5. KRS 218A.202 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall establish an electronic system for monitoring Schedules II, III, IV, and V controlled substances that are dispensed within the Commonwealth by a practitioner or pharmacist or dispensed to an address within the Commonwealth by a pharmacy that has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy.
- (2) A practitioner or a pharmacist shall not have to pay a fee or tax specifically dedicated to the operation of the system.
- (3) Every dispenser within the Commonwealth or any other dispenser who has obtained a license, permit, or other authorization to operate from the Kentucky Board of Pharmacy shall report to the Cabinet for Health and Family Services the data required by this section in a timely manner as prescribed by the cabinet except that reporting shall not be required for:
 - (a) A drug administered directly to a patient; or
 - (b) A drug dispensed by a practitioner at a facility licensed by the cabinet provided that the quantity dispensed is limited to an amount adequate to treat the patient for a maximum of forty-eight (48) hours.
- (4) Data for each controlled substance that is dispensed shall include but not be limited to the following:
 - (a) Patient identifier;
 - (b) Drug dispensed;
 - (c) Date of dispensing;
 - (d) Quantity dispensed;
 - (e) Prescriber; and
 - (f) Dispenser.
- (5) The data shall be provided in the electronic format specified by the Cabinet for Health and Family Services unless a waiver has been granted by the cabinet to an individual dispenser. The cabinet shall establish acceptable error tolerance rates for data. Dispensers shall ensure that reports fall within these tolerances. Incomplete or inaccurate data shall be corrected upon notification by the cabinet if the dispenser exceeds these error tolerance rates.
- (6) The Cabinet for Health and Family Services shall **only disclose data to persons and entities authorized to receive that data under this section. Disclosure to any other person or entity, including disclosure in the context of a civil action**

where the disclosure is sought either for the purpose of discovery or for evidence, is prohibited unless specifically authorized by this section. The Cabinet for Health and Family Services shall be authorized to provide data to:

- (a) A designated representative of a board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other person who is authorized to prescribe, administer, or dispense controlled substances and who is involved in a bona fide specific investigation involving a designated person;
 - (b) A Kentucky peace officer certified pursuant to KRS 15.380 to 15.404, a certified or full-time peace officer of another state, or a federal peace officer whose duty is to enforce the laws of this Commonwealth, of another state, or of the United States relating to drugs and who is engaged in a bona fide specific investigation involving a designated person;
 - (c) A state-operated Medicaid program;
 - (d) A properly convened grand jury pursuant to a subpoena properly issued for the records;
 - (e) A practitioner or pharmacist who requests information and certifies that the requested information is for the purpose of providing medical or pharmaceutical treatment to a bona fide current patient;
 - (f) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Medical Licensure, for any physician who is:
 - 1. Associated in a partnership or other business entity with a physician who is already under investigation by the Board of Medical Licensure for improper prescribing practices;
 - 2. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing may be occurring; or
 - 3. In a designated geographic area for which a report on another physician in that area indicates a substantial likelihood that inappropriate prescribing may be occurring in that area;
 - (g) In addition to the purposes authorized under paragraph (a) of this subsection, the Kentucky Board of Nursing, for any advanced registered nurse practitioner who is:
 - 1. Associated in a partnership or other business entity with a physician who is already under investigation by the Kentucky Board of Medical Licensure for improper prescribing practices;
 - 2. Associated in a partnership or other business entity with an advanced registered nurse practitioner who is already under investigation by the Board of Nursing for improper prescribing practices;
 - 3. In a designated geographic area for which a trend report indicates a substantial likelihood that inappropriate prescribing may be occurring; or
 - 4. In a designated geographic area for which a report on a physician or another advanced registered nurse practitioner in that area indicates a substantial likelihood that inappropriate prescribing may be occurring in that area; or
 - (h) A judge or a probation or parole officer administering a diversion or probation program of a criminal defendant arising out of a violation of this chapter or of a criminal defendant who is documented by the court as a substance abuser who is eligible to participate in a court-ordered drug diversion or probation program.
- (7) The Department for Medicaid Services may use any data or reports from the system for the purpose of identifying Medicaid recipients whose usage of controlled substances may be appropriately managed by a single outpatient pharmacy or primary care physician.
- (8) A person who receives data or any report of the system from the cabinet shall not provide it to any other person or entity except by order of a court of competent jurisdiction and only to a person or entity authorized to receive the data or the report under this section, except that:
- (a) A peace officer specified in subsection (6)(b) of this section who is authorized to receive data or a report may share that information with other peace officers specified in subsection (6)(b) of this section authorized to receive data or a report if the peace officers specified in subsection (6)(b) of this section are working on a bona fide specific investigation involving a designated person. Both the person providing and the person receiving the data or report under this paragraph shall document in writing each person to whom the data or report has been given or received and the day, month, and year that the data or report has been given or received. This document shall be maintained in a file by each law enforcement agency engaged in the investigation; and
 - (b) A representative of the Department for Medicaid Services may share data or reports regarding overutilization by Medicaid recipients with a board designated in subsection (6)(a) of this section, or with a law enforcement officer designated in subsection (6)(b) of this section; and
 - (c) The Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.
- (9) The Cabinet for Health and Family Services, all peace officers specified in subsection (6)(b) of this section, all officers of the court, and all regulatory agencies and officers, in using the data for investigative or prosecution purposes, shall consider the nature of the prescriber's and dispenser's practice and the condition for which the patient is being treated.

- (10) The data and any report obtained therefrom shall not be a public record, except that the Department for Medicaid Services may submit the data as evidence in an administrative hearing held in accordance with KRS Chapter 13B.
- (11) ~~Intentional~~~~[Knowing]~~ failure by a dispenser to transmit data to the cabinet as required by subsection (3), (4), or (5) of this section shall be a Class A misdemeanor for the first offense and a Class D felony for each subsequent offense.
- (12) ~~Intentional~~~~[Knowing]~~ disclosure of transmitted data to a person not authorized by subsection (6) to subsection (8) of this section or authorized by KRS 315.121, or obtaining information under this section not relating to a bona fide specific investigation, shall be a Class D felony for the first offense and a Class C felony for each subsequent offense.
- (13) The Commonwealth Office of Technology, in consultation with the Cabinet for Health and Family Services, shall submit an application to the United States Department of Justice for a drug diversion grant to fund a pilot project to study a real-time electronic monitoring system for Schedules II, III, IV, and V controlled substances. The pilot project shall:
 - (a) Be conducted in two (2) rural counties that have an interactive real-time electronic information system in place for monitoring patient utilization of health and social services through a federally funded community access program; and
 - (b) Study the use of an interactive system that includes a relational data base with query capability.
- (14) Provisions in this section that relate to data collection, disclosure, access, and penalties shall apply to the pilot project authorized under subsection (13) of this section.
- (15) The Cabinet for Health and Family Services may limit the length of time that data remain in the electronic system. Any data removed from the system shall be archived and subject to retrieval within a reasonable time after a request from a person authorized to review data under this section.
- (16)
 - (a) The Cabinet for Health and Family Services shall work with each board responsible for the licensure, regulation, or discipline of practitioners, pharmacists, or other persons who are authorized to prescribe, administer, or dispense controlled substances for the development of a continuing education program about the purposes and uses of the electronic system for monitoring established in this section.
 - (b) The cabinet shall work with the Kentucky Bar Association for the development of a continuing education program for attorneys about the purposes and uses of the electronic system for monitoring established in this section.
 - (c) The cabinet shall work with the Justice Cabinet for the development of a continuing education program for law enforcement officers about the purposes and users of the electronic system for monitoring established in this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of criminal possession of a medical record when he or she possesses a medical record with the intent to unlawfully obtain a controlled substance by:
 - (a) Falsifying, altering, or creating a medical record; or
 - (b) Selling or unlawfully transferring the medical record to another person.
- (2) Any person who violates any subsection of this section shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense.

SECTION 7. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of theft of a medical record when he or she unlawfully takes or exercises control over a medical record belonging to another person with intent to violate this chapter.
- (2) Any person who violates any subsection of this section shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense.

SECTION 8. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of criminal falsification of a medical record when he or she knowingly and unlawfully falsifies, alters, or creates a medical record for the purpose of obtaining or attempting to obtain a controlled substance with intent to violate this chapter.
- (2) Any person who violates any subsection of this section shall be guilty of a Class D felony for the first offense and a Class C felony for a second or subsequent offense.

Section 9. KRS 315.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Administer" means the direct application of a drug to a patient or research subject by injection, inhalation, or ingestion, whether topically or by any other means;
- (2) "Association" means the Kentucky Pharmacists Association;
- (3) "Board" means the Kentucky Board of Pharmacy;
- (4) "Collaborative care agreement" means a written agreement between a specifically identified individual practitioner and a pharmacist who is specifically identified, whereby the practitioner outlines a plan of cooperative management of a specifically identified individual patient's drug-related health care needs that fall within the practitioner's statutory scope of

practice. The agreement shall be limited to specification of the drug-related regimen to be provided and any tests which may be necessarily incident to its provisions; stipulated conditions for initiating, continuing, or discontinuing drug therapy; directions concerning the monitoring of drug therapy and stipulated conditions which warrant modifications to dose, dosage regimen, dosage form, or route of administration;

- (5) "Compound" or "compounding" means the preparation or labeling of a drug pursuant to or in anticipation of a valid prescription drug order including, but not limited to, packaging, intravenous admixture or manual combination of drug ingredients. Compounding, as used in this chapter, shall not preclude simple reconstitution, mixing, or modification of drug products prior to administration by nonpharmacists;
- (6) "Confidential information" means information which is accessed or maintained by a pharmacist in a patient's record, or communicated to a patient as part of patient counseling, whether it is preserved on paper, microfilm, magnetic media, electronic media, or any other form;
- (7) "Continuing education unit" means ten (10) contact hours of board approved continuing pharmacy education. A "contact hour" means fifty (50) continuous minutes without a break period;
- (8) "Dispense" or "dispensing" means to deliver one (1) or more doses of a prescription drug in a suitable container, appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug;
- (9) "Drug" means any of the following:
 - (a) Articles recognized as drugs or drug products in any official compendium or supplement thereto; or
 - (b) Articles, other than food, intended to affect the structure or function of the body of man or other animals; or
 - (c) Articles, including radioactive substances, intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; or
 - (d) Articles intended for use as a component of any articles specified in paragraphs (a) to (c) of this subsection;
- (10) "Drug regimen review" means retrospective, concurrent, and prospective review by a pharmacist of a patient's drug-related history, including but not limited to, the following areas:
 - (a) Evaluation of prescription drug orders and patient records for:
 - 1. Known allergies;
 - 2. Rational therapy contraindications;
 - 3. Appropriate dose and route of administration;
 - 4. Appropriate directions for use; or
 - 5. Duplicative therapies.
 - (b) Evaluation of prescription drug orders and patient records for drug-drug, drug-food, drug-disease, and drug-clinical laboratory interactions;
 - (c) Evaluation of prescription drug orders and patient records for adverse drug reactions; or
 - (d) Evaluation of prescription drug orders and patient records for proper utilization and optimal therapeutic outcomes;
- (11) **"Good faith prior examination" means the same as defined in KRS 218A.010;**
- ~~(12)~~ "Immediate supervision" means under the physical and visual supervision of a pharmacist;
- ~~[(12)]~~ ~~"Incidental" as used in KRS 315.0351(1) means dispensing fewer than twenty-five (25) prescriptions in a calendar month;]~~
- (13) "Manufacturer" means any person, except a pharmacist compounding in the normal course of professional practice, within the Commonwealth engaged in the commercial production, preparation, propagation, compounding, conversion or processing of a drug, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis, or both, and includes any packaging or repackaging of a drug or the labeling or relabeling of its container;
- (14) **"Medical history" means the same as defined in KRS 218A.010;**
- (15) "Medical order" means a lawful order of a specifically-identified practitioner for a specifically-identified patient for the patient's health care needs. "Medical order" may or may not include a prescription drug order;
- ~~(16) [(15)]~~ **"Medical record" means the same as defined in KRS 218A.010;**
- (17) "Nonprescription drugs" means nonnarcotic medicines or drugs which may be sold without a prescription and are prepackaged and labeled for use by the consumer in accordance with the requirements of the statutes and regulations of this state and the federal government;
- ~~(18) [(16)]~~ "Pharmacist" means a natural person licensed by this state to engage in the practice of the profession of pharmacy;
- ~~(19) [(17)]~~ "Pharmacist intern" means a natural person who is:
 - (a) Currently certified by the board to engage in the practice of pharmacy under the direction of a licensed pharmacist and who satisfactorily progresses toward meeting the requirements for licensure as a pharmacist;

- (b) A graduate of an approved college or school of pharmacy or a graduate who has established educational equivalency by obtaining a Foreign Pharmacy Graduate Examination Committee (FPGEC) certificate, who is currently licensed by the board for the purpose of obtaining practical experience as a requirement for licensure as a pharmacist;
- (c) A qualified applicant awaiting examination for licensure as a pharmacist or the results of an examination for licensure as a pharmacist; or
- (d) An individual participating in a residency or fellowship program approved by the board for internship credit;

~~(20)~~~~(18)}~~ "Pharmacy" means every place where:

- (a) Drugs are dispensed under the direction of a pharmacist;
- (b) Prescription drug orders are compounded under the direction of a pharmacist; or
- (c) A registered pharmacist maintains patient records and other information for the purpose of engaging in the practice of pharmacy, whether or not prescription drug orders are being dispensed;

~~(21)~~ **"Pharmacy-related primary care" means the pharmacists' activities in patient education, health promotion, and assistance in the selection and use of over-the-counter drugs and appliances for the treatment of common diseases and injuries, as well as those other activities falling within their statutory scope of practice;**

~~(22)~~~~(19)}~~ "Pharmacy technician" means a natural person who works under the immediate supervision, or general supervision if otherwise provided for by statute or administrative regulation, of a pharmacist for the purpose of assisting a pharmacist with the practice of pharmacy;

~~(23)~~~~(20)}~~ "Practice of pharmacy" means interpretation, evaluation, and implementation of medical orders and prescription drug orders; responsibility for dispensing prescription drug orders, including radioactive substances; participation in drug and drug-related device selection; administration of medications or biologics in the course of dispensing or maintaining a prescription drug order; the administration of adult immunizations pursuant to prescriber-approved protocols; drug evaluation, utilization, or regimen review; maintenance of patient pharmacy records; and provision of patient counseling and those professional acts, professional decisions, or professional services necessary to maintain and manage all areas of a patient's pharmacy-related care, including pharmacy-related primary care as defined in this section;

~~(24)~~~~(21)}~~ "Practitioner" has the same meaning given in KRS 217.015(35);

~~(25)~~~~(22)}~~ **"Practitioner-patient relationship" means the same as defined in KRS 218A.010.**

~~(26)~~ "Prescription drug" means a drug which:

- (a) Under federal law is required to be labeled with either of the following statements:
 1. "Caution: Federal law prohibits dispensing without prescription"; or
 2. "Caution: Federal law restricts this drug to use by, or on the order of, a licensed veterinarian"; or
 3. **"Rx Only"; or**
 4. **"Rx"; or**
- (b) Is required by any applicable federal or state law or administrative regulation to be dispensed only pursuant to a prescription drug order or is restricted to use by practitioners;

~~(27)~~~~(23)}~~ "Prescription drug order" means an original or new order from a practitioner for drugs, drug-related devices or treatment for a human or animal, including orders issued through collaborative care agreements. Lawful prescriptions result from a valid practitioner-patient relationship, are intended to address a legitimate medical need, and fall within the prescribing practitioner's scope of professional practice;

~~[(24)]~~ ~~"Pharmacy-related primary care" means the pharmacists' activities in patient education, health promotion, assistance in the selection and use of over the counter drugs and appliances for the treatment of common diseases and injuries as well as those other activities falling within their statutory scope of practice;]~~

~~(28)~~~~(25)}~~ "Society" means the Kentucky Society of Health-Systems Pharmacists;

~~(29)~~~~(26)}~~ "Supervision" means the presence of a pharmacist on the premises to which a pharmacy permit is issued, who is responsible, in whole or in part, for the professional activities occurring in the pharmacy; and

~~(30)~~~~(27)}~~ "Wholesaler" means any person who legally buys drugs for resale or distribution to persons other than patients or consumers.

Section 10. KRS 315.035 is amended to read as follows:

- (1) No person shall operate a pharmacy within this Commonwealth, physically or by means of the Internet, facsimile, phone, mail, or any other means, without having first obtained a permit as provided for in KRS Chapter 315. An application for a permit to operate a pharmacy shall be made to the board upon forms provided by it and shall contain such information as the board requires, which may include affirmative evidence of ability to comply with such reasonable standards and rules and regulations as may be prescribed by the board. Each application shall be accompanied by a reasonable permit fee to be set by administrative regulation promulgated by the board pursuant to KRS Chapter 13A, not to exceed two hundred fifty dollars (\$250).

2007 Regular Session

- (2) Upon receipt of an application of a permit to operate a pharmacy, accompanied by the permit fee not to exceed two hundred fifty dollars (\$250), the board shall issue a permit if the pharmacy meets the standards and requirements of KRS Chapter 315 and the rules and regulations of the board. The board shall refuse to renew any permit to operate unless the pharmacy meets the standards and requirements of KRS Chapter 315 and the rules and regulations of the board. The board shall act upon an application for a permit to operate within thirty (30) days after the receipt thereof; provided, however, that the board may issue a temporary permit to operate in any instance where it considers additional time necessary for investigation and consideration before taking final action upon the application. In such event, the temporary permit shall be valid for a period of thirty (30) days, unless extended.
- (3) A separate permit to operate shall be required for each pharmacy.
- (4) Each permit to operate a pharmacy, unless sooner suspended or revoked, shall expire on June 30 following its date of issuance and be renewable annually thereafter upon proper application accompanied by such reasonable renewal fee as may be set by administrative regulation of the board, not to exceed two hundred fifty dollars (\$250) nor to increase more than twenty-five dollars (\$25) per year. An additional fee not to exceed the annual renewal fee may be assessed and set by administrative regulation as a delinquent renewal penalty for failure to renew by June 30 of each year.
- (5) Permits to operate shall be issued only for the premises and persons named in the application and shall not be transferable; provided however, that a buyer may operate the pharmacy under the permit of the seller pending a decision by the board of an application which shall be filed by the buyer with the board at least five (5) days prior to the date of sale.
- (6) The board may promulgate rules and regulations to assure that proper equipment and reference material is on hand considering the nature of the pharmaceutical practice conducted at the particular pharmacy and to assure reasonable health and sanitation standards for areas within pharmacies which are not subject to health and sanitation standards promulgated by the Kentucky Cabinet for Health and Family Services or a local health department.
- (7) Each pharmacy shall comply with KRS 218A.202.
- (8) Any pharmacy within the Commonwealth that dispenses more than twenty-five percent (25%) of its total prescription volume as a result of an original prescription order received or solicited~~doing business primarily or exclusively~~ by use of the Internet, including but not limited to electronic mail, shall, prior to obtaining a permit, receive and display in every medium in which it advertises itself a seal of approval for the National Association of Boards of Pharmacy certifying that it is a Verified Internet Pharmacy Practice Site (VIPPS) or a seal certifying approval of a substantially similar program approved by the Kentucky Board of Pharmacy. VIPPS, or any other substantially similar program approved by the Kentucky Board of Pharmacy, accreditation~~certification~~ shall be maintained and remain current.
- (9) Any pharmacy within the Commonwealth doing business~~primarily or exclusively~~ by use of the Internet shall certify the percentage of its annual business conducted via the Internet and submit such supporting documentation as requested by the board, and in a form or application required by the board, when it applies for permit or renewal.

Section 11. KRS 315.0351 is amended to read as follows:

- (1) Every person or pharmacy located outside this Commonwealth which~~other than on an incidental basis,~~ does business, physically or by means of the Internet, facsimile, phone, mail, or any other means, inside this Commonwealth within the meaning of KRS Chapter 315, shall hold a current pharmacy permit as provided in KRS 315.035(1) and (4) issued by the Kentucky Board of Pharmacy. The pharmacy shall be designated an "out-of-state pharmacy" and the permit shall be designated an "out-of-state pharmacy permit." The fee for the permit shall not exceed the current in-state pharmacy permit fee as provided under KRS 315.035.
- (2) Every out-of-state pharmacy granted an out-of-state pharmacy permit by the board shall disclose to the board the location, names, and titles of all principal corporate officers and all pharmacists who are dispensing prescription drugs to residents of the Commonwealth. A report containing this information shall be made to the board on an annual basis and within thirty (30) days after any change of office, corporate officer, or pharmacist.
- (3) Every out-of-state pharmacy granted an out-of-state pharmacy permit shall comply with all statutorily-authorized directions and requests for information from any regulatory agency of the Commonwealth and from the board in accordance with the provisions of this section. The out-of-state pharmacy shall maintain at all times a valid unexpired permit, license, or registration to conduct the pharmacy in compliance with the laws of the jurisdiction in which it is a resident. As a prerequisite to seeking a permit from the Kentucky Board of Pharmacy, the out-of-state pharmacy shall submit a copy of the most recent inspection report resulting from an inspection conducted by the regulatory or licensing agency of the jurisdiction in which it is located. Thereafter, the out-of-state pharmacy granted a permit shall submit to the Kentucky Board of Pharmacy a copy of any subsequent inspection report on the pharmacy conducted by the regulatory or licensing body of the jurisdiction in which it is located.
- (4) Every out-of-state pharmacy granted an out-of-state pharmacy permit by the board shall maintain records of any controlled substances or dangerous drugs or devices dispensed to patients in the Commonwealth so that the records are readily retrievable from the records of other drugs dispensed.
- (5) Records for all prescriptions delivered into Kentucky shall be readily retrievable from the other prescription records of the out-of-state pharmacy.
- (6) Each out-of-state pharmacy shall, during its regular hours of operation, but not less than six (6) days per week and for a

minimum of forty (40) hours per week, provide a toll-free telephone service directly to the pharmacist in charge of the out-of-state pharmacy and available to both the patient and each licensed and practicing in-state pharmacist for the purpose of facilitating communication between the patient and the Kentucky pharmacist with access to the patient's prescription records. A toll-free number shall be placed on a label affixed to each container of drugs dispensed to patients within the Commonwealth.

- (7) Each out-of-state pharmacy shall have a pharmacist in charge who is licensed to engage in the practice of pharmacy by the Commonwealth that shall be responsible for compliance by the pharmacy with the provisions of this section.
- (8) Each out-of-state pharmacy shall comply with KRS 218A.202.
- (9) Any out-of-state pharmacy that dispenses more than twenty-five percent (25%) of its total prescription volume as a result of an original prescription order received or solicited~~doing business, primarily or exclusively~~ by use of the Internet, including but not limited to electronic mail, shall~~[-, prior to obtaining a permit,]~~ receive and display in every medium in which it advertises itself a seal of approval for the National Association of Boards of Pharmacy certifying that it is a Verified Internet Pharmacy Practice Site (VIPPS) or a seal certifying approval of a substantially similar program approved by the Kentucky Board of Pharmacy. VIPPS, or any other substantially similar accreditation,~~[certification]~~ shall be maintained and remain current.
- (10) Any out-of-state pharmacy doing business in the Commonwealth of Kentucky~~primarily or exclusively by use of the Internet]~~ shall certify the percentage of its annual business conducted via the Internet and electronic mail and submit such supporting documentation as requested by the board, and in a form or application required by the board, when it applies for permit or renewal.
- (11) Any pharmacy doing business within the Commonwealth of Kentucky shall use the address on file with the Kentucky Board of Pharmacy as the return address on the labels of any package shipped into or within the Commonwealth. The return address shall be placed on the package in a clear and prominent manner.**
- (12) The Kentucky Board of Pharmacy may waive the permit requirements of this chapter for an out-of-state pharmacy that only does business within the Commonwealth of Kentucky in limited transactions.**

Section 12. KRS 315.320 is amended to read as follows:

- (1) A person or pharmacy is guilty of a Class C felony if the person or pharmacy, located inside or outside this Commonwealth, is not licensed by the Commonwealth of Kentucky to engage in the practice of pharmacy and knowingly:
 - (a) Communicates~~[Uses or attempts to use the Internet, in whole or in part, to communicate]~~ with a~~[or obtain information from another]~~ person in this Commonwealth; and
 - (b) Uses or attempts to use such communication or information, in whole, or in part, to:
 1. Fill or refill a prescription for a prescription drug for the other person; or
 2. Deliver, cause, allow, or aid in the delivery of a controlled substance, imitation controlled substance, counterfeit substance or prescription drug to the other person.
- (2) A person or pharmacy is guilty of a Class B felony if the substance or drug dispensed in subsection (1) of this section:
 - (a) Is classified in Schedule I; or
 - (b) Proximately causes serious physical injury or the death of the intended recipient of the substance or drug or any other person.
- (3) The court shall not grant probation to or suspend the sentence of a person punished pursuant to subsection (2) of this section.
- (4) A person who knowingly aids another in any act or transaction that violates the provisions of subsection (1) of this section is guilty of a Class C felony.
- (5) A person who knowingly aids another in any act or transaction that violates the provisions of subsection (2) of this section is guilty of a Class B felony.
- (6) A person or pharmacy may be prosecuted, convicted, and punished for a violation of this section whether or not the person is prosecuted, convicted, or punished for a violation of any other statute based upon the same act or transaction.
- (7) This section shall not apply to a licensed pharmacist or permitted pharmacy that inadvertently allows its license or permit issued by the Kentucky Board of Pharmacy~~[-, issued by a board of pharmacy]~~, to lapse for a period of less than thirty (30) days.
- (8) This section shall not apply to authorized agents of a pharmacy with a valid permit issued by the Kentucky Board of Pharmacy.**
- (9) This section shall not apply to an authorized agent of a pharmacy that inadvertently allows its permit issued by the Kentucky Board of Pharmacy, to lapse for period of less than thirty (30) days.**
- (10) Unless a more specific penalty applies within this chapter, anyone who uses the Internet to communicate and facilitate the sale of controlled substances, except as specifically provided for in this chapter, may be prosecuted under KRS Chapter 218A.**

2007 Regular Session

Section 13. KRS 218A.1446 is amended to read as follows:

- (1) Any nonprescription compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall be dispensed, sold, or distributed only by a registered pharmacist, a pharmacy intern, or a pharmacy technician.
- (2) Any person purchasing, receiving, or otherwise acquiring any nonprescription compound, mixture, or preparation containing any detectable quantity of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers shall:
 - (a) Produce a government issued photo identification showing the date of birth of the person; and
 - (b) Sign a written log or record showing the:
 1. Date of the transaction;
 2. Name, date of birth, and address of the person making the purchase; and
 3. The amount and name of the compound, mixture, or preparation.

An electronic recordkeeping mechanism may be used in lieu of the written log or record described in paragraph (b) of this subsection, provided the mechanism is approved by the Office of Drug Control Policy.
- (3) A log, as described in subsection (2) of this section, shall be kept of each day's transactions. The registered pharmacist, a pharmacy intern, or a pharmacy technician shall initial the entry of each sale in the log, evidencing completion of each transaction. The log shall be:
 - (a) Kept for a period of two (2) years;~~and~~
 - (b) Subject to random and warrantless inspection by city, county, or state law enforcement officers;~~and~~
 - (c) An electronic recordkeeping mechanism may be required in lieu of the written log or record described in subsection (2)(b) of this section if the costs of establishing and maintaining the mechanism are borne by the Commonwealth of Kentucky. Pursuant to administrative regulations promulgated by the Drug Enforcement and Professional Standards Branch and the Office of Drug Control Policy, pharmacies requesting an exemption to electronic reporting may file an exemption request to the above listed agencies. Any exemption may be granted upon a showing of imposition of additional cost by the pharmacy.
- (4)
 - (a) Intentional failure of a registered pharmacist, a pharmacy intern, or a pharmacy technician to make an accurate entry of a sale of a product or failure to maintain the log records as required by this section may subject him or her to a fine of not more than one thousand dollars (\$1,000) for each violation and may be evidence of a violation of KRS 218A.1438.
 - (b) If evidence exists that the pharmacist's, the pharmacy intern's, or the pharmacist technician's employer fails, neglects, or encourages incorrect entry of information by improper training, lack of supervision or oversight of the maintenance of logs, or other action or inaction, the employer shall also face liability under this section and any other applicable section of this chapter.
 - (c) It shall be a defense to a violation of this section that the person proves that circumstances beyond the control of the registered pharmacist, pharmacy intern, or pharmacy technician delayed or prevented the making of the record or retention of the record as required by this section. Examples of circumstances beyond the control of the registered pharmacist, pharmacy intern, or pharmacy technician include but are not limited to:
 1. Fire, natural or manmade disaster, loss of power, and similar events;
 2. Robbery, burglary, shoplifting, or other criminal act by a person on the premises;
 3. A medical emergency suffered by the registered pharmacist, pharmacy intern, or pharmacy technician, another employee of the establishment, a customer, or any other person on the premises; or
 4. Some other circumstance that establishes that an omission was inadvertent.
- (5) No person shall purchase, receive, or otherwise acquire any product, mixture, or preparation or combinations of products, mixtures, or preparations containing more than nine (9) grams of ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers within any thirty (30) day period provided this limit shall not apply to any quantity of product, mixture or preparation dispensed pursuant to a valid prescription. In addition to the nine (9) gram restriction, no person shall purchase, receive, or otherwise acquire more than three (3) packages of any product, mixture, or preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers during each transaction.
- (6) A person under eighteen (18) years of age shall not purchase or attempt to purchase any quantity of a ephedrine, pseudoephedrine, or phenylpropanolamine product as described in subsection (1) of this section. No person shall aid or assist a person under eighteen (18) years of age in purchasing any quantity of a ephedrine, pseudoephedrine, or phenylpropanolamine product as described in subsection (1) of this section.
- (7) The requirements of this section shall not apply to any compounds, mixtures, or preparation containing ephedrine, pseudoephedrine, or phenylpropanolamine, their salts or optical isomers, or salts of optical isomers which are in liquid, liquid capsule, or gel capsule form or to any compounds, mixtures, or preparations containing ephedrine, pseudoephedrine,

or phenylpropanolamine, or their salts or optical isomers which are deemed to be not subject to abuse upon joint review and agreement of the Office of Drug Control Policy, the Board of Pharmacy, and the Cabinet for Health and Family Services.

- (8) The provisions of this section shall not apply to a:
- (a) Licensed manufacturer manufacturing and lawfully distributing a product in the channels of commerce;
 - (b) Wholesaler lawfully distributing a product in the channels of commerce;
 - (c) A pharmacy with a valid permit from the Kentucky Board of Pharmacy~~[Licensed pharmacy];~~
 - (d) Health care facility licensed pursuant to KRS Chapter 216B;
 - (e) Licensed long-term care facility;
 - (f) Government-operated health department;
 - (g) Physician's office;
 - (h) Publicly operated prison, jail, or juvenile correctional facility, or a private adult or juvenile correctional facility under contract with the Commonwealth;
 - (i) Public or private educational institution maintaining a health care program; or
 - (j) Government-operated or industrial medical facility serving its own employees.
- (9) The provisions of this section shall supersede and preempt all local laws, ordinances, and regulations pertaining to the sale of any compounds, mixtures, or preparation containing ephedrine, pseudoephedrine, phenylpropanolamine, their salts or optical isomers, or salts of optical isomers.

Section 14. KRS 218A.420 is amended to read as follows:

- (1) All property which is subject to forfeiture under this chapter shall be disposed of in accordance with this section.
- (2) All controlled substances which are seized and forfeited under this chapter shall be ordered destroyed by the order of the trial court unless there is a legal use for them, in which case they may be sold to a proper buyer as determined by the Cabinet for Health and Family Services by promulgated regulations. Property other than controlled substances may be destroyed on order of the trial court.
- (3) When property other than controlled substances is forfeited under this chapter and not retained for official use, it may be sold for its cash value~~], the law enforcement agency may, subject to the provisions of KRS 218A.435:~~
 - (a) ~~Retain it for official use;~~
 - (b) ~~Sell that which is not required to be destroyed by law and which is not harmful to the public. The proceeds shall be paid into the fund created in KRS 218A.435]. Any sale shall be a public sale advertised pursuant to KRS Chapter 424.~~
- (4) Coin, currency, or the proceeds from the sale of property forfeited shall be distributed as follows:
 - (a) Eighty five percent (85%) shall be paid to the law enforcement agency or agencies which seized the property, to be used for direct law enforcement purposes; and
 - (b) Fifteen percent (15%) shall be paid to the Office of the Attorney General, or in the alternative, the fifteen percent (15%) shall be paid to the Prosecutors Advisory Council for deposit on behalf of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding, as determined by the court pursuant to subsection (9) of this section. Notwithstanding KRS Chapter 48, these funds shall be exempt from any state budget reduction acts. The moneys identified in this subsection are intended to supplement any funds otherwise appropriated to the recipient and shall not supplant other funding of any recipient.
- (5) The Attorney General, after consultation with the Prosecutors Advisory Council, shall promulgate administrative regulations to establish the specific purposes for which these funds shall be expended.
- (6) Each state and local law enforcement agency that seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to receiving any forfeited property, adopt policies relating to the seizure, maintenance, storage, and care of property pending forfeiture which are in compliance with or substantially comply with the model policy for seizure of forfeitable assets by law enforcement agencies published by the Department of Criminal Justice Training. However, a state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.
- (7) Each state or local law enforcement agency that seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to receiving forfeited property, have one (1) or more officers currently employed attend asset-forfeiture training approved by the Kentucky Law Enforcement Council, which shall approve a curriculum of study for asset-forfeiture training.
- (8) Other provisions of this section notwithstanding, any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter may be retained by the seizing agency for official use or sold within its discretion. Proceeds from the sale shall remain with the agency. The moneys shall be utilized for purposes consistent with KRS 218A.405 to 218A.460. The seizing agency shall be required to pay any bona fide perfected security interest on any vehicle so

forfeited.

- (9) When money or property is seized in a joint operation involving more than one (1) law enforcement agency or prosecutorial office, the apportionment of funds to each pursuant to subsection (4) of this section shall be made among the agencies in a manner to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

Section 15. KRS 218A.240 is amended to read as follows:

- (1) All police officers and deputy sheriffs directly employed full-time by state, county, city, ~~or~~ urban-county, or consolidated local governments, the State Police, the Cabinet for Health and Family Services, their officers and agents, and of all city, county, and Commonwealth's attorneys, and the Attorney General, within their respective jurisdictions, shall enforce all provisions of this chapter and cooperate with all agencies charged with the enforcement of the laws of the United States, of this state, and of all other states relating to controlled substances.
- (2) For the purpose of enforcing the provisions of this chapter, the designated agents of the Cabinet for Health and Family Services shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, to require the production of prescriptions, of books, papers, documents or other evidence, to employ special investigators, and to expend funds for the purpose of obtaining evidence and to use data obtained under KRS 218A.202(7) in any administrative proceeding before the cabinet.
- (3) The Kentucky Board of Pharmacy, its agents and inspectors, shall have the same powers of inspection and enforcement as the Cabinet for Health and Family Services.
- (4) Designated agents of the Cabinet for Health and Family Services and the Kentucky Board of Pharmacy are empowered to remove from the files of a pharmacy or the custodian of records for that pharmacy any controlled substance prescription or other controlled substance record upon tendering a receipt. The receipt shall be sufficiently detailed to accurately identify the record. A receipt for the record shall be a defense to a charge of failure to maintain the record.
- (5) Notwithstanding the existence or pursuit of any other remedy, civil or criminal, any law enforcement authority may maintain, in its own name, an action to restrain or enjoin any violation of this chapter, or to forfeit any property subject to forfeiture under KRS 218A.410, irrespective of whether the owner of the property has been charged with or convicted of any offense under this chapter.
 - (a) Any civil action against any person brought pursuant to this section may be instituted in the Circuit Court in any county in which the person resides, in which any property owned by the person and subject to forfeiture is found, or in which the person has violated any provision of this chapter.
 - (b) A final judgment rendered in favor of the Commonwealth in any criminal proceeding brought under this chapter shall estop the defendant from denying the essential allegations of the criminal offense in any subsequent civil proceeding brought pursuant to this section.
 - (c) The prevailing party in any civil proceeding brought pursuant to this section shall recover his or her costs, including a reasonable attorney's fee.
 - (d) Distribution of funds under this section shall be made in the same manner as in Section 14 of this Act ~~(KRS 218A.435)~~, except that if the Commonwealth's attorney has not initiated the forfeiture action under this section, his or her percentage of the funds shall go to the agency initiating the forfeiture action.
- (6) The Cabinet for Health and Family Services shall make or cause to be made examinations of samples secured under the provisions of this chapter to determine whether any provision has been violated.
- (7)
 - (a) The Cabinet for Health and Family Services shall use the data compiled in the electronic system created in KRS 218A.202 for investigations, research, statistical analysis, and educational purposes, and shall proactively identify trends in controlled substance usage and other potential problem areas. Only cabinet personnel who have undergone training for the electronic system and who have been approved to use the system shall be authorized access to the data and reports under this subsection. The cabinet shall notify a board responsible for the licensure, regulation, or discipline of each practitioner, pharmacist, or other person who is authorized to prescribe, administer, or dispense controlled substances, if a report or analysis conducted under this subsection indicates that further investigation about inappropriate or unlawful prescribing or dispensing may be necessary by the board.
 - (b) The cabinet shall develop criteria, in collaboration with the Board of Medical Licensure and the Board of Pharmacy, to be used to generate trend reports from the data obtained by the system. Meetings at which the criteria are developed shall be meetings, as defined in KRS 61.805, that comply with the open meetings laws, KRS 61.805 to 61.850.
 - (c) The cabinet shall, on a quarterly basis, publish trend reports from the data obtained by the system.
 - (d) Peace officers authorized to receive data under KRS 218A.202 may request trend reports not specifically published pursuant to paragraph (c) of this subsection. A report under this paragraph may be based upon the criteria developed under paragraph (b) of this subsection or upon any of the data collected pursuant to KRS 218A.202(4),

except that the report shall not identify an individual prescriber, dispenser, or patient.

(e) No trend report generated under this subsection shall identify an individual prescriber, dispenser, or patient.

Section 16. KRS 218A.440 is amended to read as follows:

- (1) Each law enforcement agency seizing money or property pursuant to KRS 218A.415 shall, at the close of each fiscal year, file a statement with the Auditor of Public Accounts, and with the secretary of justice containing, a detailed listing of all money and property seized in that fiscal year and the disposition thereof. The listing shall identify all property so seized.
- (2) Any agency failing to report as required by this section shall be liable to the state for the full value of all property and money so seized. The Attorney General shall institute civil actions for recovery of money or property obtained or retained in violation of KRS 218A.405 to 218A.460.
- (3) The Auditor of Public Accounts, the secretary of justice or the Attorney General may at any time initiate an inquiry to determine that ~~any agency is utilizing proceeds from the fund established in KRS 218A.435 in accordance with law, or an inquiry to determine that~~ property is being forfeited as required by KRS 218A.405 to 218A.460.

Section 17. KRS 218A.460 is amended to read as follows:

- (1) Jurisdiction in all forfeiture proceedings shall vest in the court where the conviction occurred regardless of the value of property subject to forfeiture.
- (2) Following conviction of a defendant for any violation of this chapter, the court shall conduct an ancillary hearing to forfeit property if requested by any party other than the defendant or Commonwealth. The Commonwealth's attorney, or county attorney if the proceeding is in District Court, shall initiate the hearing by filing a motion requesting entry of a final order of forfeiture upon proof that the property was being used in violation of the provisions of this chapter. The final order of forfeiture by the court shall perfect in the Commonwealth or appropriate law enforcement agency, as provided in Section 14 of this Act ~~[KRS 218A.435]~~, right, title, and interest in and to the property. The Commonwealth may transfer any real property so forfeited by deed of general warranty.
- (3) If the property subject to forfeiture is of a type for which title or registration is required by law, or if the owner of the property is known in fact to the Commonwealth at the time of the hearing, or if the property is subject to a perfected security interest in accordance with the Uniform Commercial Code, KRS Chapter 355, the attorney representing the Commonwealth shall give notice of the ancillary hearing by registered mail, return receipt requested, to each person having such interest in the property, and shall publish notice of the forfeiture once each week for two (2) consecutive weeks in a newspaper of general circulation as defined in KRS Chapter 424 in the county where the forfeiture proceedings will occur. The notice shall be mailed and first published at least four (4) weeks prior to the ancillary hearing and shall describe the property; state the county, place, and date of seizure; state the name of the law enforcement agency holding the seized property; and state the name of the court in which the ancillary hearing will be held and the date of the hearing. However, the Commonwealth shall be obligated only to make a diligent search and inquiry as to the owner of subject property; and if, after diligent search and inquiry, the Commonwealth is unable to ascertain the owner, the actual notice requirements by mail shall not be applicable.
- (4) Unless otherwise expressly provided in KRS 218A.410, the burden shall be upon claimant to property to prove by preponderance of the evidence that it is not subject to forfeiture. Any claimant other than a person who holds title or registration to the property or who has a perfected security interest in the property shall be required to post a bond equivalent to ten percent (10%) of the appraised value of the property with the clerk of the court before being allowed to litigate the claim. The bond shall offset the costs of litigation incurred by the Commonwealth. A claimant may proceed in forma pauperis with leave of court upon sworn petition subject to the applicable rules and subject to the provisions of law concerning perjury.
- (5) The procedures for forfeiture proceedings as established in KRS 218A.405 to 218A.460 shall apply to any property subject to forfeiture which is pending as of July 13, 1990.

Section 18. The following KRS section is repealed:

218A.435 Asset forfeiture trust fund -- Management -- Distribution.

Calendar

SB 14, 46, 57, 86, 130, 155, HB 317, SB 100, 126, 145, 153, and 140 taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved that the rules be suspended to place **HB 117** in the Orders of the Day. Agreed.

Representative Adkins moved that the rules be suspended to waive the posting requirement on **SB 92**. Agreed.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **SB 10, 22, 65, 68, 23, 26, 47, 55, 56, 59, 76, 79, 85, 104, 105, 69, 98, 29, 30, 156, 134, 140, 153, and 46** have been posted for passage in the Regular Orders of the Day for March 8, 2007.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 18, 74, 254, 255, 363, 364, 365, 421, 423, 181, 224, 227, 261, 318, 352, 420, 442, 492, 493, 495, 521, HCR 131, HJR 130, HB 567, 317, and SB 86**

Representative Graham moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Graham moved the adoption of the following **Legislative Citation No. 63**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the talented members of the Franklin County High School Dance Team and extends a warm welcome to these esteemed young citizens upon the occasion of their visit to the Capitol during the 2007 Regular Session of the Kentucky General Assembly. Showcasing their laudable talents with a public performance in the Capitol Rotunda the FCHS Dance Team members, under the astute tutelage of their coaches and sponsors, continue to demonstrate both their talent and dedicated efforts to build an award winning dance team. The members of this august body are delighted to join Representative Derrick W. Graham in applauding these accomplished young dancers and athletes on this auspicious occasion and in extending to them best wishes for the utmost success and good fortune. Done in Frankfort, Kentucky, this seventh day of March, in the year two thousand and seven.

Legislative Citation No. 63 was adopted without objection.

Orders of the Day

HB 397, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of Floor Amendment No. 1 to **HB 397**. Agreed.

Representative Gray moved that **HB 397**, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 7, 2007, roll call on **HB 397** - Appendix.)

HB 397, as amended, was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 397**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 60 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Simpson moved that **SB 60** be passed.

On the roll call the vote was: **Yeas 97, Nays 1**. (See March 7, 2007, roll call on **SB 60** - Appendix.)

SB 60 was passed and the title agreed to.

Representative Simpson moved that the vote by which **SB 60** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 74, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoffman moved the adoption of the House Committee Substitute to **SB 74**. Agreed.

Representative McKee moved the adoption of House Floor Amendment No. 1 to the House Committee Substitute to **SB 74**. Agreed.

Representative Hoffman moved that **SB 74**, by way of House Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 1**. (See March 7, 2007, roll call on **SB 74** - Appendix.)

SB 74, by way of House Committee Substitute, as amended, was passed and the title agreed to.

Representative Hoffman moved that the vote by which **SB 74**, by way of House Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 93, with Committee Substitute, Committee Amendment, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeWeese moved the adoption of the House Committee Substitute to **SJR 93**. Agreed.

Representative DeWeese moved that **SJR 93**, by way of House Committee Substitute be adopted.

Representative Nelson moved the adoption of House Floor Amendment No. 1 to the House Committee Substitute to **SJR 93**. Agreed.

Representative Upchurch moved the adoption of House Floor Amendment No. 2 to the House Committee Substitute to **SJR 93**. Agreed.

Representative DeWeese moved that **SJR 93**, by way of House Committee Substitute, as amended be adopted.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 7, 2007, roll call on **SJR 93** - Appendix.)

SJR 93, by way of House Committee Substitute, as amended, was adopted.

Representative DeWeese moved the adoption of House Floor Amendment No. 3 Title to **SJR 93**. Agreed.

Representative DeWeese moved that the vote by which **SJR 93**, by way of House Committee Substitute, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

SJR 48 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hall moved that **SJR 48** be adopted.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 7, 2007, roll call on **SJR 48** - Appendix.)

SJR 48 was adopted.

Representative Hall moved that the vote by which **SJR 48** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 381, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Baugh moved the adoption of the Committee Substitute to **HB 381**. Agreed.

Representative Baugh moved that **HB 381**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 7, 2007, roll call on **HB 381** - Appendix.)

HB 381, by way of Committee Substitute, was passed and the title agreed to.

Representative Baugh moved that the vote by which **HB 381**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 11, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by

a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HJR 11**. Agreed.

Representative Marzian moved that **HJR 11**, by way of Committee Substitute, be adopted.

On the roll call the vote was: **Yeas 91, Nays 0**. (See March 7, 2007, roll call on **HJR 11** - Appendix.)

HJR 11, by way of Committee Substitute was adopted.

Representative DeWeese moved the adoption of Committee Amendment No. 1 Title to **HJR 11**. Agreed.

Representative Marzian moved that the vote by which **HJR 11**, by way of Committee Substitute, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

Representative Adkins moved that the rules be suspended and that the vote by which **HJR 11** was adopted be reconsidered.

On the roll call that the rules be suspended and that the vote by which **HJR 11** was adopted be reconsidered the vote was: **Yeas 100, Nays 0**. (See March 7, 2007, roll call to reconsider the vote on **HJR 11**-Appendix.) Agreed.

Representative Adkins moved that **HJR 11** be placed back in the Orders of the Day. Agreed.

HJR 11, by way of Committee Substitute, as amended, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HJR 11**, by way of Committee Substitute, was adopted.

On the roll call the vote was: **Yeas 100, Nays 0**. (See March 7, 2007, roll call on **HJR 11** - Appendix.)

HJR 11, by way of Committee Substitute, was adopted.

Representative DeWeese moved the adoption of Committee Amendment No. 1 Title to **HJR 11**. Agreed.

Representative Marzian moved that the vote by which **HJR 11**, by Committee Substitute, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Adkins move that the posting requirement be waived on **SB 208** and **SJR 125**. Agreed.

Representative Burch moved the adoption of the following **HR 202**:

HR 202, A RESOLUTION encouraging the Cabinet for Health and Family Services to implement a pilot program for treatment of brain injuries.

WHEREAS, approximately 2,500 individuals suffer traumatic brain injuries in Kentucky each year; and

WHEREAS, it is estimated that 70 percent of United States soldiers returning from Iraq have some form of brain injury; and

WHEREAS, Kentucky's Medicaid Program spends over \$135 million on brain injuries each year; and

WHEREAS, studies show that when evidence-based treatment guidelines are followed, stays in hospital intensive care are reduced, the number of days in rehabilitation is reduced, and patient outcomes are dramatically improved; and

WHEREAS, it is estimated that if evidence-based treatment guidelines are followed, the Kentucky Medicaid Program could save as much as \$27 million in long-term care costs relating to traumatic brain injuries;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives encourages the Kentucky Cabinet for Health and Family Services to implement an incentive-based pilot program, in cooperation with the Brain Injury Association of Kentucky, that uses an interactive evidence-based treatment model for individuals with traumatic brain injury. The pilot program should implement treatment guidelines and practice recommendations that have been peer-reviewed and approved for individuals with traumatic brain injuries by the American Association of Neurological Surgeons.

Section 2. The Cabinet for Health and Family Services is encouraged to seek private donations, federal grant funds, and

state general funds to implement the traumatic brain injury evidence-based treatment pilot program, and to report to the Interim Joint Committee on Health and Welfare on the progress of the pilot program.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the secretary of the Cabinet for Health and Family Services, 275 East Main Street, Frankfort, Kentucky 40621; and to the Brain Injury Association of Kentucky, 7410 New LaGrange Road, Suite 100, Louisville, Kentucky 40222.

There being no objection, **HR 202** was adopted.

Representative Adams moved to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 205, by Representatives Adams, McKee, Clark, Hoffman, Henderson, Denham, Butler, and Montell: A RESOLUTION directing the Department of Fish and Wildlife Resources to review existing Kentucky statutes, administrative regulations, and formal policies that govern the control of coyotes in the Commonwealth.

Motions, Petitions, and Communications (Continued)

Representative Adams moved the adoption of the following **HR 205**:

HR 205, A RESOLUTION directing the Department of Fish and Wildlife Resources to review existing Kentucky statutes, administrative regulations, and formal policies that govern the control of coyotes in the Commonwealth.

WHEREAS, coyotes have increasingly become a nuisance to farmers and other landowners in our state, causing livestock depredation and other destruction to property; and

WHEREAS, the General Assembly has been asked to help alleviate the depredation and destruction caused by coyotes; and

WHEREAS, several farm associations, organizations, and sporting groups, including the Kentucky Farm Bureau, Kentucky Cattleman's Association, United Trappers of Kentucky, Kentucky Chapter of the Fur Takers of America, and the Kentucky Houndsmen Association have contacted the Department of Fish and Wildlife Resources expressing their concerns regarding the sale of live coyotes; and

WHEREAS, the Department of Fish and Wildlife Resources is committed to working with farmers and other landowners to protect their livestock and property by controlling depredation and destruction caused by coyotes;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The Department of Fish and Wildlife Resources is directed to review existing Kentucky statutes, administrative regulations, and formal policies that govern the control of coyotes in the Commonwealth.

Section 2. The Department of Fish and Wildlife Resources is directed to:

(1) Produce and disseminate to farmers and other landowners educational materials and guidance related to dealing with coyote depredation and damage problems, including providing technical programs, taped television shows, written publications, and trapping demonstrations;

(2) Investigate the impact of coyote depredation and destruction and increase efforts to develop programs to assist farmers and other landowners faced with coyotes;

(3) Communicate with farm associations, organizations, and sporting groups to discuss depredation and destruction issues, and to provide timely distribution of educational materials and programs to the members of those associations, organizations, and groups; and

(4) Communicate and cooperate with trappers and licensed nuisance wildlife control operators in devising a program where the trappers and licensed nuisance wildlife control operators can be adequately compensated for the services they provide, including the proper trapping and disposal of coyotes.

Section 3. The Department of Fish and Wildlife Resources is directed to provide a written report to the Interim Joint Committee on Agriculture and Natural Resources by December 1, 2007, summarizing the results of the issues identified in Sections 1 and 2 of this Resolution.

Section 4. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Governor, the Secretary of the Commerce Cabinet, and the Commissioner of the Department of Fish and Wildlife Resources.

There being no objection, **HR 205** was adopted.

Representative Collins moved to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 206, by Representative Collins: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Private First Class Danny Russell Ward.

Motions, Petitions, and Communications (Continued)

Representative Collins moved the adoption of the following **HR 206**:

HR 206, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Private First Class Danny Russell Ward.

With deepest respect and admiration, we pay homage and tribute to the life and military service of Private First Class Danny Russell Ward.

WHEREAS, Danny Russell Ward was born and raised in Martin County, Kentucky; and

WHEREAS, Danny Russell Ward enlisted in the United States Army in April, 1965; and

WHEREAS, just months after enlisting, Private First Class Danny Russell Ward was assigned to B Company, 1st Battalion, 503rd Infantry, 173rd Airborne Brigade in Vietnam; and

WHEREAS, Private First Class Danny Russell Ward was involved in one of the first battles between the United States Armed Forces and the North Vietnamese military; and

WHEREAS, "Operation Hump" began as a search and destroy mission on November 5, 1965, in the Vietnamese town of Bien Hoa; and

WHEREAS, "Operation Hump" remained quiet until the early morning hours of November 8, 1965, when C Company of the 173rd Airborne Brigade moved toward a site known as Hill 65, where they encountered Vietcong forces firmly entrenched on the face of the mountain and came under heavy enemy fire, while B Company advanced toward Hill 78; and

WHEREAS, B Company was later redirected to Hill 65 to assist their fellow soldiers who had taken heavy casualties; and

WHEREAS, B Company reacted quickly to combat the large enemy forces, repositioning machine guns and troopers to meet the brunt of the enemy attack; and

WHEREAS, the soldiers of B Company were able to repel the enemy attack, kill 403 Vietcong fighters, and save the lives of a number of their fellow soldiers in C Company; and

WHEREAS, the life of Private First Class Danny Russell Ward ended prematurely when he came under enemy fire during the battle on Hill 65; he was one of 48 paratroopers killed during combat operations on November 8, 1965; and

WHEREAS, Private First Class Danny Russell Ward valiantly served his country with honor and distinction; and he is remembered by his friends as a "fine boy who would do anything to help anyone"; and

WHEREAS, the paratroopers of the 173rd Airborne Brigade are considered among the finest in American military history to ever set foot on a battlefield; and

WHEREAS, Private First Class Danny Russell Ward was the first serviceman from Martin County to give his life for his country in Vietnam; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Private First Class Danny Russell Ward and is deeply grateful for the sacrifice he made for the American people;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its most heartfelt appreciation to the family and friends of Private First Class Danny Russell Ward for the ultimate sacrifice he made on behalf of all the people of the Commonwealth of Kentucky and for the American people.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Private First Class Danny Russell Ward.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the niece of Private First Class Danny Russell Ward, Kathy Preece, Post Office Box 2051, Inez, Kentucky 41224.

There being no objection, **HR 206** was adopted.

Representative Meeks moved the adoption of the following **HR 188**:

HR 188, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Evelyn Rose Jackson. It is with the deepest respect and admiration that we pay homage and tribute to Evelyn Rose Jackson, and we pause in silent reverence for her eternal soul.

WHEREAS, Evelyn Rose Jackson was born on June 3, 1908, in Louisville, Kentucky, to her loving parents, the late Edward and Elizabeth Rose Jackson; and

WHEREAS, Evelyn Rose Jackson received her education in the public schools in Louisville, graduating with Honors from Central Colored High School and Louisville Normal School, she obtained a bachelor's degree in Education from the University of Cincinnati, and a master's degree in Education from Indiana University, in addition to postgraduate studies at the University of Louisville; and

WHEREAS, Evelyn Rose Jackson wed her lifelong love, the late William "Jack" Jackson on June 12, 1942; and

WHEREAS, Evelyn Rose Jackson began her career as a teacher in 1929 at Western Colored Elementary School in Louisville, and faithfully served as Principal the Frederic Douglas Colored Elementary School, Benjamin Banneker Colored Elementary School, Lincoln Colored Elementary School, and Virginia Avenue Elementary School, subsequently renamed Carter Traditional Elementary School; and

WHEREAS, Evelyn Rose Jackson tirelessly devoted her life to the education of children within the Commonwealth of Kentucky, and distinguished herself in virtually every activity in which she engaged, including her membership and leadership in the Kentuckiana Girl Scouts and Girl Scouts of America, Alpha Kappa Alpha sorority, Pi Lambda Theta Sorority for Women Excelling in Education, National Education of Teachers and Principals, Kentucky Retired Teachers Association, the Bluegrass Garden Club, Amphitryonn, Joy Club, Mi Dear Crafters, United Appeal, Council for Exceptional Children, and New Zion Baptist Church; and

WHEREAS, Evelyn Rose Jackson was a diligent warrior for children as evidenced by Senate Resolution 145, adopted in 2002, which paid tribute to her tireless devotion to the children of the Commonwealth of Kentucky; and

WHEREAS, Evelyn Rose Jackson professed her faith in Jesus Christ at Centennial Olivet Baptist Church, later joining Fifth Street Baptist Church, and becoming a faithful member of New Zion Baptist Church, where she served in the Church Library and Adult Bible Class; and

WHEREAS, Evelyn Rose Jackson leaves to mourn her passing a nephew, Watson Rose; a niece, Elisabetta Goodall; two cousins, Fannie Walton and Melvin McMickens; three grandnieces, Donna Rose, Dianna Rose, and Donita Coleman; a caregiver, Gertrude Bugg; three great-grandnieces, one great-grandnephew; and a host of other relatives, friends, and acquaintances; and

WHEREAS, Evelyn Rose Jackson will be remembered for having engaged the minds of her children, lifting the cloak of ignorance in furtherance of the struggle of her people, and providing the perfect quantity of attention to every single child under her care and custody, and will be remembered for her vision, spiritual leadership, and overall concern for the betterment of her church, the children of the Commonwealth, and her community; and

WHEREAS, the passing of Evelyn Rose Jackson has left a void and irreparable emptiness in the hearts of her relatives, her friends, her acquaintances, and especially her students that will be impossible to fill;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deepest sympathy upon the passing of Evelyn Rose Jackson, and extends to her family, friends, and acquaintances its most heartfelt sympathy and condolences.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of, and in tribute to, Evelyn Rose Jackson.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Reverend A. Russell Awkard, New Zion Baptist Church, 1501 S. 34th Street, Louisville, Kentucky 40211, for appropriate distribution.

There being no objection, **HR 188** was adopted.

Representative DeCesare moved the adoption of the following **HR 69**:

HR 69, A RESOLUTION adjourning the House of Representatives in loving memory and honor of young Logan Thomas Byard.

WHEREAS, Logan Thomas Byard was born September 19, 2001, to Brandon and Kyla M. Giorgio Byard, and left this life on January 15, 2007, at the tender age of five years. Logan was diagnosed with a rare congenital disease prior to birth, and his parents were given little hope that he would survive. Full of life and a strong spirit, Logan underwent six surgeries by age four, and a final, seventh operation on January 12, 2007, before succumbing to complications three days later; and

WHEREAS, Logan Thomas Byard touched the hearts and lives of all he met, and although he will not have the gift of years, the precious time he lived will long be remembered by his loved ones who drew strength and courage from this little warrior who now is at rest; and

WHEREAS, Logan is mourned by his loving and devoted parents, Brandon and Kyla Byard; maternal grandparents, Mike

and Sherry Giorgio; paternal grandmother, Donna Byard, and her companion, Ken Stirn; paternal grandfather, Dean Byard; an aunt, Kelli Giorgio-Gumm and her husband, Corey; an uncle, Jonathan Giorgio; maternal great-grandparents, Kathleen Giorgio, and Jack and Pat McCombs; paternal great-grandparents, Lawrence and Reecie Mae Byard; a paternal great-grandmother, Jean Bryant; eight great-aunts and uncles; several cousins; and many loving friends;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deep sense of sadness upon the passing of little Logan Thomas Byard, and extends to his family and friends its sincere condolences.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Logan Thomas Byard.

There being no objection, **HR 69** was adopted.

Representative Riner moved that **HR 201** be withdrawn. Agreed.

Representative Riner moved to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 208, by Representative Riner: A RESOLUTION adjourning the Kentucky House of Representatives in honor of the United States Navy Chaplain Corps and Chaplain Gordon James Klingenschmitt for service to God, country, and the Commonwealth of Kentucky.

Representative Riner moved the adoption of the following **HR 208**:

HR 208, A RESOLUTION adjourning the Kentucky House of Representatives in honor of the United States Navy Chaplain Corps and Chaplain Gordon James Klingenschmitt for service to God, country, and the Commonwealth of Kentucky.

WHEREAS, on the seventh day of March in the year of our Lord Jesus Christ two thousand seven, Chaplain Gordon James Klingenschmitt served God, country, and the people of the Commonwealth by opening the Kentucky House of Representatives with prayer after his speech to legislators and state employees from every branch of government at the final Legislative Prayer Breakfast for the 2007 Session of the General Assembly; and

WHEREAS, Navy regulations adopted on November 28, 1775, reflect the Navy's deep concern for the souls of sailors to know Jesus through the preaching of the Gospel state, "The commanders of the ships of the thirteen United Colonies are to take care that divine service be performed twice a day on board and a sermon preached on Sundays, unless bad weather or other extraordinary accidents prevent"; and

WHEREAS, President Woodrow Wilson's letter to the sailors of the United States during World War I, recorded in the Congressional Record, expressed this same concern for the souls of American soldiers and sailors as they risked death for their beloved country when he pleaded with them to read the Bible, stating, "The Bible is the word of life. I beg that you will read it and find this out for yourselves -- read not little snatches here and there, but long passages that will really be the road to the heart of it. You will find it full of real men and women not only, but also of things you have wondered about and been troubled about all your life, as men have been always; and the more you read, the more it will become plain to you what things are worthwhile and what are not, what things make men happy -- loyalty, right dealings, speaking the truth, readiness to give everything for what they think their duty, and most of all, the wish that they may have the real approval of the Christ, who gave everything for them -- and the things that are guaranteed to make men unhappy -- selfishness, cowardice, greed, and everything that is low and mean. When you have read the Bible, you will know that it is the Word of God, because you will have found it the key to your own heart, your own happiness, and your own duty"; and

WHEREAS, Benjamin Balch, a Christian minister, was the first chaplain known to have served in the Continental Navy, and his son, William Balch, the first chaplain known to receive a commission in the United States Navy following the establishment of the Navy Department in 1798; and

WHEREAS, Navy chaplains are permitted by federal law to pray in Jesus' name according to 10 U.S.C. sec. 6031, which states, "An officer in the Chaplain Corps may conduct public worship according to the manner and forms of the church of which he is a member"; and

WHEREAS, Chaplain Gordon James Klingenschmitt has honored the name of Jesus Christ by upholding 200 years of freedom for Christian chaplains serving in the United States Navy to pray in the holy name of their Lord and Savior, Jesus Christ; and

WHEREAS, for over 2,000 years, followers of Jesus Christ have experienced pressure, persecution, and even death at the

hands of their governments, employers, peers, and sometimes even their families for teaching, preaching, or praying in Jesus' name; and

WHEREAS, more Christians have been martyred in the last 100 years than have been martyred in all the previous 1,900 years combined; and

WHEREAS, throughout the history of the Christian Church, those who have confessed that Jesus is Lord have taught, preached, prayed, baptized, "hazarded their lives," and done good deeds in Jesus' name as a matter of faith, and deeply held convictions based on the teachings of Jesus Christ and His apostles found in Mark 9:41, Luke 24:46, John 16:23-26, Acts 2:21, Acts 2:38, Acts 3:16, Acts 4:1-30, Acts 5:27-42, Acts 6: 40-42, Acts 15:26, Acts 19:17, Romans 10:13, I Corinthians 6:11, Ephesians 5:20, Colossians 3:17, II Thessalonians 1:12, I Peter 4:11-19, Revelation 2:12-13, and Revelation 3:8;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby applaud the United States Navy Chaplain Corps and Chaplain Gordon James Klingenschmitt for service to God, country, and the Commonwealth of Kentucky.

Section 2. When the House of Representatives adjourns this day, it does so in honor of the United States Navy Chaplain Corps and Chaplain Gordon James Klingenschmitt.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Captain Randy Cash, Navy Chaplain School Director, Officer Training Command Newport, 114 Porter Avenue, Newport, Rhode Island 02841-1210; the Honorable Donald C. Winter, Secretary of the Navy, 1000 Pentagon, Washington D.C. 20350-1000; and Admiral Robert F. Burt, Navy Chief of Chaplains (N097), 2 Navy Annex, Washington, D.C. 20370-4000.

There being no objection, **HR 208** was adopted.

Representative Stewart moved the adoption of the following **Legislative Citation No. 65**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory of Howard West February 12, 1914 ~ March 5, 2007 and respectfully joins with Representative Jim Stewart in paying tribute to the life of this esteemed citizen, a former member of the Kentucky House of Representatives who served in this honorable body from 1968 to 1972; an educator who taught mathematics at Barbourville High School and had served as the principal at Kay Jay and Boone Height in Knox County; a Shriner and fifty-year member of the Barbourville Masonic Lodge #187; and a faithful member of Artemus Baptist Church. Born on Little Brush Creek in Knox County, Kentucky, to the late Billy and Sally Myrick West, and also preceded in death by his first wife, Mary Campbell, with whom he raised two sons; and siblings, Lois Burch, Rose Cooms, Florence Partin, Georgia Jarvis, Bertha Neeley, Cledia Grove, Whit West and Charles West, he is survived by his wife, Nell Stewart West; sons and daughters-in-law, Glen Ray and Janice West and Gerald and Dolly West; grandchildren, Mark West, Shan Burns, Brent West, Amy Messer and Darren West; great-grandchildren, Ian, Sean, Carli, Kyle, Jenna, Carrie Joanne and Nicholas; and a host of other family members, friends, colleagues and loved ones, all of whom deeply mourn their loss upon the passing of this fine Kentucky gentleman. Done in Frankfort, Kentucky, this seventh day of March, in the year two thousand and seven.

Legislative Citation No. 65 was adopted without objection.

Representative Adkins moved that the rules be suspended and that the posting requirement be waived on **SB 82**. Agreed.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 207, by Representatives Rasche, Draud, and Moberly: A RESOLUTION honoring Kentucky's new national board certified teachers.

HR 209, by Representatives Moberly, Pullin, and Wilkey: A RESOLUTION adjourning the House of Representatives in honor of the bravery and service of Staff Sergeant Timothy F. Nein.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Education: **SB 208**

Report of Committees

The Committee on Judiciary reported SB 43 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 43, AN ACT relating to human trafficking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 422 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Confidential communication" means information transmitted between the victim and the caseworker in the course of their relationship and in confidence by a means which, so far as the victim is aware, discloses the information to no third persons other than those who are present to further the interests of the victim in the consultation or those to whom disclosures are reasonably necessary for the transmission of the information or an accomplishment of the purposes for which the human trafficking counselor is consulted and includes all information regarding the facts and circumstances involving the trafficking;

(b) "Holder of the privilege" means the victim when he or she has no guardian or conservator, or a guardian or conservator of the victim when the victim has a guardian or conservator;

(c) "Trafficking victim counselor" includes any of the following:

1. A counselor, as that term is defined in Rule 506 of the Kentucky Rules of Evidence;

2. A psychotherapist as that term is defined in Rule 507 of the Kentucky Rules of Evidence; and

3. A person employed and supervised by one of the persons specified in this paragraph to render services to human trafficking victims and who has received forty (40) hours of training in the history of human trafficking, civil and criminal law as it relates to human trafficking, societal attitudes towards human trafficking, peer counseling techniques, housing, public assistance and other financial resources available to meet the financial needs of human trafficking victims, and referral services available to human trafficking victims.

(2) A human trafficking victim has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communication made to a trafficking victim counselor for the purpose of receiving counseling, therapy, services, information or treatment related to human trafficking.

(3) A human trafficking caseworker shall inform a trafficking victim of any applicable limitations on confidentiality of communications between the victim and the caseworker. This information may be given orally.

SECTION 2. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

A victim of human trafficking shall not be held in a detention center, jail, or other secure facility pending trial for an offense arising from the human trafficking situation except where the incarceration is found to be the least restrictive alternative to securing the appearance of that person before the court or the release of the person under any other reasonable condition would be a clear threat to public safety.

Section 3. KRS 506.120 is amended to read as follows:

(1) A person, with the purpose to establish or maintain a criminal syndicate or to facilitate any of its activities, shall not do any of the following:

(a) Organize or participate in organizing a criminal syndicate or any of its activities;

(b) Provide material aid to a criminal syndicate or any of its activities, whether such aid is in the form of money or other property, or credit;

(c) Manage, supervise, or direct any of the activities of a criminal syndicate, at any level of responsibility;

(d) Knowingly furnish legal, accounting, or other managerial services to a criminal syndicate;

(e) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of, any offense of a type in which a criminal syndicate engages on a continuing basis;

(f) Commit, or conspire or attempt to commit or act as an accomplice in the commission of, any offense of violence;

(g) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of bribery in violation of KRS Chapters 518 or 521, or KRS 119.205, 121.025, 121.055, 524.070, 156.465, 45A.340, 63.090, 6.080, 18A.145, or 244.600.

(2) Whoever violates this section is guilty of engaging in organized crime, which shall be a Class B felony.

(3) As used in this section "criminal syndicate" means five (5) or more persons collaborating to promote or engage in any of the following on a continuing basis:

(a) Extortion or coercion in violation of KRS 514.080 or 521.020;

(b) Engaging in, promoting, or permitting prostitution or human trafficking in violation of KRS Chapter 529;

(c) Any theft offense as defined in KRS Chapter 514;

- (d) Any gambling offense as defined in KRS 411.090, KRS Chapter 528, or Section 226 of the Constitution;
- (e) Illegal trafficking in controlled substances as prohibited by KRS Chapter 218A, in intoxicating or spirituous liquor as defined in KRS Chapters 242 or 244, or in destructive devices or booby traps as defined in KRS Chapter 237;
- (f) Lending at usurious interest, and enforcing repayment by illegal means in violation of KRS Chapter 360.

Section 4. KRS 529.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

- (1) "Advancing prostitution" -- A person "advances prostitution" when acting other than as a prostitute or as a patron thereof, he knowingly causes or aids a person to engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in the operation of a house of prostitution or a prostitution enterprise, or engages in any conduct designed to institute, aid or facilitate an act or enterprise of prostitution;[-]
- (2) "Commercial sexual activity" means prostitution, participation in the production of obscene material as set out in KRS Chapter 531, or engaging in a sexually explicit performance;
- (3) "Forced labor or services" means labor or services that are performed or provided by another person and that are obtained through force, fraud, or coercion;
- (4) "Force, fraud, or coercion" may only be accomplished by the same means and methods as a person may be restrained under KRS 509.010;
- (5) "Human trafficking" refers to criminal activity whereby one (1) or more persons are subjected to engaging in:
 - (a) Forced labor or services; or
 - (b) Commercial sexual activity through the use of force, fraud, or coercion, except that if the trafficked person is under the age of eighteen (18), the commercial sexual activity need not involve force, fraud, or coercion;
- (6) "Labor" means work of economic or financial value;
- ~~(7){(2)}~~ "Profiting from prostitution" -- A person "profits from prostitution" when acting other than as a prostitute receiving compensation for personally rendered prostitution services, he knowingly accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in proceeds of prostitution activity;[-]
- (8) "Services" means an ongoing relationship between a person and the actor in which the person performs activities under the supervision of or for the benefit of the actor;
- ~~(9){(3)}~~ "Sexual conduct" means sexual intercourse or any act of sexual gratification involving the sex organs; and
- (10) "Sexually-explicit performance" means a performance of sexual conduct involving:
 - (a) Acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviant sexual intercourse, actual or simulated;
 - (b) Physical contact with, or willful or intentional exhibition of the genitals;
 - (c) Flagellation or excretion for the purpose of sexual stimulation or gratification; or
 - (d) The exposure, in an obscene manner, of the unclothed or apparently unclothed human male or female genitals, pubic area or buttocks, or the female breast, whether or not subsequently obscured by a mark placed thereon, or otherwise altered, in any resulting motion picture, photograph or other visual representation, exclusive of exposure portrayed in matter of a private, family nature not intended for distribution outside the family.

SECTION 5. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of human trafficking when the person intentionally subjects one (1) or more persons to human trafficking.
- (2) (a) Human trafficking is a Class C felony unless it involves serious physical injury to a trafficked person, in which case it is a Class B felony.
- (b) If the victim of human trafficking is under eighteen (18) years of age, the penalty for the offense shall be one level higher than the level otherwise specified in this section.

SECTION 6. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

- (1) A person is guilty of promoting human trafficking when the person intentionally:
 - (a) Benefits financially or receives anything of value from knowing participation in human trafficking; or
 - (b) Recruits, entices, harbors, transports, provides, or obtains by any means, or attempts to recruit, entice, harbor, transport, or provide, or obtain by any means, another person, knowing that the person will be subject to human trafficking.
- (2) Promoting human trafficking is a Class D felony, unless a victim of the trafficking is under eighteen (18), in which case it is a Class C felony.

Section 7. KRS 529.040 is amended to read as follows:

- (1) A person is guilty of promoting prostitution [~~in the second degree~~] when he knowingly advances or profits from prostitution [~~by managing, supervising, controlling or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two (2) or more prostitutes~~].
- (2) Promoting prostitution [~~in the second degree~~] is a Class **A misdemeanor, unless the person managed, supervised, controlled or owned, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two (2) or more prostitutes, in which case it is a Class D felony.**

Section 8. KRS 17.500 is amended to read as follows:

As used in KRS 17.500 to 17.580:

- (1) "Approved provider" means a mental health professional licensed or certified in Kentucky whose scope of practice includes providing mental health treatment services and who is approved by the Sex Offender Risk Assessment Advisory Board, under administrative regulations promulgated by the board, to provide comprehensive sex offender presentence evaluations or treatment to adults and youthful offenders, as defined in KRS 600.020;
- (2) "Cabinet" means the Justice Cabinet;
- (3) (a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:
 1. Kidnapping, as set forth in KRS 509.040, except by a parent;
 2. Unlawful imprisonment, as set forth in KRS 509.020, except by a parent;
 3. Sex crime;
 4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;
 5. **Human trafficking involving commercial sexual activity as set forth in Section 5 of this Act;**
 6. Promoting prostitution, as set forth in **Section 7 of this Act** [KRS 529.030, 529.040, and 529.050], when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);
 6. Use of a minor in a sexual performance, as set forth in KRS 531.310;
 7. Sexual abuse, as set forth in KRS 510.120 and 510.130;
 8. Unlawful transaction with a minor in the first degree as set forth in KRS 530.064(1)(a);
 9. Any offense involving a minor or depictions of a minor as set forth in KRS Chapter 531;
 10. Any attempt to commit any of the offenses described in subparagraphs 1. to 9. of this paragraph; and
 11. Solicitation to commit any of the offenses described in subparagraphs 1. to 9. of this paragraph;
- (b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense;
- (4) "Law enforcement agency" means any lawfully organized investigative agency, sheriff's office, police unit, or police force of federal, state, county, urban-county government, charter county, city, consolidated local government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws;
- (5) "Registrant" means:
 - (a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:
 1. A sex crime; or
 2. A criminal offense against a victim who is a minor; or
 - (b) Any person required to register under KRS 17.510; or
 - (c) Any sexually violent predator; or
 - (d) Any person whose sexual offense has been diverted pursuant to KRS 533.250, until the diversionary period is successfully completed;
- (6) "Registrant information" means the name, including any lawful name change together with the previous name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, fingerprints, a photograph, aliases used, residence, a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of registrants;
- (7) "Residence" means any place where a person sleeps. For the purposes of this statute, a registrant may have more than one (1) residence. A registrant is required to register each residence address;
- (8) "Sex crime" means:
 - (a) A felony offense defined in KRS Chapter 510, or KRS 530.020, 530.064(1)(a), 531.310, or 531.320;
 - (b) A felony attempt to commit a felony offense specified in paragraph (a) of this subsection; or

- (c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection;
- (9) "Sexual offender" means any person convicted of, pleading guilty to, or entering an Alford plea to a sex crime as defined in this section, as of the date the verdict is entered by the court;
- (10) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme;
- (11) "The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554; and
- (12) "Victim" has the same meaning as in KRS 421.500.

Section 9. KRS 413.249 is amended to read as follows:

- (1) As used in this section:
 - (a) "Childhood sexual assault" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a felony in KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, 510.110, Section 5 of this Act where the offense involves commercial sexual activity~~529.030~~, 530.020, 530.064, 531.310, or 531.320. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual assault;
 - (b) "Childhood sexual abuse" means an act or series of acts against a person less than eighteen (18) years old and which meets the criteria defining a misdemeanor in KRS 510.120, KRS 510.130, KRS 510.140, or KRS 510.150. No prior criminal prosecution or conviction of the civil defendant for the act or series of acts shall be required to bring a civil action for redress of childhood sexual abuse;
 - (c) "Child" means a person less than eighteen (18) years old; and
 - (d) "Injury or illness" means either a physical or psychological injury or illness.
- (2) A civil action for recovery of damages for injury or illness suffered as a result of childhood sexual abuse or childhood sexual assault shall be brought before whichever of the following periods last expires:
 - (a) Within five (5) years of the commission of the act or the last of a series of acts by the same perpetrator;
 - (b) Within five (5) years of the date the victim knew, or should have known, of the act; or
 - (c) Within five (5) years after the victim attains the age of eighteen (18) years.
- (3) If a complaint is filed alleging that an act of childhood sexual assault or childhood sexual abuse occurred more than five (5) years prior to the date that the action is commenced, the complaint shall be accompanied by a motion to seal the record and the complaint shall immediately be sealed by the clerk of the court. The complaint shall remain sealed until:
 - (a) The court rules upon the motion to seal;
 - (b) Any motion to dismiss under CR 12.02 is ruled upon, and if the complaint is dismissed, the complaint and any related papers or pleadings shall remain sealed unless opened by a higher court; or
 - (c) The defendant files an answer and a motion to seal the record upon grounds that a valid factual defense exists, to be raised in a motion for summary judgment pursuant to CR 56. The record shall remain sealed by the clerk until the court rules upon the defendant's motion to close the record. If the court grants the motion to close, the record shall remain sealed until the defendant's motion for summary judgment is granted. The complaint, motions, and other related papers or pleadings shall remain sealed unless opened by a higher court.

Section 10. KRS 421.350 is amended to read as follows:

- (1) This section applies only to a proceeding in the prosecution of an offense, including but not limited to an offense under KRS 510.040 to 510.150, Section 5, 6, or 7 of this Act~~529.030 to 529.050~~, 529.070, 530.020, 530.060, 530.064(1)(a), 531.310, 531.320, 531.370, and all dependency proceedings pursuant to KRS Chapter 620, when the act is alleged to have been committed against a child twelve (12) years of age or younger, and applies to the statements or testimony of that child or another child who is twelve (12) years of age or younger who witnesses one of the offenses included in this subsection.
- (2) The court may, on the motion of the attorney for any party and upon a finding of compelling need, order that the testimony of the child be taken in a room other than the courtroom and be televised by closed circuit equipment in the courtroom to be viewed by the court and the finder of fact in the proceeding. Only the attorneys for the defendant and for the state, persons necessary to operate the equipment, and any person whose presence the court finds would contribute to the welfare and well-being of the child may be present in the room with the child during his testimony. Only the attorneys may question the child. The persons operating the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during his testimony, but does not permit the child to see or hear them. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant.
- (3) The court may, on the motion of the attorney for any party and upon a finding of compelling need, order that the testimony of the child be taken outside the courtroom and be recorded for showing in the courtroom before the court and the finder of fact in the proceeding. Only those persons permitted to be present at the taking of testimony under subsection (3) of this

section may be present during the taking of the child's testimony, and the persons operating the equipment shall be confined from the child's sight and hearing as provided by subsection (3) of this section. The court shall permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant. The court shall also ensure that:

- (a) The recording is both visual and oral and is recorded on film or videotape or by other electronic means;
 - (b) The recording equipment was capable of making an accurate recording, the operator was competent, and the recording is accurate and is not altered;
 - (c) Each voice on the recording is identified; and
 - (d) Each party is afforded an opportunity to view the recording before it is shown in the courtroom.
- (4) If the court orders the testimony of a child to be taken under subsection (2) or (3) of this section, the child may not be required to testify in court at the proceeding for which the testimony was taken.
- (5) For the purpose of subsections (2) and (3) of this section, "compelling need" is defined as the substantial probability that the child would be unable to reasonably communicate because of serious emotional distress produced by the defendant's presence.

Section 11. KRS 439.3401 is amended to read as follows:

- (1) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of:
- (a) A capital offense;
 - (b) A Class A felony;
 - (c) A Class B felony involving the death of the victim or serious physical injury to a victim;
 - (d) The commission or attempted commission of a felony sexual offense described in KRS Chapter 510;
 - (e) Use of a minor in a sexual performance as described in KRS 531.310;
 - (f) Promoting a sexual performance by a minor as described in KRS 531.320;
 - (g) Unlawful transaction with a minor in the first degree as described in KRS 530.064(1)(a);
 - (h) Human trafficking under Section 5 of this Act involving commercial sexual activity where the victim is a minor~~Promoting prostitution in the first degree as described in KRS 529.030(1)(b)}~~;
 - (i) Criminal abuse in the first degree as described in KRS 508.100;
 - (j) Burglary in the first degree accompanied by the commission or attempted commission of an assault described in KRS 508.010, 508.020, 508.032, or 508.060;
 - (k) Burglary in the first degree accompanied by commission or attempted commission of kidnapping as prohibited by KRS 509.040; or
 - (l) Robbery in the first degree.

The court shall designate in its judgment if the victim suffered death or serious physical injury.

- (2) A violent offender who has been convicted of a capital offense and who has received a life sentence (and has not been sentenced to twenty-five (25) years without parole or imprisonment for life without benefit of probation or parole), or a Class A felony and receives a life sentence, or to death and his sentence is commuted to a life sentence shall not be released on probation or parole until he has served at least twenty (20) years in the penitentiary. Violent offenders may have a greater minimum parole eligibility date than other offenders who receive longer sentences, including a sentence of life imprisonment.
- (3) A violent offender who has been convicted of a capital offense or Class A felony with a sentence of a term of years or Class B felony who is a violent offender shall not be released on probation or parole until he has served at least eighty-five percent (85%) of the sentence imposed.
- (4) A violent offender may not be awarded any credit on his sentence authorized by KRS 197.045(1), except the educational credit. A violent offender may, at the discretion of the commissioner, receive credit on his sentence authorized by KRS 197.045(3). In no event shall a violent offender be given credit on his sentence if the credit reduces the term of imprisonment to less than eighty-five percent (85%) of the sentence.
- (5) This section shall not apply to a person who has been determined by a court to have been a victim of domestic violence or abuse pursuant to KRS 533.060 with regard to the offenses involving the death of the victim or serious physical injury to the victim. The provisions of this subsection shall not extend to rape in the first degree or sodomy in the first degree by the defendant.
- (6) This section shall apply only to those persons who commit offenses after July 15, 1998.
- (7) For offenses committed prior to July 15, 1998, the version of this statute in effect immediately prior to that date shall continue to apply.
- (8) The provisions of subsection (1) of this section extending the definition of "violent offender" to persons convicted of or

pleading guilty to robbery in the first degree shall apply only to persons whose crime was committed after July 15, 2002.

Section 12. KRS 510.155 is amended to read as follows:

- (1) It shall be unlawful for any person to knowingly use a communications system, including computers, computer networks, computer bulletin boards, cellular telephones, or any other electronic means, for the purpose of procuring or promoting the use of a minor, or a peace officer posing as a minor if the person believes that the peace officer is a minor or is wanton or reckless in that belief, for any activity in violation of KRS 510.040, 510.050, 510.060, 510.070, 510.080, 510.090, Section 5 of this Act where that offense involves commercial sexual activity~~[KRS 529.030]~~, or 530.064(1)(a), or KRS Chapter 531.
- (2) No person shall be convicted of this offense and an offense specified in KRS 506.010, 506.030, 506.040, or 506.080 for a single course of conduct intended to consummate in the commission of the same offense with the same minor or peace officer.
- (3) A violation of this section is punishable as a Class D felony.

Section 13. KRS 530.064 is amended to read as follows:

- (1) A person is guilty of unlawful transaction with a minor in the first degree when he or she knowingly induces, assists, or causes a minor to engage in:
 - (a) Illegal sexual activity; or
 - (b) Illegal controlled substances activity other than activity involving marijuana;
 Except those offenses involving minors in KRS Chapter 531 and in Section 5 of this Act where that offense involves commercial sexual activity~~[KRS 529.030]~~.
- (2) Unlawful transaction with a minor in the first degree is a:
 - (a) Class C felony if the minor so used is less than eighteen (18) years old at the time the minor engages in the prohibited activity;
 - (b) Class B felony if the minor so used is less than sixteen (16) years old at the time the minor engages in the prohibited activity; and
 - (c) Class A felony if the minor so used incurs physical injury thereby.

Section 14. KRS 531.330 is amended to read as follows:

- (1) For purposes of Section 5 or 7 of this Act where the offense involves commercial sexual activity and for the purposes of ~~KRS [529.030]~~ 530.070, 531.080 and 531.300 to 531.370, any person who appears to be under the age of eighteen (18), or under the age of sixteen (16), shall be presumed to be under the age of eighteen (18), or under the age of sixteen (16), as the case may be.
- (2) In any prosecution under Section 5 or 7 of this Act where the offense involves commercial sexual activity by a minor and in any prosecution under ~~KRS [529.030]~~ 530.070, 531.080 and 531.300 to 531.370 the defendant may prove in exculpation that he in good faith reasonably believed that the person involved in the performance was not a minor.
- (3) The presumption raised in subsection (1) of this section may be rebutted by any competent evidence.

Section 15. KRS 532.043 is amended to read as follows:

- (1) In addition to the penalties authorized by law, any person convicted of, pleading guilty to, or entering an Alford plea to a felony offense under KRS Chapter 510, Section 5 of this Act involving commercial sexual activity ~~KRS [529.030]~~ 530.020, 530.064(1)(a), 531.310, or 531.320 shall be subject to a period of conditional discharge following release from:
 - (a) Incarceration upon expiration of sentence; or
 - (b) Completion of parole.
- (2) The period of conditional discharge shall be five (5) years.
- (3) During the period of conditional discharge, the defendant shall:
 - (a) Be subject to all orders specified by the Department of Corrections; and
 - (b) Comply with all education, treatment, testing, or combination thereof required by the Department of Corrections.
- (4) Persons under conditional discharge pursuant to this section shall be subject to the supervision of the Division of Probation and Parole.
- (5) If a person violates a provision specified in subsection (3) of this section, the violation shall be reported in writing to the Commonwealth's attorney in the county of conviction. The Commonwealth's attorney may petition the court to revoke the defendant's conditional discharge and reincarcerate the defendant as set forth in KRS 532.060.
- (6) The provisions of this section shall apply only to persons convicted, pleading guilty, or entering an Alford plea after July 15, 1998.

Section 16. KRS 532.045 is amended to read as follows:

- (1) As used in this section:
 - (a) "Position of authority" means but is not limited to the position occupied by a biological parent, adoptive parent,

stepparent, foster parent, relative, household member, adult youth leader, recreational staff, or volunteer who is an adult, adult athletic manager, adult coach, teacher, classified school employee, certified school employee, counselor, staff, or volunteer for either a residential treatment facility, a holding facility as defined in KRS 600.020, or a detention facility as defined in KRS 520.010(4), staff or volunteer with a youth services organization, religious leader, health-care provider, or employer;

- (b) "Position of special trust" means a position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the minor; and
- (c) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or the victim, by any foreign object; oral copulation; or masturbation of either the minor or the offender.

(2) Notwithstanding other provisions of applicable law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provision of this section be stricken for a person convicted of violating KRS 510.050, 510.080, Section 5 of this Act where the offense involves commercial sexual activity, Section 7 of this Act~~{529.030 to 529.050}~~, 529.070, 530.020, 531.310, 531.320, 531.370, or criminal attempt to commit any of these offenses under KRS 506.010, and, who meets one (1) or more of the following criteria:

- (a) A person who commits any of the offenses enumerated in this subsection against a minor by the use of force, violence, duress, menace, or threat of bodily harm;
- (b) A person who, in committing any of the offenses enumerated in this subsection, caused bodily injury to the minor;
- (c) A person convicted of any of the offenses enumerated in this subsection and who was a stranger to the minor or made friends with the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection, unless the defendant honestly and reasonably believed the minor was eighteen (18) years old or older;
- (d) A person who used a dangerous instrument or deadly weapon against a minor during the commission of any of the offenses enumerated in this subsection;
- (e) A person convicted of any of the offenses enumerated in this subsection and who has had a prior conviction of assaulting a minor, with intent to commit an act constituting any of the offenses enumerated in this subsection;
- (f) A person convicted of kidnapping a minor in violation of the Kentucky Penal Code and who kidnapped the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection;
- (g) A person who is convicted of committing any of the offenses enumerated in this subsection on more than one (1) minor at the same time or in the same course of conduct;
- (h) A person who in committing any of the offenses enumerated in this subsection has substantial sexual conduct with a minor under the age of fourteen (14) years; or
- (i) A person who occupies a position of special trust and commits an act of substantial sexual conduct.

Nothing in this section shall be construed to prohibit the additional period of five (5) years' conditional discharge required by KRS 532.043.

- (3) If a person is not otherwise prohibited from obtaining probation or conditional discharge under subsection (2), the court may impose on the person a period of probation or conditional discharge. Probation or conditional discharge shall not be granted until the court is in receipt of the comprehensive sex offender presentence evaluation of the offender performed by an approved provider, as defined in KRS 17.500 or the Department of Corrections. The court shall use the comprehensive sex offender presentence evaluation in determining the appropriateness of probation or conditional discharge.
- (4) If the court grants probation or conditional discharge, the offender shall be required, as a condition of probation or conditional discharge, to successfully complete a community-based sexual offender treatment program operated or approved by the Department of Corrections or the Sex Offender Risk Assessment Advisory Board.
- (5) The offender shall pay for any evaluation or treatment required pursuant to this section up to the offender's ability to pay but not more than the actual cost of the comprehensive sex offender presentence evaluation or treatment.
- (6) Failure to successfully complete the sexual offender treatment program constitutes grounds for the revocation of probation or conditional discharge.
- (7) The comprehensive sex offender presentence evaluation and all communications relative to the comprehensive sex offender presentence evaluation and treatment of a sexual offender shall fall under the provisions of KRS 197.440. The comprehensive sex offender presentence evaluation shall be filed under seal and shall not be made a part of the court record subject to review in appellate proceedings and shall not be made available to the public.
- (8) Before imposing sentence, the court shall advise the defendant or his counsel of the contents and conclusions of any comprehensive sex offender presentence evaluation performed pursuant to this section and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel and the Commonwealth's attorney a copy of the comprehensive sex offender presentence evaluation. It shall not be necessary to disclose the sources of confidential information.
- (9) To the extent that this section conflicts with KRS 533.010, this section shall take precedence.

Section 17. The following KRS sections are repealed:

529.030 Promoting prostitution in the first degree.

529.050 Promoting prostitution in the third degree.

The Committee on Natural Resources and Environment reported **SB 92** and **SB 196**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 92, AN ACT relating to the Kentucky Soil and Water Conservation Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 262.010 is amended to read as follows:

- (1) "Board" means the board of supervisors of a conservation district;
- (2) "Commission" means the Conservation Commission;
- (3) "District" means a conservation district whenever used in KRS 262.010 through 262.660 or a watershed conservancy district whenever used in KRS 262.700 through 262.795;
- (4) "Due notice" means notice published in accordance with the legal notice provisions of KRS Chapter 424;
- (5) **"Infrastructure" means the plant and assets required for maintaining a district office;**
- (6)** "Land occupier" or "occupier of land" includes any person other than the landowner who is in possession of any lands lying within the district, whether as lessee or otherwise;
- (7)(6)** "Landowner" or "owner of land" includes any person who holds legal or equitable title to the land within the district determined as follows:
 - (a) By his, her, or their names appearing on the recorded deed to the land;
 - (b) By title derived through a probated will or by the laws of descent and distribution under KRS Chapter 391;
 - (c) Where a minor or person adjudged mentally disabled is the owner of land within the district, the guardian or conservator or whoever has the power of attorney shall have the right to vote for such landowner under the provisions of KRS Chapter 262;
 - (d) Where the will has not been probated by the date of the referendum or election as provided in KRS Chapter 262, the executor of the deceased landowner shall have the right to vote for the devisee or devisees;
 - (e) Where the land within the districts is held in trust, the trustee shall have the right to vote for the landowner under the provisions of KRS Chapter 262;
 - (f) A landowner shall be entitled to but one (1) vote whenever he is given the right to vote under KRS Chapter 262 regardless of the number of tracts or parcels of land which he owns either wholly or in part, within the district;
 - (g) Where a trustee, executor, guardian, conservator or other person with authority to vote for a landowner exercises such duty in relation to two (2) or more estates or tracts of land, within a district, such person shall have the right to vote separately for each such landowner which he represents within the district;
 - (h) In the case of a dispute as to whether or not a person has the right to vote in an election or referendum under the provisions of KRS Chapter 262, the person seeking such right must provide to the satisfaction of the polling superintendent that he has the right to vote under this section.
- (8)(7)** "Supervisor" means one of the members of the governing body of a conservation district.

Section 2. KRS 262.620 is amended to read as follows:

The Division of Conservation shall retain title to each piece of heavy or specialized ~~machinery or~~ equipment **or any infrastructure** ~~so~~ purchased and made available to any soil and water conservation district until such time as the soil and water conservation districts fully amortize the commission's investment in ~~the such machinery or~~ equipment **or the infrastructure. If the soil and water conservation district purchases infrastructure with use of funds made available by the Division of Conservation for that purpose, then the Division of Conservation shall be listed on the deed to the property jointly with the district.** After the commission's investment in ~~the such machinery or~~ equipment **or infrastructure** has been fully amortized, it is authorized and empowered to transfer the title thereto to the district. **If the district has purchased infrastructure with funds made available by the Division of Conservation, the district shall consult with the division prior to the dispossession of the property.**

Section 3. KRS 262.630 is amended to read as follows:

- (1)** Each soil and water conservation district which receives or uses the ~~machinery or~~ equipment referred to in KRS 262.610 shall maintain its public records to show for each piece of ~~machinery or~~ equipment: (1) the hours same has worked on each job in each district; (2) the amounts collected from each job in each district; (3) the expense of repairing, moving, manning and other usual costs of operation, and (4) the amount paid by each district for the purpose of amortizing the commission's investment in ~~the such machinery or~~ equipment.
- (2)** **Each soil and water conservation district which leases or otherwise obtains a right of use of the infrastructure with the support of the Division of Conservation pursuant to KRS 262.610 shall maintain in public records a copy of the lease**

or other contract which provides the district a right of use of the infrastructure; and

(a) In the case of a purchase, the amount paid by each district for the purpose of amortizing the commission's investment in the infrastructure; or

(b) In the case of lease without right of purchase or some other contractual arrangement or agreement, the payments made to the Division of Conservation for the right of use of the infrastructure.

- (3) Each of ~~the[such]~~ soil and water conservation districts shall send a duplicate copy of ~~the[such]~~ records to the commission, who shall retain same in its files for public inspection.
- (4) In addition thereto, the commission shall at all times maintain an account showing each piece of ~~machinery or~~ equipment, the title to which is vested in it, and any infrastructure, the title of which may be vested solely in the commission or jointly with the district, and the amount paid thereon by any soil and water conservation district, and the amount remaining to be amortized.

Section 4. KRS 262.610 is amended to read as follows:

- (1) The Soil and Water Conservation Commission as referred to in KRS Chapter 146, subject to the supervision of the commissioner for natural resources, to the restrictions provided in KRS 262.610 to 262.660, and to the requirements of KRS Chapters 42 and 45A, is hereby authorized to acquire and to make available, or to assist in acquiring or making available to soil and water conservation districts, heavy or specialized ~~machinery or~~ equipment or infrastructure which an individual district cannot itself economically obtain.
- (2) When the commission acquires or makes available to any district the ~~machinery or~~ equipment or infrastructure above referred to, it shall require said district to fully amortize, in the form of rentals or payments, to the Division of Conservation, as referred to in KRS Chapter 146, any amount so expended by the commission for such assistance. The amount and method of amortization for each piece of heavy ~~or specialized machinery or~~ equipment or infrastructure shall be determined by the commission, subject to approval of the commissioner of natural resources. The amount and method of amortization for each piece of heavy or specialized equipment shall be determined ~~on the basis of a rental to be charged by the district to the user of such machinery or~~ equipment sufficient (a) to fully amortize to the division the capital outlay for the machinery itself over the period of its reasonably anticipated full usefulness; (b) to cover the cost of operation, maintenance and repairs; (c) to pay the usual cost of providing an operator; (d) to compensate the district for the usual costs of transportation from one job to another.
- (3) In giving effect to all of the foregoing, the commission shall estimate the amount of time such equipment would ordinarily be idle.

Section 5. KRS 262.640 is amended to read as follows:

The amount paid by any ~~such~~ district to the division for amortization of a loan or for payment on a lease ~~purposes~~ shall be made monthly ~~when the machinery is in use~~. This amount shall be credited to a revolving fund and the costs of any new ~~machinery or~~ equipment or infrastructure shall be charged to the same account. Neither the appropriation herein made nor the revolving fund shall be used for any purpose other than to make available to soil and water conservation districts the ~~machinery and~~ equipment or infrastructure of the type referred to in KRS 262.610.

Section 6. KRS 262.650 is amended to read as follows:

Any two (2) or more soil and water conservation districts may combine with each other for the purpose of obtaining and using the specialized ~~machinery or~~ equipment or infrastructure referred to in KRS 262.610, upon the terms and conditions set forth in KRS 262.610 to 262.660.

Section 7. KRS 262.748 is amended to read as follows:

- (1) Upon determination by the board of directors of a watershed conservancy district that the improvement, continuing operation, or maintenance of a watershed project is necessary, the board of directors may adopt a resolution which shall set out: (a) a list of the benefited lands located in the flood plain, as determined by the board of directors, giving the acreage of such lands and the names of the owners thereof as defined by KRS 262.010(2) ~~(6)~~ with a classification of such lands or parts thereof into classes in order that assessments may be made according to direct benefits, and (b) the annual assessments to be levied upon the lands set out in the resolution on the basis of a certain amount per acre according to benefits received, not to exceed in any one year a sum per acre specified in the resolution.
- (2) The board of directors shall cause due notice of the resolution to be given to all the owners of benefited lands, as determined by the board. Said notice shall set out the time and place of a meeting of the board of directors of the watershed conservancy district at which owners of benefited lands who may be liable for the annual assessments may be heard.
- (3) At the hearing upon the resolution, owners of benefited lands may voice their views concerning the proposal as to whether it should be undertaken, and the scope thereof, or the degree of benefit received by their lands. The board shall prepare a record summarizing the proceedings. If the board of directors determines as a result of the hearing that the proposal should be carried out as planned, it may make such changes or revisions in the resolution as it deems proper and shall give due notice of an election to be held at which benefited landowners may vote on the question of annual special assessments to defray the cost. The notice of the election shall include the text of the resolution of the board in its final form. The board of directors may give due notice as provided in KRS 262.010(4).

- (4) The board of directors shall prepare the following question to be presented to the voters: "Should the assessment for improvement, continuing operation, or maintenance proposed by resolution of the..... Watershed Conservancy District be adopted?" Voters shall be instructed to vote "yes" or "no" on the proposition. Only owners of benefited land as set out in the resolution shall be eligible to vote. The board of directors may provide for a meeting of the landowners at which the vote may be cast, in which case qualified voters may vote by absentee vote. The board shall appoint a polling superintendent and other necessary election officers, giving representation to the opponents of the question as well as to proponents.
- (5) If a majority of those voting upon the proposition favor the assessment the board shall give due notice of the vote. Any owner of property to be benefited by the project may, within forty (40) days after publication of such notice, file an action in the Circuit Court of the county in which his lands are located seeking relief by declaratory judgment or injunction. If a suit is filed, the county attorney shall represent the board of directors in upholding the validity of the proposed assessment. After the lapse of time specified herein all actions by owners of properties to be benefited shall be forever barred.
- (6) If no suit is filed and no injunction issued within the time allowed in subsection (5) of this section, the board of directors shall levy annual assessments effective only upon the benefited properties and based on the acreage thereof. The annual assessment shall be made by the board of directors at the same time and in the same manner as provided in KRS 262.765 for taxes generally and shall be collected as provided in KRS 262.770. The assessments shall constitute liens against the land benefited and shall attach to the land, taking precedence over all other liens except state, county and municipal taxes and prior improvement assessments.

Section 8. KRS 262.778 is amended to read as follows:

- (1) Upon determination by the board of directors of a watershed conservancy district that a watershed project is necessary, and upon approval of the plans for same by the board of supervisors, the board of directors shall adopt a resolution which shall set out:
 - (a) A description of the project in general terms;
 - (b) A list of the benefited lands located in the flood plain, as determined by the board of directors, giving the acreage of such lands and the names of the owners thereof as defined by KRS 262.010(7)(c) with a classification of such lands or parts thereof into classes in order that assessments may be made according to direct benefits;
 - (c) The total cost of the project; and
 - (d) The fact that the cost shall be met by a bond issue payable solely from annual assessments to be levied upon the lands set out in the resolution on the basis of a certain amount per acre according to benefits received, not to exceed in any one year a sum per acre specified in the resolution, with the annual assessments to extend over a period of years specified in the resolution not to exceed thirty (30) years.
- (2) The board of directors shall cause due notice of the resolution to be given to all the owners of benefited lands, as determined by the board. Said notice shall set out the time and place of a meeting of the board of directors of the watershed conservancy district at which owners of benefited lands who may be liable for the annual assessments may be heard.
- (3) At the hearing upon the resolution, owners of benefited lands may voice their views concerning the proposed project as to whether said project should be undertaken, and the scope thereof, or the propriety of placing their lands in the project area or the degree of benefit received by their lands. The board shall prepare a record summarizing the proceedings. If the board of directors determines as a result of the hearing that the project should be carried out as planned, it may make such changes or revisions in the resolution as it deems proper and shall give due notice of an election to be held at which benefited landowners may vote on the question of annual special assessments to defray the cost of the project. The notice of the election shall include the text of the resolution of the board in its final form. The board of directors may give due notice as provided in KRS 262.010(4).
- (4) The board of directors shall prepare to be presented to the voters the question: "Should the assessment proposed by resolution of the Watershed Conservancy District be adopted?". Voters shall be instructed to vote "yes" or "no." Only owners of benefited land as set out in the resolution shall be eligible to vote. The board of directors may provide for a meeting of the landowners at which the vote may be cast, in which case qualified voters may vote by absentee vote. The board shall appoint a polling superintendent and other necessary election officers, giving representation to the opponents of the question as well as to proponents.
- (5) If a majority of those voting upon the proposition favor the assessment, the board shall give due notice of the vote and the fact that bonds will forthwith be issued payable from special assessments. Any owner of property to be benefited by the project may, within forty (40) days after publication of such notice, file an action in the Circuit Court of the county in which his lands are located seeking relief by declaratory judgment or injunction. If a suit is filed, the county attorney should represent the board of directors in upholding the validity of the proposed bond issue. After the lapse of time specified herein, all actions by owners of properties to be benefited shall be forever barred.
- (6) If no suit is filed and no injunction issued within the time allowed in subsection (5) of this section, the board of directors shall by resolution authorize the issuance of bonds designated "watershed project assessment bonds," determining the principal amount thereof and establishing the denominations and maturity dates thereof and shall levy an annual assessment effective only upon the benefited properties and based on the acreage thereof. The annual rate of such

assessments shall be fixed when other taxes of the district are levied and shall be sufficient in each year to provide for the payment of such bonds and interest coupons as they mature and sufficient to provide a fund equal to twenty percent (20%) of the average annual principal and interest requirements, the same to constitute a "debt service reserve" as a precaution against possible default by failure to collect annual levies. The bonds shall state on their face that they do not constitute a debt of the district but are payable solely from collection of special assessments made upon benefited lands lying in the watershed conservancy district.

SB 196, AN ACT relating to permitting for industrial energy facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.01-010 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

- (1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;
- (2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;
- (3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;
- (4) "Closure" means the time at which a waste treatment, storage, or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;
- (5) "Commission" means the Environmental Quality Commission;
- (6) "Compost" means solid waste which has undergone biological decomposition of organic matter, been disinfected using composting or similar technologies, been stabilized to a degree which is potentially beneficial to plant growth and which is approved for use or sale as a soil amendment, artificial topsoil, growing medium amendment, or other similar uses;
- (7) "Composting" means the process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner:
 - (a) "Composting" may include a process which creates an anaerobic zone within the composting material;
 - (b) "Composting" does not include simple exposure of solid waste under uncontrolled conditions resulting in natural decay;
- (8) "Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness;
- (9) "Cabinet" means the Environmental and Public Protection Cabinet;
- (10) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;
- (11) "District" means an air pollution control district as provided for in KRS Chapter 77;
- (12) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;
- (13) "Generator" means any person, by site, whose act or process produces waste;
- (14) "Materials recovery facility" means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials;
- (15) "Municipal solid waste disposal facility" means any type of waste site or facility where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including other waste allowed under Subtitle D of the Federal Resource Conservation and Recovery Act of 1976, as amended, and includes, but is not limited to, incinerators and waste-to-energy facilities that burn municipal solid waste, and contained and residential landfills, but does not include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste

generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary, or a medical waste incinerator which is owned, operated, and located on the property of a hospital or university which is regulated by the cabinet and used for the purpose of treatment, prior to landfill, of medical waste received from the generator exclusively or in combination with medical waste generated by professionals or facilities licensed or regulated or operated by the Commonwealth;

- (16) "Municipal solid waste reduction" means source reduction, waste minimization, reuse, recycling, composting, and materials recovery;
- (17) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;
- (18) "Post-closure monitoring and maintenance" means the routine care, maintenance, and monitoring of a solid waste or hazardous waste treatment, storage, or disposal facility following closure of the facility;
- (19) "Publicly owned treatment works" means any device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth;
- (20) "Recovered material" means those materials, including but not limited to compost, which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis;
- (21) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material, but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to this chapter and administrative regulations adopted by the cabinet;
- (22) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products, including refuse-derived fuel when processed in accordance with administrative regulations established by the cabinet, but does not include the incineration or combustion of materials for the recovery of energy;
- (23) "Refuse-derived fuel" means a sized, processed fuel product derived from the extensive separation of municipal solid waste, which includes the extraction of recoverable materials for recycling and the removal of nonprocessables such as dirt and gravel prior to processing the balance of the municipal solid waste into the refuse-derived fuel product;
- (24) "Secretary" means the secretary of the Environmental and Public Protection Cabinet;
- (25) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes, or other wastes;
- (26) "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage, or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;
- (27) "Waste site or facility" means any place where waste is managed, processed, or disposed of by incineration, landfilling, or any other method, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility, or the combustion of processed waste in a utility boiler;
- (28) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;
- (29) "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto;
- (30) "Treatment" means any method, technique, or process, including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;
- (31) "Waste" means:
 - (a) "Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse, and overburden), agricultural operations, and from community activities, but does not include those materials including, but not limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, special wastes as designated by KRS 224.50-760, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a

combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditioners, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923):

1. "Household solid waste" means solid waste, including garbage and trash generated by single and multiple family residences, hotels, motels, bunkhouses, ranger stations, crew quarters, and recreational areas such as picnic areas, parks, and campgrounds;
 2. "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other service and nonmanufacturing activities, excluding household and industrial solid waste;
 3. "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including, but not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment; and
 4. "Municipal solid waste" means household solid waste and commercial solid waste; and
- (b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;
- (32) "Waste management district" means any county or group of counties electing to form under the provisions of KRS Chapter 109 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580);
 - (33) "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes, and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;
 - (34) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural, or other legitimate purposes;
 - (35) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing, or recovery of any natural resource which may be discharged into water;
 - (36) "NPDES" means National Pollutant Discharge Elimination System;
 - (37) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of waste during its transportation from the point of generation to the point of disposal, treatment, or storage;
 - (38) "Open dump" means any facility or site for the disposal of solid waste which does not have a valid permit issued by the cabinet or does not meet the environmental performance standards established under regulations promulgated by the cabinet;
 - (39) "Solid waste management" means the administration of solid waste activities: collection, storage, transportation, transfer, processing, treatment, and disposal, which shall be in accordance with a cabinet-approved county or multicounty solid waste management plan;
 - (40) "Solid waste management area" or "area" means any geographical area established or designated by the cabinet in accordance with the provisions of this chapter;
 - (41) "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility which is subject to regulation pursuant to the chapter for control of environmental impacts and to prevent any public nuisance;
 - (42) "Hazardous constituent" shall conform to the requirements of the Resource Conservation and Recovery Act (RCRA), as amended;

- (43) "Land disposal" includes but is not limited to any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave;
- (44) "Key personnel" means an officer, partner, director, manager, or shareholder of five percent (5%) or more of stock or financial interest in a corporation, partnership, or association or parent, subsidiary, or affiliate corporation and its officers, directors, or shareholders of five percent (5%) or more of stock or financial interest;
- (45) "Universal collection" means a municipal solid waste collection system which is established by ordinance and approved by the cabinet and requires access for each household or solid waste generator in a county. A commercial or industrial entity which transports or contracts for the transport of the municipal solid waste it generates or which operates a solid waste management facility for its exclusive use may be excluded from participation;
- (46) "Governing body" means a county, a waste management district, an entity created pursuant to the Interlocal Cooperation Act, a taxing district created pursuant to the provisions of KRS 65.180 to 65.192, a special district created pursuant to the provisions of KRS 65.160 to 65.176, or counties acting under contract pursuant to KRS 109.082;
- (47) "Convenience center" means a facility that is manned during operating hours for the collection and subsequent transportation of municipal solid wastes;
- (48) "Transfer facility" means any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation;
- (49) "Collection box" means an unmanned receptacle utilized to collect municipal solid waste;
- (50) "Newsprint" means that class or kind of paper chiefly used for printing newspapers and weighing more than twenty-four and one-half (24 1/2) pounds, but less than thirty-five (35) pounds for five hundred (500) sheets of paper two (2) feet by three (3) feet in size, on rolls that are not less than thirteen (13) inches wide and twenty-eight (28) inches in diameter and having a brightness of less than sixty (60);
- (51) "Postconsumer waste paper" means discarded paper after it has served its intended use by a publisher;
- (52) "Publisher" means a person engaged in the business of publishing newspapers, advertisement flyers, telephone books, and other printed material; ~~and~~
- (53) "Recycled content" means the proportion of fiber in newsprint that is derived from postconsumer waste paper; and
- (54) "Industrial energy facility" means a facility that produces transportation fuels, synthetic natural gas, chemicals, electricity, or other useful products through a gasification process using coal, coal waste, or biomass resources, and costing in excess of seven hundred fifty million dollars (\$750,000,000) at the time of construction.

Section 2. KRS 224.10-225 is amended to read as follows:

- (1) The secretary of the Environmental and Public Protection Cabinet shall facilitate the permitting of coal-fired electric generation plants or industrial energy facilities in the Commonwealth by developing procedures for one (1) stop shopping for environmental permits.
- (2) Upon request by an applicant for environmental permits for an industrial energy facility, the secretary, in consultation with the applicant, shall establish specific time periods for actions to be taken in the consideration of its permit applications. The time periods established shall not exceed those adopted by administrative regulations promulgated pursuant to KRS 224.10-220.

Section 3. KRS 224.10-470 is amended to read as follows:

- (1) Appeals may be taken from all final orders of the Environmental and Public Protection Cabinet. Except as provided in subsection (3) of this section, the appeal shall be taken to the Franklin Circuit Court within thirty (30) days from entry of the final order. The party or parties affected by the final order shall file in the Circuit Court a petition which states fully the grounds upon which a review is sought and assign all errors relied on. The cabinet shall be named respondent, and service shall be had on the secretary. Summons shall issue upon the petition directing the cabinet to send its entire record, properly bound, to the clerk of the Circuit Court after certifying that such record is its entire original record or a true copy thereof, which shall be filed by the clerk of the Circuit Court and such record shall then become official and be considered by the Circuit Court on the review. After the case has been properly docketed in the Circuit Court, any party directly affected by the issues on appeal, may, upon notice to the parties and upon proper showing and in the discretion of the court be permitted to intervene. Upon hearing of the appeal the findings of the cabinet shall be prima facie evidence of the facts found therein. The court shall review the entire record and the findings and final order of the cabinet.
- (2) Appeals to the Court of Appeals from orders of the Circuit Court, shall be taken in the manner provided in the Kentucky Rules of Civil Procedure.
- (3) Final orders of the cabinet regarding environmental permits for an industrial energy facility as defined in Section 1 of this Act shall be subject to expedited review by the Circuit Court located in the county where the industrial energy facility is proposed to be located.

Section 4. KRS 278.700 is amended to read as follows:

As used in KRS 278.700 to 278.716, unless the context requires otherwise:

- (1) "Board" means the Kentucky State Board on Electric Generation and Transmission Siting created in KRS 278.702;

- (2) "Merchant electric generating facility" means, except for a qualifying facility as defined in subsection (7) of this section, an electricity generating plant, together with associated facilities, that:
 - (a) Is capable of operating at a capacity of ten megawatts (10MW) or more; and
 - (b) Sells the electricity it produces in the wholesale market, at rates and charges not regulated by the Public Service Commission;
- (3) "Person" means any individual, corporation, public corporation, political subdivision, governmental agency, municipality, partnership, cooperative association, trust, estate, two (2) or more persons having a joint or common interest, or any other entity, and no portion of KRS 224.10-280, 278.212, 278.214, 278.216, 278.218, and 278.700 to 278.716 shall apply to a utility owned by a municipality unless the utility is a merchant plant as defined in this section;
- (4) "Commence to construct" means physical on-site placement, assembly, or installation of materials or equipment which will make up part of the ultimate structure of the facility. In order to qualify, these activities must take place at the site of the proposed facility or must be site-specific. Activities such as site clearing and excavation work will not satisfy the commence to construct requirements;
- (5) "Nonregulated electric transmission line" means an electric transmission line and related appurtenances for which no certificate of public convenience and necessity is required; which is not operated as an activity regulated by the Public Service Commission; and which is capable of operating at or above sixty-nine thousand (69,000) volts;
- (6) "Residential neighborhood" means a populated area of five (5) or more acres containing at least one (1) residential structure per acre; and
- (7) "Qualifying facility" means a cogeneration facility as defined in 16 U.S.C. sec. 796(18)(b) which does not exceed a capacity of one hundred fifty megawatts (150MW) that is located on site at a manufacturer's plant and that uses steam from the cogeneration facility in its manufacturing process, or an industrial energy facility as defined in Section 1 of this Act that does not generate more than one hundred fifty megawatts (150 MW) for sale~~a facility designed to achieve minimum emissions, built for demonstrating the feasibility of producing electricity and hydrogen from coal, whose site has been determined acceptable from an environmental impact perspective in a record of decision published by the United States Department of Energy after January 1, 2006,} and ~~that~~ has received all ~~applicable~~ local planning and zoning approvals.~~

Floor Amendments

House Floor Amendment No. 1 to SB 130, by Representative Pullin:

SB 130, On page 1, between lines 8 and 9, by inserting the following:

"(3) Each governing board shall forward, as soon as is practicable, a copy of the regulations it adopts under provisions of this section to the Legislative Research Commission. A board shall also forward any subsequent changes to the regulations to the Commission."

House Floor Amendment No. 1 to SB 30, by Representative Higdon:

SB 30, On page 13, lines 11 through 15, delete the following:

"or a person certified as a CO, CP or CPO by the American Board for Certification in Orthotics and Prosthetics, Inc., or certified as a BOCO or BOCP by the Board for Orthotist/Prosthetist Certification, or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards,"

House Floor Amendment No. 2 to the House Committee Substitute to SB 30, by Representative Higdon:

SB 30, On page 13, lines 12 through 16, delete the following:

"or a person certified as a CO, CP or CPO by the American Board for Certification in Orthotics and Prosthetics, Inc., or certified as a BOCO or BOCP by the Board for Orthotist/Prosthetist Certification, or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards,"

House Floor Amendment No. 1 to SB 175, by Representative Gooch:

SB 175, On page 2, after line 22, by adding:

"Section 2. KRS 304.39-020 is amended to read as follows:

As used in this subtitle:

- (1) "Added reparation benefits" mean benefits provided by optional added reparation insurance.
- (2) "Basic reparation benefits" mean benefits providing reimbursement for net loss suffered through injury arising out of the operation, maintenance, or use of a motor vehicle, subject, where applicable, to the limits, deductibles, exclusions, disqualifications, and other conditions provided in this subtitle. The maximum amount of basic reparation benefits payable for all economic loss resulting from injury to any one (1) person as the result of one (1) accident shall be ten thousand dollars (\$10,000), regardless of the number of persons entitled to such benefits or the number of providers of security obligated to pay such benefits. Basic reparation benefits consist of one (1) or more of the elements defined as "loss."
- (3) "Basic reparation insured" means:
 - (a) A person identified by name as an insured in a contract of basic reparation insurance complying with this subtitle; and
 - (b) While residing in the same household with a named insured, the following persons not identified by name as an insured in any other contract of basic reparation insurance complying with this subtitle: a spouse or other relative of a named insured; and a minor in the custody of a named insured or of a relative residing in the same household with the named insured if he usually makes his home in the same family unit, even though he temporarily lives elsewhere.
- (4) "Injury" and "injury to person" mean bodily harm, sickness, disease, or death.
- (5) "Loss" means accrued economic loss consisting only of medical expense, work loss, replacement services loss, and, if injury causes death, survivor's economic loss and survivor's replacement services loss. Noneconomic detriment is not loss. However, economic loss is loss although caused by pain and suffering or physical impairment.
 - (a) "Medical expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, physical rehabilitation, rehabilitative occupational training, licensed ambulance services, and other remedial treatment and care. "Medical expense" may include non-medical remedial treatment rendered in accordance with a recognized religious method of healing. The term includes a total charge not in excess of one thousand dollars (\$1,000) per person for expenses in any way related to funeral, cremation, and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semi-private accommodations, unless intensive care is medically required. Medical expense shall include all healing arts professions licensed by the Commonwealth of Kentucky. ~~{There shall be a presumption that any medical bill submitted is reasonable.}~~
 - (b) "Work loss" means loss of income from work the injured person would probably have performed if he had not been injured, and expenses reasonably incurred by him in obtaining services in lieu of those he would have performed for income, reduced by any income from substitute work actually performed by him.
 - (c) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of himself or his family, if he had not been injured.
 - (d) "Survivor's economic loss" means loss after decedent's death of contributions of things of economic value to his survivors, not including services they would have received from the decedent if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of decedent's death.
 - (e) "Survivor's replacement services loss" means expenses reasonably incurred by survivors after decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of the decedent's death and not subtracted in calculating survivor's economic loss.
- (6) "Use of a motor vehicle" means any utilization of the motor vehicle as a vehicle including occupying, entering into, and alighting from it. It does not include:
 - (a) Conduct within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles unless the conduct occurs off the business premises; or
 - (b) Conduct in the course of loading and unloading the vehicle unless the conduct occurs while occupying, entering into, or alighting from it.
- (7) "Motor vehicle" means any vehicle which transports persons or property upon the public highways of the Commonwealth, propelled by other than muscular power except road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electrical power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the said limits of any municipality. Motor vehicle shall not mean moped as defined in this section.
- (8) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step-through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic

centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

- (9) "Public roadway" means a way open to the use of the public for purposes of motor vehicle travel.
- (10) "Net loss" means loss less benefits or advantages, from sources other than basic and added reparation insurance, required to be subtracted from loss in calculating net loss.
- (11) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damages recoverable under the tort law of this Commonwealth. The term does not include punitive or exemplary damages.
- (12) "Owner" means a person, other than a lienholder or secured party, who owns or has title to a motor vehicle or is entitled to the use and possession of a motor vehicle subject to a security interest held by another person. The term does not include a lessee under a lease not intended as security.
- (13) "Reparation obligor" means an insurer, self-insurer, or obligated government providing basic or added reparation benefits under this subtitle.
- (14) "Survivor" means a person identified in KRS 411.130 as one entitled to receive benefits by reason of the death of another person.
- (15) A "user" means a person who resides in a household in which any person owns or maintains a motor vehicle.
- (16) "Maintaining a motor vehicle" means having legal custody, possession or responsibility for a motor vehicle by one other than an owner or operator.
- (17) "Security" means any continuing undertaking complying with this subtitle, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this subtitle.
- (18) **"Emergency medical expense" means emergency care received at a hospital immediately arising from an injury sustained in an automobile accident.**

Section 3. KRS 304.39-210 is amended to read as follows:

- (1) Basic and added reparation benefits are payable monthly as loss accrues. Loss accrues not when injury occurs, but as work loss, replacement services loss, or medical expense is incurred. Benefits are overdue if not paid within thirty (30) days after the reparation obligor receives reasonable proof of the fact and amount of loss realized, unless the reparation obligor elects to accumulate claims for periods not exceeding thirty-one (31) days after the reparation obligor receives reasonable proof of the fact and amount of loss realized, and pays them within fifteen (15) days after the period of accumulation. Notwithstanding any provision of this chapter to the contrary, **except for emergency medical expense benefits**, benefits are not overdue if a reparation obligor has not made payment to a provider of services due to the request of a secured person when the secured person is directing the payment of benefits among the different elements of loss. If reasonable proof is supplied as to only part of a claim, and the part totals one hundred dollars (\$100) or more, the part is overdue if not paid within the time provided by this section. Medical expense benefits may be paid by the reparation obligor directly to persons supplying products, services, or accommodations to the claimant, if the claimant so designates.
- (2) Overdue payments bear interest at the rate of twelve percent (12%) per annum, except that if delay was without reasonable foundation the rate of interest shall be eighteen percent (18%) per annum.
- (3) A claim for basic or added reparation benefits shall be paid without deduction for the benefits which are to be subtracted pursuant to the provisions on calculation of net loss if these benefits have not been paid to the claimant before the reparation benefits are overdue or the claim is paid. The reparation obligor is entitled to reimbursement from the person obligated to make the payments or from the claimant who actually receives the payments.
- (4) A reparation obligor may bring an action to recover benefits which are not payable, but are in fact paid, because of an intentional misrepresentation of a material fact, upon which the reparation obligor relies, by the insured or by a person providing an item of medical expense. The action may be brought only against the person providing the item of medical expense, unless the insured has intentionally misrepresented the facts or knows of the misrepresentation. An insurer may offset amounts he is entitled to recover from the insured under this subsection against any basic or added reparation benefits otherwise due.
- (5) A reparation obligor who rejects a claim for basic reparation benefits shall give to the claimant prompt written notice of the rejection, specifying the reason. If a claim is rejected for a reason other than that the person is not entitled to the basic reparation benefits claimed, the written notice shall inform the claimant that he may file his claim with the assigned claims bureau and shall give the name and address of the bureau.
- (6) **Except for benefits payable under any workers' compensation law, basic reparation benefits shall be primary.**
- (7) **A provider of services for medical expenses, other than medical expenses billed by a hospital or other provider for emergency medical or inpatient services rendered at a hospital, shall submit claims for services to a reparation obligor within forty-five (45) days from the date the health services are provided to the reparation insured utilizing the uniform health insurance claim forms prescribed in accordance with KRS 304.14-135(1).**

Section 4. KRS 304.39-241 is amended to read as follows:

Except for emergency medical expenses where the reparation obligor shall pay the provider directly, an insured may direct the payment of benefits among the different elements of loss, if the direction is provided in writing to the reparation obligor. A

reparation obligor shall honor the written direction of benefits provided by an insured on a prospective basis.

Section 5. KRS 304.39-270 is amended to read as follows:

- (1) If the mental or physical condition, respectively, of a person is material to a claim for past or future basic or added reparation benefits, and after an independent review of the reparation insured's medical condition has been initiated pursuant to Section 6 of this Act, the reparation obligor may require~~petition the circuit court for an order directing~~ the person to submit to a mental or physical examination, respectively, by a health care provider licensed in the Commonwealth. A reparation insured shall provide or make available to the examining provider any pertinent medical records or medical history that the examining provider deems necessary to the examination. The costs of any examination requested by a reparation obligor shall be borne entirely by the reparation obligor. The examination shall be conducted within a reasonable proximity of the residence of the reparation insured. A reparation obligor providing basic or added reparation benefits is authorized to include reasonable policy contract provisions requiring a reparation insured to submit to a mental or physical examination as requested by a reparation obligor under the provisions of this section. If the reparation insured fails to submit to a mental or physical examination as requested by a reparation obligor, the reparation obligor shall no longer be required to reimburse subsequent reparation benefits~~physician~~. Upon notice to the person to be examined and all persons having an interest, the court may make the order for good cause shown. The order shall specify the time, place, manner, conditions, scope of the examination, and the physician by whom it is to be made.
- (2) If requested by the person examined, the reparation obligor causing a mental or physical examination to be made shall deliver to the person examined a copy of a detailed written report of the examining physician setting out his findings including results of all tests made, diagnoses, and conclusions, and reports of earlier examinations of the same condition. By requesting and obtaining a report of the examination ordered or by taking the deposition of the physician, the person examined waives any privilege he may have, in relation to the claim for basic or added reparation benefits, regarding the testimony of every other person who has examined or may thereafter examine him respecting the same condition. This subsection does not preclude discovery of a report of an examining physician, taking a deposition of the physician, or other discovery procedures in accordance with any rule of court or other provision of law. This subsection applies to examinations made by agreement of the person examined and the reparation obligor, unless the agreement provides otherwise.

~~[(3) If any person refuses to comply with an order entered under this section the court may make any just order as to the refusal, but may not find a person in contempt for failure to submit to a mental or physical examination.]~~

SECTION 6. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

- (1) A reparation obligor may submit any claim for an independent review of reparation benefits to determine whether medical expenses furnished to a reparation insured are medically necessary or reasonable. A reparation obligor may not make an independent review of the medical necessity of emergency medical expenses.
- (2) A reparation obligor may contract with a private review agent registered by the Office of Insurance to perform and provide independent reviews of medical expenses in connection with basic or added reparation benefits.
- (3) If a reparation obligor performs or elects to perform independent reviews of medical expenses without using a registered private review agent, the reparation obligor shall:
 - (a) Have available the services of sufficient numbers of registered nurses, medical records technicians, or similarly qualified persons to determine the reasonableness of the medical expenses; and
 - (b) Ensure that only licensed physicians shall:
 1. Make an independent review decision to deny, reduce, limit, or terminate reimbursement of a medical expense, or to deny or reduce payment for a medical expense because that medical expense is not medically necessary, except that if a health care service is rendered by a chiropractor or optometrist, then the denial or determination shall be made by a chiropractor or optometrist, respectively, who is duly licensed in Kentucky; and
 2. Supervise qualified personnel conducting case reviews as to medical necessity.
- (4) A reparation obligor or private review agent shall:
 - (a) Have available the services of sufficient numbers of practicing physicians in appropriate specialty areas to ensure the adequate review of medical and surgical specialty and subspecialty cases;
 - (b) Not disclose or publish individual medical records or any other confidential medical information in the performance of independent review activities, as provided in the federal Gramm-Leach-Bliley Act and other applicable laws and administrative regulations; and
 - (c) Provide to the reparation insured and all affected providers a written independent review decision within thirty (30) business days of the receipt of requested medical information.
- (5) A reparation obligor or agent that denies or reduces payment for a treatment, procedure, drug, or device shall include in the written notice:
 - (a) A statement of the specific medical and scientific reasons for denial or reduction of payment;

- (b) A statement of the basis that the fee is unreasonable;
 - (c) The state of licensure, medical license number, and the title of the reviewer making the decision; and
 - (d) Instructions for initiating or complying with the reparation obligor's appeal procedure, as set forth in Section 7 of this Act, stating, at a minimum, whether the appeal shall be in writing, any specific filing procedures, including any applicable time limitations or schedules, and the position and phone number of a contact person who can provide additional information.
- (6) The reparation obligor's failure to make a determination and provide written notice within the time frames set forth in this section shall reestablish the presumption that the charge is reasonable. This provision shall not apply if the failure to make the determination or provide the notice results from circumstances which are documented to be beyond the reparation obligor's control.
- SECTION 7. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:
- (1) For purposes of this section "adverse determination" means a determination by an reparation obligor or its designee that the health care services furnished or proposed to be furnished to a reparation insured are:
 - (a) Not medically necessary, as determined by the reparation obligor or its agent; or
 - (b) Not reasonable.
 - (2) Every reparation obligor shall have an appeal process to be utilized by the reparation insured or provider of health care services consistent with this section and which shall be disclosed to reparation insureds and providers.
 - (3) The appeals process may be initiated by the reparation insured or a provider acting on his own behalf or on behalf of the reparation insured. The appeals process shall, at a minimum, include the following:
 - (a) Reparation obligors or their designees shall provide decisions to reparation insureds and providers on appeals of adverse determinations within forty-five (45) days of receipt of the request for appeal;
 - (b) An appeal of an adverse determination related to medical necessity shall only be conducted by a licensed physician. If chiropractic or optometric services are involved, a chiropractor or optometrist who did not participate in the initial review shall conduct the appeal. However, in the case of a review involving a medical or surgical specialty or subspecialty, the reparation obligor or agent shall, upon request by a reparation insured or provider, utilize a board eligible or certified physician in the appropriate specialty or subspecialty area to conduct the appeal;
 - (c) Those portions of the medical record that are relevant to the appeal and in accordance with state or federal law shall be considered, and providers given the opportunity to present additional information; and
 - (d) A reparation obligor or its agent shall make a finding of whether the medical expenses furnished to a reparation insured are not medically necessary or reasonable and shall either:
 - 1. Uphold the decision of the independent review and send timely notice of that determination to the reparation insured and affected provider; or
 - 2. Pay the claim as presented plus interest which shall begin to accrue thirty-one (31) days after the claim was originally submitted pursuant to KRS 304.39-210."

House Floor Amendment No. 2 Title to SB 175, by Representative Gooch:

SB 175, By amending the title to read as follows: "AN ACT relating to insurance."

House Floor Amendment No. 3 to SB 29, by Representative Damron:

SB 29, On page 1, insert a new line after line 24 and add a new section with the following language:

"Section 3. KRS 241.010 is amended to read as follows:

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

- (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.
- (2) "Alcoholic beverage" means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:
 - (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;
 - (b) Patented, patent, and proprietary medicines;
 - (c) Toilet, medicinal, and antiseptic preparations and solutions;

- (d) Flavoring extracts and syrups;
 - (e) Denatured alcohol or denatured rum;
 - (f) Vinegar and preserved sweet cider;
 - (g) Wine for sacramental purposes;
 - (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use; and
 - (i) Malt beverages, containing not more than three and two-tenths percent (3.2%) of alcohol by weight, in territory that has voted to allow the sale thereof.
- (3) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030.
 - (4) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail.
 - (5) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either by himself or by his agent.
 - (6) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.
 - (7) "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership.
 - (8) "Caterer" means a corporation, partnership, or individual that operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests.
 - (9) "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes.
 - (10) "Cider" means any fermented fruit-based beverage containing more than one-tenth of one percent (0.1%) alcohol by volume and includes hard cider and perry cider.
 - (11) "City administrator" means city alcoholic beverage control administrator.
 - (12) "Commissioner" means the commissioner of the Kentucky Department of Revenue.
 - (13) "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions.
 - (14) "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.
 - (15) "County administrator" means county alcoholic beverage control administrator.
 - (16) "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages.
 - (17) "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky.
 - (18) "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse.
 - (19) "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail.
 - (20) "Dry territory" means a county, city, district, or precinct in which a majority of voters have voted in favor of prohibition.
 - (21) "Election" means:
 - (a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or
 - (b) Any other election not pertaining to alcohol.
 - (22) "Executive director" means the executive director of the Office of Alcoholic Beverage Control.
 - (23) "Field representative" means any employee or agent of the office who is regularly employed and whose primary function is

to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the office who is assigned, temporarily or permanently, by the executive director to duty outside the main office of the office at Frankfort, in connection with the administration of alcoholic beverage statutes.

- (24) "License" means any license issued pursuant to KRS 243.020 to 243.670.
- (25) "Licensee" means any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.
- (26) "Limited restaurant" means a facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a territory where prohibition is no longer in effect under KRS 242.185(6).
- (27) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than that permitted under subsection (2)(i) of this section.
- (28) "Manufacture" means distill, rectify, brew, bottle, and operate a winery.
- (29) "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages.
- (30) "Minor" means any person who is not twenty-one (21) years of age or older.
- (31) "Office" means the Office of Alcoholic Beverage Control.
- (32) "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license.
- (33) "Prohibition" means the application of KRS 242.190 to 242.430 to a territory.
- (34) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.
- (35) "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.
- (36) "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its gross receipts from the sale of food.
- (37) "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not.
- (38) "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers.
- (39) "Retail sale" means any sale where delivery is made in Kentucky to any consumers.
- (40) "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.
- (41) "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage.
- (42) "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A service bar shall be located in an area where the general public, guests, or patrons are prohibited.
- (43) "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.
- (44) "Small farm winery" means a winery producing wines, in an amount not to exceed one hundred thousand (100,000) ~~fifty thousand (50,000)~~ gallons in a calendar year.
- (45) "Souvenir package" means a special package of Kentucky straight bourbon whiskey available for retail sale at a licensed Kentucky distillery where the whiskey was produced or bottled that is available from a licensed retailer.
- (46) "State director" means the director of the Division of Distilled Spirits or the director of the Division of Malt Beverages, or both, as the context requires.
- (47) "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main

bar. A supplemental bar shall be continuously constructed and accessible to patrons for distilled spirits or wine sales or service without physical separation by walls, doors, or similar structures.

- (48) "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages.
- (49) "Vintner" means any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.
- (50) "Warehouse" means any place in which alcoholic beverages are housed or stored.
- (51) "Wholesale sale" means a sale to any person for the purpose of resale.
- (52) "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet.
- (53) "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It includes ciders, perry, or sake having an alcohol content greater than that permitted under subsection (2)(i) of this section.
- (54) "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded."

House Floor Amendment No. 2 to the House Committee Substitute to **SB 34**, by Representative Fischer:

SB 34, Beginning on page 8, line 9, and continuing through page 14, line 8, by deleting same; and
By renumbering the subsequent section accordingly.

House Floor Amendment No. 2 to **SB 29**, by Representative Damron:

SB 29, On page 1, insert a new line after line 24 and add the following two sections:

"Section 3. KRS 243.155 is amended to read as follows:

- (1) Any in-state or out-of-state small farm winery may apply for a small farm winery license. In addition to all other licensing requirements, an applicant for a small farm winery license shall submit with its application a copy of the small farm winery's federal basic permit and proof documenting its annual wine production. An out-of-state winery shall submit additional documentation evidencing its resident state. As part of the application process, an out-of-state winery shall publish its notice of intent, as required by KRS 243.360, in the Kentucky newspaper of highest circulation. The office shall promulgate administrative regulations establishing the form the documentation of proof of production shall take.
- (2) A small farm winery license shall authorize the licensee to perform the following functions without having to obtain separate licenses, except that each small farm winery off-premises retail site shall be separately licensed:
 - (a) Manufacture wines and bottle wines produced by that small farm winery;
 - (b) Bottle wines produced by another small farm winery;
 - (c) Serve on the premises or at small farm winery off-premise retail sites complimentary samples of wine produced by it in amounts not to exceed six (6) ounces per patron per day, if the small farm winery or its off-premise retail site is located in wet territory;
 - (d) Sell by the drink or by the package on premises, at small farm winery off-premise retail sites, and at fairs, festivals, and other similar types of events, wine produced on the premises of the small farm winery or produced by a licensed small farm winery, at retail to consumers if all sales sites are located in wet territory;
 - (e) Sell and transport wine produced on the premises of the small farm winery to wholesale license holders and small farm winery license holders;
 - (f) Consume on the premises wine produced by the small farm winery or a licensed small farm winery and purchased by the drink or by the package at the licensed premises, if the small farm winery is located in wet territory; and
 - (g) Ship to a customer wine produced by a small farm winery if:
 - 1. ~~{The wine is purchased by the customer in person at the small farm winery;}~~
 - ~~{2. —}The wine is shipped by licensed common carrier; and~~
 - 2. {3.} The amount of wine shipped is limited to two (2) cases per customer *per order* ~~per visit~~.
- (3) If a licensed small farm winery is located in a dry territory, KRS 242.230 to 242.430 shall apply, unless a local option election is held in accordance with the provisions of this subsection. A limited sale precinct election may be held in a precinct containing a licensed small farm winery or a proposed small farm winery located in a dry territory. The election

shall be held in the same manner as prescribed by KRS 242.010 to 242.040 and 242.060 to 242.120. If the precinct contains a licensed small farm winery, the proposition to be voted on shall state, "Are you in favor of the sale of wine at the (name of the licensed small farm winery or wineries)?" If the precinct contains a proposed small farm winery or wineries, the proposition voted on shall state, "Are you in favor of the sale of wine at the (name of the proposed small farm winery or wineries)?" If the proposition is approved, a licensed small farm winery within the precinct may sell wine in accordance with subsection (2) of this section.

- (4) Other provisions of this chapter and KRS Chapter 244 notwithstanding, a small farm winery license holder may also hold a restaurant wine license and a retail malt beverage license, provided the issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise the purpose of which is to promote viticulture, enology, and tourism. The retail malt beverage license issued under this subsection shall limit the licensee to the sale of malt beverages for consumption on the premises only.
- (5) This section shall not exempt the holder of a small farm winery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from the administrative regulations of the board, nor from regulation by the board at all premises licensed by the small farm winery, except as expressly stated in this section.
- (6) Nothing contained in this section shall exempt a licensed out-of-state winery from obeying the laws of its resident state.
- (7) Any person previously licensed as a small or farm winery under this chapter prior to January 1, 2007, shall hereby be authorized to conduct business as a small farm winery licensee, until such time as the term of his or her small or farm winery license expires. Upon the expiration of the term remaining on his or her small or farm winery license, a licensee who is in good standing shall be issued a small farm winery license as part of the renewal process after he or she submits to the office the winery's federal basic permit and proof of its annual wine production.

Section 4. KRS 244.165 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, it shall be unlawful for any person in the business of selling alcoholic beverages in another state or country to ship or cause to be shipped any alcoholic beverage directly to any Kentucky resident who does not hold a valid wholesaler or distributor license issued by the Commonwealth of Kentucky.
- (2) A small farm winery located in another state may ship wine to a customer in Kentucky if:
 - (a) ~~{The wine is purchased by the customer in person at the winery;}~~
 - ~~{(b) —}~~ The wine is shipped by licensed common carrier; and
 - ~~(b){(e)}~~ The amount of wine shipped is limited to two (2) cases per customer per order~~{visit}~~.
- (3) Any person who violates subsection (1) of this section shall, for the first offense, be mailed a certified letter by the office ordering that person to cease and desist any shipments of alcoholic beverages to Kentucky residents, and for the second and each subsequent offense, be guilty of a Class D felony.

House Floor Amendment No. 1 to SB 29, by Representative Damron:

SB 29, On page 1, after line 24, by inserting the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any provision of law to the contrary, a restaurant wine license holder, a restaurant drink license holder, or a restaurant holding a retail package license that sells wine may permit a patron to bring an unopened container of wine on the restaurant premises for consumption on the premises if done so in conjunction with the eating of a meal purchased from the restaurant. A patron shall not leave the restaurant with an open container of wine unless the wine is resealed in compliance with KRS 243.115. If the restaurant chooses not to reseat the container, the restaurant shall discard any open container of wine that remains upon the patron's completion of the meal. If a resealed container of wine is transported, it shall be done so in compliance with KRS 243.117. The restaurant may charge a fee for uncorking the wine, providing glasses, serving the wine, or resealing the wine."

House Floor Amendment No. 1 to the House Committee Substitute to SB 34, by Representative Harmon:

SB 34, On page 14, between lines 8 and 9, by inserting the following:

"Section 11. KRS 402.990 is amended to read as follows:

- (1) Any party to a marriage prohibited by KRS 402.010 shall be guilty of a Class B misdemeanor. If the parties continue after conviction to cohabit as man and wife, either or both of them shall be guilty of a Class A misdemeanor.
- (2) Any person who aids or abets the marriage of any person who has been adjudged mentally disabled, or attempts to marry, or aids or abets any attempted marriage with any such person shall be guilty of a Class B misdemeanor.
- (3) Any authorized person who knowingly solemnizes a marriage prohibited by this chapter shall be guilty of a Class A misdemeanor.
- (4) Any unauthorized person who solemnizes a marriage under pretense of having authority, and any person who falsely

personates the father, mother, or guardian of an applicant in obtaining a license shall be guilty of a Class D felony.

- (5) Any person who falsely and fraudulently represents or personates another, and in such assumed character marries that person, shall be guilty of a Class D felony. Indictment under this subsection shall be found only upon complaint of the injured party and within two (2) years after the commission of the offense.
- (6) Any clerk who knowingly issues a marriage license to any persons prohibited by this chapter from marrying shall be guilty of a Class A misdemeanor and removed from office by the judgment of the court in which he is convicted.
- (7) Any clerk who knowingly issues a marriage license in violation of his duty under this chapter shall be guilty of a Class A misdemeanor.
- (8) If any deputy clerk or any person other than a county clerk knowingly issues a marriage license in violation of this chapter, but not for a prohibited marriage, he shall be guilty of a Class A misdemeanor, and if he knowingly issues a license for a marriage prohibited by this chapter, he shall be guilty of a Class A misdemeanor.
- (9) ~~[Any person who violates any of the provisions of KRS 402.090 shall be guilty of a violation.~~
- ~~(10)}~~ Any county clerk who violates any of the provisions of KRS 402.110 or 402.230 shall be guilty of a violation.
- ~~(10){(11)}~~ Any person failing to make the return required of him by KRS 402.220 shall be guilty of a violation.

Section 12. The following KRS section is repealed:

402.090 Soliciting persons to be married by particular person -- Sharing remuneration -- Solicitation by minister or justice of the peace."; and

By renumbering the subsequent section accordingly; and

On page 14, line 11, by deleting "this Act" and inserting "Sections 1 to 10 of this Act" in lieu thereof.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 95, Representative Moore

HB 397, Representative Denham

Announcements

Committee on Judiciary, upon Rules recess, Room 305

Committee on Natural Resources and Environment, upon Rules recess

Committee on Local Government, 1:00 p.m., Thursday, March 8, 2007, Room 125

Committee on Health and Welfare, upon adjournment, Room 169

Committee on Appropriations and Revenue, noon, Thursday, March 8, 2007, Room 149

Committee on Education, 9:00 a.m., Thursday, March 8, 2007, Room 154

Committee on Tourism Development and Energy, canceled, Thursday, March 8, 2007

Committee on Economic Development, canceled, Thursday, March 8, 2007

Committee on Labor and Industry, 10:00 a.m., Thursday, March 8, 2007, Room 149

Committee on Natural Resources and Environment, canceled, Thursday, March 8, 2007

House Budget Review Subcommittee on Transportation, 30 minutes upon adjournment, Room 171

Tobacco Settlement Agreement Fund Oversight Committee, upon adjournment, Room 129

Adjournment

Representative Adkins moved to adjourn until the hour of 2:00 p.m. on Thursday, March 8, 2007.

The motion that the House adjourn until 2:00 p.m., Thursday, March 8, 2007, was adopted by voice vote.

THURSDAY, MARCH 8, 2007
TWENTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Father Patrick Stewart, Good Shepherd Catholic Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

Senate Message

Announcing passage of **HB 71, 108, 312, 316, 321.**

Message received in regard to **HB 185**: The Senate has passed **HB 185** by way of Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 258**: The Senate has passed **HB 258** by way of Committee Substitute with the following Senate Committee Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 259**: The Senate has passed **HB 259** by way of Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 402**: The Senate has passed **HB 402** with the following Senate Floor Amendment No. 2 and Senate Floor Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body. (2:01 p.m.)

The roll was called. All members were present.

Representative Ballard moved that the reading of the Journal of March 7, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills and Resolutions were filed by the following:

Representative Graham moved that he be recorded as voting "Yea" on **SJR 93**. Agreed.

Representative Firkins moved that he be recorded as voting "Yea" on **SJR 93**. Agreed.

Representative Kerr moved that he be recorded as voting "Yea" on **SJR 93**. Agreed.

Representative Spencer moved that he be recorded as voting "Yea" on **HB 397** and **SB 60**. Agreed.

Representative DeCesare moved that he be recorded as voting "Yea" on **HB 397**. Agreed.

Representative Stein moved that she be recorded as voting "Yea" **SJR 48**. Agreed.

Representative Bell moved that his vote be changed from "Yea" to "Abstain" on **SB 74**. Agreed.

Representative Bell moved that his vote be changed from "Abstain" to "Nay" on **SB 74**. Agreed.

Representative Pullin moved that the rules be suspended to grant floor privileges and to act on a Resolution. Agreed.

Representative Pullin moved the adoption of the following **HR 209**:

HR 209, A RESOLUTION adjourning the House of Representatives in honor of the bravery and service of Staff Sergeant Timothy F. Nein.

WHEREAS, Timothy F. Nein is the son of Jay and Linda Nein and the husband of Renea Nein; and

WHEREAS, Staff Sergeant Timothy F. Nein began his military career in 1996 serving with the 223rd Military Police Company of the Kentucky National Guard; and

WHEREAS, Staff Sergeant Timothy F. Nein served with the 223rd Military Police Company in Bosnia during 2001 and Operation Iraqi Freedom in 2003; and

WHEREAS, Staff Sergeant Timothy F. Nein volunteered to deploy with the 617th Military Police Company in support of

Operation Iraqi Freedom in 2005; and

WHEREAS, Staff Sergeant Timothy F. Nein, while serving as squadron leader for Raven 42 in the 617th Military Police Company, led his soldiers on a counterattack of enemy forces who were ambushing a convoy with heavy AK47 assault rifle fire, machine gun fire, and rocket propelled grenades; and

WHEREAS, Staff Sergeant Timothy F. Nein maneuvered his squad to a flanking position allowing them to suppress the enemy fire; and he then led his squad into the trenches to destroy the enemy forces; and

WHEREAS, Staff Sergeant Timothy F. Nein saved the lives of numerous convoy members and the lives of his fellow soldiers; and

WHEREAS, Staff Sergeant Timothy F. Nein was awarded the Silver Star Medal and the Distinguished Service Cross for exceptionally valorous achievement during Operation Iraqi Freedom; and

WHEREAS, the Distinguished Service Cross is the second highest award given by the United States Army for valor in combat; and

WHEREAS, Staff Sergeant Timothy F. Nein is in keeping with the finest traditions of military heroism and reflects distinct credit upon himself, the 503rd Military Police Battalion (Airborne), the 18th Military Police Brigade, and the United States Army; and

WHEREAS, the Commonwealth of Kentucky is deeply grateful to Staff Sergeant Timothy F. Nein for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is proud to recognize the patriotic service of Staff Sergeant Timothy F. Nein to his country and does hereby express its appreciation for his outstanding efforts. We express our congratulations to him as the recipient of the Distinguished Service Cross and extend our best wishes for further success in the future.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Staff Sergeant Timothy F. Nein.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Staff Sergeant Timothy F. Nein and his wife, Renea Nein, 5002 Pleasant Drive, Henryville, Indiana 47126-8800 and to the parents of Staff Sergeant Timothy F. Nein, Jay and Linda Nein, 3018 Plantation Drive, Sellersburg, Indiana 47172-9174.

There being no objection, **HR 209** was adopted.

The roll call was opened for co-sponsors. On the roll call for co-sponsors of **HR 209** the vote was: **Yeas 100**. (See March 8, 2007, roll call to show co-sponsors on **HR 209**-Appendix.)

Introduction of Bills and Resolutions

HR 210, by Representative Webb: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Constable Elmer Kiser, who gave his life in service to his Commonwealth.

HR 211, by Representative Moore: A RESOLUTION unequivocally supporting the men and women of the United States Armed Forces in the Global War on Terror.

Representative Webb moved that the rules be suspended to grant floor privileges and to act on a Resolution. Agreed.

Representative Webb moved the adoption of the following **HR 210**:

HR 210, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Constable Elmer Kiser, who gave his life in service to his Commonwealth.

WHEREAS, Elmer Kiser, the son of the late Hattie Maggard and Lewis Kiser, Sr., was a retired truck driver, served the citizens of Carter County as constable for three full terms, and was serving his fourth term when he was killed in the line of duty on September 27, 2006, at the age of 63 years; and

WHEREAS, Constable Kiser was a member of the Constable Association; the Carter/Elliott County Fraternal Order of Police Lodge 72; the National Rifle Association; the Willard Masonic Lodge 626; and the Honorable Order of Kentucky Colonels; and

WHEREAS, preceded in death by his parents, as well as his brothers, Cecil Maggard, Frank Maggard, and Coy Kiser, Elmer Kiser is survived by his special companion, Eva Williams; daughter and son-in-law, Tina and Mark Smith; brothers and sisters-in-law, Edward and Bessie Maggard, George and Sheila Kiser, and Lewis Jr. and Thelma Kiser; sister and brother-in-law, Lillian Till and Harold Backus; and a host of other family members, friends, and loved ones. Constable Kiser will be long remembered and sorely missed by all whose lives he touched;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deep sense of loss at the passing of Constable Elmer Kiser, and extends its sincere condolences to his family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Constable Elmer Kiser.

Section 3. The Clerk of the House of Representatives is directed to deliver a copy of this Resolution to the Lady from Carter 96 for presentation to the Kiser family.

There being no objection, **HR 210** was adopted.

Representative Tilley moved that the rules be suspended to act on a Legislative Citation. Agreed.

Representative Tilley moved the adoption of the following **Legislative Citation No. 67**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Trigg County Youth Leadership as those associated with this program visit the Chambers of the Kentucky House of Representatives during the 2007 Regular Session of the General Assembly. Inasmuch as this exceptional program that seeks to provide area youth with information and training in the areas of leadership, public policy and civic responsibility, is of great value to both the participants and the community, the members of this honorable body are delighted to join Representative John C. Tilley in extending welcoming these guests to the Capitol today and in congratulating them for having participated in this outstanding leadership program. Done in Frankfort, Kentucky, this eighth day of March, in the year two thousand and seven.

Legislative Citation No. 67 was adopted without objection.

Representative Moberly moved that the rules be suspended to grant floor privileges and to act on a Resolution. Agreed.

Representative Rasche moved the adoption of the following **HR 207**:

HR 207, A RESOLUTION honoring Kentucky's new national board certified teachers.

WHEREAS, the National Board for Professional Standards Certification process requires intense self-reflection and analysis of one's own practice; and

WHEREAS, teachers seeking national board certification must measure their practice against the highest and most rigorous standards for the profession; and

WHEREAS, the national board certification is a voluntary system to certify teachers who meet those high, rigorous standards; and

WHEREAS, national board certified teachers have mastery over the subjects they teach, and the skill and expertise required to teach those subjects; and

WHEREAS, national board certified teachers are committed to students and to student learning; and

WHEREAS, Kentucky consistently ranks in the top ten states in the number of new national board certified teachers; and

WHEREAS, 218 of Kentucky's teachers have recently been awarded national board certification;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. On this day, March 8, 2007, this honorable body hereby recognizes and commends the 218 new national board certified teachers for their commitment, perseverance, and dedication to excellence in teaching.

Section 2. When the House of Representatives adjourns this day, it does so in honor of all new national board certified teachers and those who have previously achieved this national recognition.

There being no objection, **HR 207** was adopted.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Elections, Constitutional Amendments and Intergovernmental Affairs: **SB 54**

Judiciary: **SB 72**

Labor and Industry: **SB 203**

House Floor: **HR 200, 203, 204, 207, 209**

Report of Committees

The Committee on Health and Welfare reported SB 112 and SJR 6 with the expression of opinion that the same should pass.
Read at length for the first time and ordered placed in the Calendar.

SB 112, AN ACT relating to the Kentucky Board of Pharmacy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 315.171 is amended to read as follows:

- (1) *The board shall promulgate administrative regulations to establish a daily compensation for members actively engaged in the service of the board.* ~~Beginning January 1, 1998, each member of the board shall receive not more than one hundred dollars (\$100) for each day actively engaged in the service of the board. During the period between July 15, 1996, and January 1, 1998, each board member shall receive not more than seventy-five dollars (\$75) for each day actively engaged in the service of the board.~~ Each member shall also receive his or her traveling expenses and all necessary expenses incurred in the performance of his or her official duties.
- (2) The executive director of the board shall receive a reasonable salary determined by the board. He shall also receive his traveling expenses and all necessary expenses incurred in the performance of his official duties.

SJR 6, A JOINT RESOLUTION calling for a comprehensive state strategy to address the needs of persons with Alzheimer's disease and related disorders in the Commonwealth of Kentucky.

WHEREAS, Alzheimer's disease is a slow, progressive disorder of the brain that results in loss of memory and other cognitive function and, eventually, results in death; and

WHEREAS, because Alzheimer's is accompanied by memory loss, poor judgment, changes in personality and behavior, and a tendency to wander, individuals with this disease are at increased risk for accidental injury, getting lost, abuse, neglect, and exploitation; and

WHEREAS, one in ten persons over the age of 65 and almost one in every two people over the age of 85 has Alzheimer's disease or a related dementia; and

WHEREAS, over the past ten years, the number of Kentuckians with Alzheimer's and related dementia has risen dramatically to over 74,000 people and is expected to increase to over 97,000 by 2025, when baby boomers enter the age of greatest risk for Alzheimer's; and

WHEREAS, by 2005, the number of the baby boomer generation entering the age of greatest risk for Alzheimer's is expected to increase to over 97,000; and

WHEREAS, Alzheimer's disease takes an enormous toll on loving family members as caregivers watch the deleterious effects of the disease closely and often suffer more stress, depression, and health problems than caregivers of people with other illnesses; and

WHEREAS, Alzheimer's disease is considered to be early in onset if an individual is younger than age 65 when symptoms first appear in the 30s, 40s, and 50s; and

WHEREAS, new data shows that there may be half a million Americans under the age of 65 who have dementia or cognitive impairment at an early onset; and

WHEREAS, the Commonwealth of Kentucky recently undertook the Kentucky Elder Readiness Initiative (KERI) to examine its ability to meet the needs of a rapidly aging population and the Long Term Living Initiative to examine Medicaid and continuum of care services; and

WHEREAS, the Commonwealth of Kentucky needs to assess the current and future impact of Alzheimer's disease on Kentuckians and state systems, programs, and services to ensure an integrated, comprehensive, coordinated, and up-to-date strategy to address the needs of this growing segment of Kentucky's population; and

WHEREAS, within the Cabinet for Health and Family Services there is an Office on Alzheimer's Disease and Related Disorders and an Alzheimer's Disease and Related Disorders Advisory Council, which was established by statute; and

WHEREAS, the office and council are charged with overseeing policy and services affecting residents of Kentucky with dementia and their families and caregivers; recommending delivery of services in the most effective and efficient manner possible to facilitate the needs of people with dementia and their caregivers; assisting with the dissemination of program and educational materials; promoting public and professional awareness and education of dementia and access to needed services and programs; and enhancing the quality of life for persons affected by Alzheimer's, and their caregivers; and

WHEREAS, currently state programs, resources, information and services serving this population are fragmented and many are out-dated;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Alzheimer's Disease and Related Disorders Advisory Council and Office are directed to assess

the current and future impact of Alzheimer's disease on Kentuckians; to examine the existing services and resources addressing the needs of persons with Alzheimer's, their families, and caregivers; and to develop a strategy to mobilize a state response to this public health crisis.

Section 2. The Kentucky Alzheimer's Disease and Related Disorders Advisory Council shall include an examination of the following in its assessment and recommendations:

- (1) Trends in state Alzheimer's population and needs, including the changing population with dementia, including but not limited to:
 - (a) State role in long-term care, family caregiver support, and assistance to persons with early-state and early onset of Alzheimer's; and
 - (b) State policy regarding persons with Alzheimer's and developmental disabilities;
- (2) Existing services, resources, and capacity, including but not limited to the:
 - (a) Type, cost and availability of dementia services;
 - (b) Capacity of public safety and law enforcement to respond to persons with Alzheimer's;
 - (c) Availability of home- and community-based resources for persons with Alzheimer's and respite care to assist families;
 - (d) Inventory of long-term care special dementia care units;
 - (e) Adequacy and appropriateness of geriatric-psychiatric units for persons with behavior disorders associated with Alzheimer's and related dementia;
 - (f) Assisted living residential options for persons with dementia; and
 - (g) State support of Alzheimer's research through Kentucky universities and other resources; and
- (3) Needed state policies or responses, including but not limited to recommendations for the provision of clear and coordinated services and supports to persons and families living with Alzheimer's and related disorders and strategies to address any identified gaps in services.

Section 3. The Kentucky Alzheimer's Disease and Related Disorders Advisory Council is directed to submit a report of its findings and recommendations to the Kentucky General Assembly and the Governor no later than January, 2008.

The Committee on Education reported **SB 208** and **SJR 125** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 208, AN ACT relating to the selection of school personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.345 is amended to read as follows:

- (1) For the purpose of this section:
 - (a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school;
 - (b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal ~~or head teacher~~ and is not a program or part of another school. The term "school" does not include district-operated schools that are:
 1. Exclusively vocational-technical, special education, or preschool programs;
 2. Instructional programs operated in institutions or schools outside of the district; or
 3. Alternative schools designed to provide services to at-risk populations with unique needs;
 - (c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state, with the exception of principals and~~;~~ assistant principals~~, and head teachers~~; and
 - (d) "Parent" means:
 1. A parent, stepparent, or foster parent of a student; or
 2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.
- (2) Each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

- (a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. A parent representative on the council shall not be an employee or a relative of an employee of the school in which that parent serves, nor shall the parent representative be an employee or a relative of an employee in the district administrative offices. A parent representative shall not be a local board member or a board member's spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees;
- (b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. A teacher elected to a school council shall not be involuntarily transferred during his or her term of office. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected. The principal ~~or head teacher~~ shall be the chair of the school council.
2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:
- a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and
 - b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty;
- (c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal ~~or head teacher~~ shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.
2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection;
- (d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy;
- (e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply;
- (f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals;
- (g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council. The school council shall consult with the school media librarian on the maintenance of the school library media center, including the purchase of instructional materials, information technology, and equipment;
- (h) **Personnel decisions at the school level shall be as follows:**
- 1.** From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council, consistent with subsection (2)(i)10. of this section. The superintendent may forward to the school council the names of qualified applicants who have pending certification from the Education Professional Standards Board based on recent completion of preparation requirements, out-of-state preparation, or alternative routes to certification pursuant to KRS 161.028 and 161.048. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. **The superintendent shall provide additional applicants upon request when qualified applicants are available.**

2. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent, except as provided in subparagraph 4. of this paragraph. The superintendent shall provide additional applicants upon request when qualified applicants are available. ~~[When a vacancy in the school principalship occurs,]~~ The school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training.
 3. Personnel decisions made at the school level under the authority of subparagraphs 1., 2., and 4. of this paragraph ~~[subsection]~~ shall be binding on the superintendent who completes the hiring process.
 4. If the vacancy for the position of principal occurs in a school that has an index score that places it in the lowest one-third (1/3) of all schools below the assistance line and the school has completed a scholastic audit under KRS 158.6455 that includes findings of lack of effectiveness of the principal and school council, the superintendent shall appoint the principal after consulting with the school council.
 5. Applicants subsequently employed shall provide evidence that they are certified prior to assuming the duties of a position in accordance with KRS 161.020~~[The superintendent shall provide additional applicants upon request when qualified applicants are available];~~
- (i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:
1. Determination of curriculum, including needs assessment and curriculum development;
 2. Assignment of all instructional and noninstructional staff time;
 3. Assignment of students to classes and programs within the school;
 4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
 5. Determination of use of school space during the school day;
 6. Planning and resolution of issues regarding instructional practices;
 7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;
 8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision;
 9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal; and
 10. Procedures to assist the council with consultation in the selection of personnel by the principal, including, but not limited to, meetings, timelines, interviews, review of written applications, and review of references. Procedures shall address situations in which members of the council are not available for consultation; and
- (j) Each school council shall annually review data on its students' performance as shown by the Commonwealth Accountability Testing System. The data shall include but not be limited to information on performance levels of all students tested, and information on the performance of students disaggregated by race, gender, disability, and participation in the federal free and reduced price lunch program. After completing the review of data, each school council, with the involvement of parents, faculty, and staff, shall develop and adopt a plan to ensure that each student makes progress toward meeting the goals set forth in KRS 158.645 and 158.6451(1)(b) by April 1 of each year and submit the plan to the superintendent and local board of education for review as described in KRS 160.340. The Kentucky Department of Education shall provide each school council the data needed to complete the review required by this paragraph no later than November 1 of each year. If a school does not have a council, the review shall be completed by the principal with the involvement of parents, faculty, and staff.
- (3) The policy adopted by the local board to implement school-based decision making shall also address the following:
- (a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;
 - (b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;
 - (c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;
 - (d) Professional development plans developed pursuant to KRS 156.095;
 - (e) Parent, citizen, and community participation including the relationship of the council with other groups;
 - (f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;
 - (g) Requirements for waiver of district policies;

- (h) Requirements for record keeping by the school council; and
 - (i) A process for appealing a decision made by a school council.
- (4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.
- (5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school meeting its goal as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.
- (6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve. Experienced members may participate in the training for new members to fulfill their training requirement. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education. By November 1 of each year, the principal through the local superintendent shall forward to the Department of Education the names and addresses of each council member and verify that the required training has been completed. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.
- (7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making, including but not limited to a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the commissioner of education and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.
- (8) The Kentucky Board of Education, upon recommendation of the commissioner of education, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development in compliance with requirements specified in KRS 156.095, except as provided in KRS 158.649. School councils of small schools shall be encouraged to work with other school councils to maximize professional development opportunities.
- (9)
 - (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.
 - (b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.
 - (c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.
 - (d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.
- (10) Notwithstanding subsections (1) to (9) of this section, a school's right to establish or maintain a school-based decision making council and the powers, duties, and authority granted to a school council may be rescinded or the school council's role may be advisory if the commissioner of education or the Kentucky Board of Education takes action under KRS 160.346.
- (11) Each school council of a school containing grades K-5 or any combination thereof, or if there is no school council, the

principal, shall develop and implement a wellness policy that includes moderate to vigorous physical activity each day and encourages healthy choices among students. The policy may permit physical activity to be considered part of the instructional day, not to exceed thirty (30) minutes per day, or one hundred and fifty (150) minutes per week. Each school council, or if there is no school council, the principal, shall adopt an assessment tool to determine each child's level of physical activity on an annual basis. The council or principal may utilize an existing assessment program. The Kentucky Department of Education shall make available a list of available resources to carry out the provisions of this subsection. The department shall report to the Legislative Research Commission no later than November 1 of each year on how the schools are providing physical activity under this subsection and on the types of physical activity being provided. The policy developed by the school council or principal shall comply with provisions required by federal law, state law, or local board policy.

SJR 125, A JOINT RESOLUTION directing the secretary of the Education Cabinet and the commissioner of education to appoint a working group to develop a multiphase plan to utilize career and technical education programs and facilities to help students understand the relevance of literacy, mathematics, technology, and science knowledge and skills, and to improve students' academic performance and mastery of skills that are needed for postsecondary education, career preparation, the military, and work.

WHEREAS, the needs and demands of the workplace have dramatically changed; and

WHEREAS, the need for literacy, mathematics, technology, and science are integral skills to academic achievement in today's world and for the future; and

WHEREAS, a large number of students enter traditional high schools without the necessary literacy, mathematics, science, and technology skills to meet secondary curricula performance standards; and

WHEREAS, a large number of students are underprepared for transition to postsecondary education or work; and

WHEREAS, dropout rates remain high—often a result of students' lack of interest in elementary and middle school education programs; and

WHEREAS, the number of dropouts may be diminished if students comprehend the relevance of school subjects in general and specifically the relevance of literacy, mathematics, technology, and science to their futures; and

WHEREAS, many students say they are bored and unchallenged in traditional school settings that utilize abstract and theoretical instruction methodologies; and

WHEREAS, many students find school unconnected to daily life and lacking relevance to their futures; and

WHEREAS, students who are academically deficient need intense interventions and motivation to learn through innovative approaches; and

WHEREAS, too many students lack the background, knowledge, and understanding to adequately develop the required Individual Graduation Program with a clear focus and understanding; and

WHEREAS, the Kentucky General Assembly has addressed the need for improved literacy at all levels of schooling—the need for high quality teaching for all students—the need for mathematics, science, and technology skills at all levels; and

WHEREAS, there is a need for all students to have rigorous and relevant curricula that meet their interests, skills, and aspirations; and

WHEREAS, students can overcome their academic deficiencies when engaged in meaningful activities through intentional interventions and hands-on opportunities; and

WHEREAS, there are fifty-five state-operated area technology centers, twenty-six locally operated area technology centers, as well as career and technical education programs in the two hundred and thirty-one comprehensive high schools, all of which can provide integrated academic and technical courses that appeal to students across the intellectual spectrum; and

WHEREAS, the Kentucky General Assembly has initiated many programs to revitalize elementary, secondary, and postsecondary education to better serve Kentucky students;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. By July 1, 2007, the secretary of the Education Cabinet and the commissioner of education shall appoint a working group, composed of representatives from the Division of Secondary Career and Technical Education, the Department for Workforce Investment, and representatives from other educational agencies, and elementary, secondary, and postsecondary education institutions as they deem appropriate, to develop a multiphased plan to utilize career and technical education programs and facilities to help students understand the relevance of literacy, mathematics, technology, and science knowledge and skills and to improve students academic performance and mastery of skills that are needed for postsecondary education, career preparation, the military, and work.

Section 2. At a minimum, the plan shall include:

- (1) Summer career camps with applied learning opportunities to expose middle school students to technical careers and career

paths, including orientation to the types of high school courses that are available, academic skills needed as prerequisites, and other relevant information;

- (2) Intensive academic interventions focused on literacy, mathematics, science and technology skills that are delivered through ninth grade academies, career academies, or other school designs to improve the achievement levels of students who are academically behind upon entering high school;
- (3) Increased career counseling, mentoring, and support systems for students in general, but particularly for students who are particularly at-risk of dropping out of school;
- (4) Increased opportunities for students across the state to participate in high quality career and technical education studies that are relevant to today's workplaces, as well as to projected future needs, such as pre-engineering programs;
- (5) Recommendations for upgrading the quality and statewide access to rigorous, technologically up-to-date career and technical education programs; and
- (6) An implementation time-line and cost projections for each component and phase of the plan.

The plan may include other components necessary to better utilize existing facilities and programs in order to expand high-quality educational services to students, and to improve middle and high school experiences for students to enable them to prepare for postsecondary education, career preparation, the military, work, and adult life. The plan may suggest standards and student expectations for attending area technology centers; and recommendations for better serving students at-risk of dropping out of school through early entry into career and technical education preparation programs and completion of industry-related skills certificates as well as completion of a high school credential.

Section 3. The secretary of the Education Cabinet and the commissioner of education shall present the plan to the Interim Joint Committee on Education, no later than December 1, 2007, with subsequent follow-up reports as requested.

The Committee on Labor and Industry reported **HB 491**, **SB 103**, with Committee Substitute attached thereto, and **SB 171** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 491, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.320 is amended to read as follows:

- (1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of an administrative law judge pursuant to the statutes and administrative regulations.
- (2) In an original claim, attorney's fees for services under this chapter on behalf of an employee shall be subject to the following maximum limits:
 - (a) Twenty percent (20%) of the first ~~fifty~~~~twenty-five~~ thousand dollars ~~(\$50,000)~~~~(\$25,000)~~ of the award, fifteen percent (15%) of the next ~~twenty~~~~ten~~ thousand dollars ~~(\$20,000)~~~~(\$10,000)~~, and five percent (5%) of the remainder of the award, not to exceed a maximum fee of ~~twenty~~~~twelve~~ thousand dollars ~~(\$20,000)~~~~(\$12,000)~~. This fee shall be paid by the employee from the proceeds of the award or settlement.
 - (b) Attorney-client employment contracts entered into and signed after the effective date of this Act~~July 14, 2000~~, shall be subject to the conditions of paragraph (a) of this subsection.
- (3) In approving an allowance of attorney's fees, the administrative law judge shall consider the extent, complexity, and quality of services rendered, and in the case of death, the Remarriage Tables of the Dutch Royal Insurance Institute. An attorney's fee may be denied or reduced upon proof of solicitation by the attorney. However, this provision shall not be construed to preclude advertising in conformity with standards prescribed by the Kentucky Supreme Court.
- (4) No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an attorney's fee shall be submitted within thirty (30) days following finality of the claim. Except when the attorney's fee is to be paid by the employer or carrier, the attorney's fee shall be paid in one (1) of the following ways:
 - (a) The employee may pay the attorney's fee out of his personal funds or from the proceeds of a lump-sum settlement; or
 - (b) The administrative law judge, upon request of the employee, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the employee in equal installments over the duration of the award or until the attorney's fee has been paid, commuting sufficient sums to pay the fee.
- (5) At the commencement of the attorney-client relationship, the attorney shall explain to the employee the methods by which this section provides for the payment of the attorney's fee, and the employee shall select the method in which his attorney's fee is to be paid. His selection and statement that he fully understands the method to be used shall be submitted by his attorney, on a notarized form signed by the employee, at the time the motion for approval of the attorney's fee is submitted. The executive director shall develop the format and content of the form to be used pursuant to this section. The form to be

used shall list on its face all options permitted in this section for the payment of an attorney's fees and contain an explanation in nontechnical language of each method.

- (6) The General Assembly declares that by the enactment of KRS 342.316(3), it is the legislative intent to encourage settlement and prompt administrative handling of those claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the administrative law judge shall give due regard to this legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.
- (7) In a claim that has been reopened pursuant to the provisions of this chapter, an attorney's fee may be awarded by the administrative law judge subject to the limits set forth in subsection (2) of this section. In awarding the attorney's fee, the administrative law judge shall consider the factors set forth in subsection (3) of this section. If no additional amount is recovered upon reopening, no attorney's fee shall be awarded. No attorney's fee shall be allowed or approved exceeding the amounts provided in subsection (2)(a) of this section applicable to any additional amount recovered.
- (8) Attorney's fees for representing employers in proceedings under this chapter pursuant to contract with the employer shall be subject to approval of the administrative law judge in the same manner as prescribed for attorney representation of employees. Employer attorney's fees are subject to the limitation of ~~twenty-two~~ thousand dollars ~~(\$20,000)~~ ~~(\$12,000)~~ maximum fees except that fees for representing employers shall not be dependent upon the result achieved. Employer attorney's fees may be paid on a periodic basis while a claim is adjudicated and the payments need not be approved until the claims resolution process is completed. Fees for legal services in presenting a claim for reimbursement from the Kentucky coal workers' pneumoconiosis fund shall not exceed one thousand dollars (\$1,000). All such approved fees shall be paid by the employer and in no event shall exceed the amount the employer agreed by contract to pay.

SB 103, AN ACT relating to registered nurse first assistants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.035 is amended to read as follows:

- (1) Periodically, the executive director shall promulgate administrative regulations to adopt a schedule of fees for the purpose of ensuring that all fees, charges, and reimbursements under KRS 342.020 and this section shall be fair, current, and reasonable and shall be limited to such charges as are fair, current, and reasonable for similar treatment of injured persons in the same community for like services, where treatment is paid for by general health insurers. In determining what fees are reasonable, the executive director may also consider the increased security of payment afforded by this chapter. On or before November 1, 1994, and on July 1 every two (2) years thereafter, the schedule of fees contained in administrative regulations promulgated pursuant to this section shall be reviewed and updated, if appropriate. Within ten (10) days of April 4, 1994, the executive director shall execute a contract with an appropriately qualified consultant pursuant to which each of the following elements within the workers' compensation system are evaluated; the methods of health care delivery; quality assurance and utilization mechanisms; type, frequency, and intensity of services; risk management programs; and the schedule of fees contained in administrative regulation. The consultant shall present recommendations based on its review to the executive director not later than sixty (60) days following execution of the contract. The executive director shall consider these recommendations and, not later than thirty (30) days after their receipt, promulgate a regulation which shall be effective on an emergency basis, to effect a twenty-five percent (25%) reduction in the total medical costs within the program.
- (2) No provider of medical services or treatment required by this chapter, its agent, servant, employee, assignee, employer, or independent contractor acting on behalf of any medical provider, shall knowingly collect, attempt to collect, coerce, or attempt to coerce, directly or indirectly, the payment of any charge, for services covered by a workers' compensation insurance plan for the treatment of a work-related injury or occupational disease, in excess of that provided by a schedule of fees, or cause the credit of any employee to be impaired by reason of the employee's failure or refusal to pay the excess charge. In addition to the penalty imposed in KRS 342.990 for violations of this subsection, any individual who sustains damages by any act in violation of the provisions of this subsection shall have a civil cause of action in Circuit Court to enjoin further violations and to recover the actual damages sustained by the individual, together with the costs of the lawsuit, including a reasonable attorney's fee.
- (3) Where these requirements are furnished by a public hospital or other institution, payment thereof shall be made to the proper authorities conducting it. No compensation shall be payable for the death or disability of an employee if his death is caused, or if and insofar as his disability is aggravated, caused, or continued, by an unreasonable failure to submit to or follow any competent surgical treatment or medical aid or advice.
- (4) The executive director shall, by December 1, 1994, promulgate administrative regulations to adopt a schedule of fees for the purpose of regulating charges by medical providers and other health care professionals for testimony presented and medical reports furnished in the litigation of a claim by an injured employee against the employer. The workers' compensation medical fee schedule for physicians, 803 KAR 25:089, having an effective date of February 9, 1995, shall remain in effect until July 1, 1996, or until the effective date of any amendments promulgated by the executive director, whichever occurs first, it being determined that this administrative regulation is within the statutory grant of authority, meets legislative intent, and is not in conflict with the provisions of this chapter. The medical fee schedule and amendments shall be fair, current, and reasonable and otherwise comply with this section.

- (5) (a) To ensure compliance with subsections (1) and (4) of this section, the executive director shall promulgate administrative regulations by December 31, 1994, which require each insurance carrier, self-insured group, and self-insured employer to certify to the executive director the program or plan it has adopted to ensure compliance.
- (b) In addition, the executive director shall periodically have an independent audit conducted by a qualified independent person, firm, company, or other entity hired by the executive director, in accordance with the personal service contract provisions contained in KRS 45A.690 to 45A.725, to ensure that the requirements of subsection (1) of this section are being met. The independent person, firm, company, or other entity selected by the executive director to conduct the audit shall protect the confidentiality of any information it receives during the audit, shall divulge information received during the audit only to the executive director, and shall use the information for no other purpose than the audit required by this paragraph.
- (c) The executive director shall promulgate administrative regulations governing medical provider utilization review activities conducted by an insurance carrier, self-insured group, or self-insured employer pursuant to this chapter.
- (d) Periodically, or upon request, the executive director shall report to the Interim Joint Committee on Labor and Industry of the Legislative Research Commission or to the corresponding standing committees of the General Assembly, as appropriate, the degree of compliance or lack of compliance with the provisions of this section and make recommendations thereon.
- (e) The cost of implementing and carrying out the requirements of this subsection shall be paid from funds collected pursuant to KRS 342.122.
- (6) The executive director may promulgate administrative regulations incorporating managed care or other concepts intended to reduce costs or to speed the delivery or payment of medical services to employees receiving medical and related benefits under this chapter.
- (7) For purposes of this chapter, any medical provider shall charge only its customary fee for photocopying requested documents. However, in no event shall a photocopying fee of a medical provider or photocopying service exceed fifty cents (\$0.50) per page. In addition, there shall be no charge for reviewing any records of a medical provider, during regular business hours, by any party who is authorized to review the records and who requests a review pursuant to this chapter.
- (8) (a) The executive director shall develop or adopt practice parameters or guidelines for clinical practice for use by medical providers under this chapter. The executive director may adopt any parameters for clinical practice as developed and updated by the federal Agency for Health Care Policy Research, or the executive director may adopt other parameters for clinical practice which are developed by qualified bodies, as determined by the executive director, with periodic updating based on data collected during the application of the parameters.
- (b) Any provider of medical services under this chapter who has followed the practice parameters or guidelines developed or adopted pursuant to this subsection shall be presumed to have met the appropriate legal standard of care in medical malpractice cases regardless of any unanticipated complication that may thereafter develop or be discovered.
- (9) (a) Notwithstanding any other provision of law to the contrary, the medical fee schedule adopted under subsection (4) of this section shall require all worker's compensation insurance carriers, worker's compensation self-insured groups, and worker's compensation self-insured employers who provide coverage for surgical first assisting benefits or services to provide coverage and payment for surgical first assisting services to registered nurse first assistants as defined in KRS 216B.015.
- (b) The provisions of this subsection apply only if reimbursement for an assisting physician would be covered and a registered nurse first assistant who performed the services is used as a substitute. The reimbursement shall be made directly to the registered nurse first assistant if the claim is submitted by a registered nurse first assistant who is not an employee of the hospital or the surgeon performing the service.

The House Committee Substitute to SB 103 is as follows:

SB 103, AN ACT relating to registered nurse first assistants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.035 is amended to read as follows:

- (1) Periodically, the executive director shall promulgate administrative regulations to adopt a schedule of fees for the purpose of ensuring that all fees, charges, and reimbursements under KRS 342.020 and this section shall be fair, current, and reasonable and shall be limited to such charges as are fair, current, and reasonable for similar treatment of injured persons in the same community for like services, where treatment is paid for by general health insurers. In determining what fees are reasonable, the executive director may also consider the increased security of payment afforded by this chapter. On or before November 1, 1994, and on July 1 every two (2) years thereafter, the schedule of fees contained in administrative regulations promulgated pursuant to this section shall be reviewed and updated, if appropriate. Within ten (10) days of April 4, 1994, the executive director shall execute a contract with an appropriately qualified consultant pursuant to which each of the following elements within the workers' compensation system are evaluated; the methods of health care

delivery; quality assurance and utilization mechanisms; type, frequency, and intensity of services; risk management programs; and the schedule of fees contained in administrative regulation. The consultant shall present recommendations based on its review to the executive director not later than sixty (60) days following execution of the contract. The executive director shall consider these recommendations and, not later than thirty (30) days after their receipt, promulgate a regulation which shall be effective on an emergency basis, to effect a twenty-five percent (25%) reduction in the total medical costs within the program.

- (2) No provider of medical services or treatment required by this chapter, its agent, servant, employee, assignee, employer, or independent contractor acting on behalf of any medical provider, shall knowingly collect, attempt to collect, coerce, or attempt to coerce, directly or indirectly, the payment of any charge, for services covered by a workers' compensation insurance plan for the treatment of a work-related injury or occupational disease, in excess of that provided by a schedule of fees, or cause the credit of any employee to be impaired by reason of the employee's failure or refusal to pay the excess charge. In addition to the penalty imposed in KRS 342.990 for violations of this subsection, any individual who sustains damages by any act in violation of the provisions of this subsection shall have a civil cause of action in Circuit Court to enjoin further violations and to recover the actual damages sustained by the individual, together with the costs of the lawsuit, including a reasonable attorney's fee.
- (3) Where these requirements are furnished by a public hospital or other institution, payment thereof shall be made to the proper authorities conducting it. No compensation shall be payable for the death or disability of an employee if his death is caused, or if and insofar as his disability is aggravated, caused, or continued, by an unreasonable failure to submit to or follow any competent surgical treatment or medical aid or advice.
- (4) The executive director shall, by December 1, 1994, promulgate administrative regulations to adopt a schedule of fees for the purpose of regulating charges by medical providers and other health care professionals for testimony presented and medical reports furnished in the litigation of a claim by an injured employee against the employer. The workers' compensation medical fee schedule for physicians, 803 KAR 25:089, having an effective date of February 9, 1995, shall remain in effect until July 1, 1996, or until the effective date of any amendments promulgated by the executive director, whichever occurs first, it being determined that this administrative regulation is within the statutory grant of authority, meets legislative intent, and is not in conflict with the provisions of this chapter. The medical fee schedule and amendments shall be fair, current, and reasonable and otherwise comply with this section.
- (5)
 - (a) To ensure compliance with subsections (1) and (4) of this section, the executive director shall promulgate administrative regulations by December 31, 1994, which require each insurance carrier, self-insured group, and self-insured employer to certify to the executive director the program or plan it has adopted to ensure compliance.
 - (b) In addition, the executive director shall periodically have an independent audit conducted by a qualified independent person, firm, company, or other entity hired by the executive director, in accordance with the personal service contract provisions contained in KRS 45A.690 to 45A.725, to ensure that the requirements of subsection (1) of this section are being met. The independent person, firm, company, or other entity selected by the executive director to conduct the audit shall protect the confidentiality of any information it receives during the audit, shall divulge information received during the audit only to the executive director, and shall use the information for no other purpose than the audit required by this paragraph.
 - (c) The executive director shall promulgate administrative regulations governing medical provider utilization review activities conducted by an insurance carrier, self-insured group, or self-insured employer pursuant to this chapter.
 - (d) Periodically, or upon request, the executive director shall report to the Interim Joint Committee on Labor and Industry of the Legislative Research Commission or to the corresponding standing committees of the General Assembly, as appropriate, the degree of compliance or lack of compliance with the provisions of this section and make recommendations thereon.
 - (e) The cost of implementing and carrying out the requirements of this subsection shall be paid from funds collected pursuant to KRS 342.122.
- (6) The executive director may promulgate administrative regulations incorporating managed care or other concepts intended to reduce costs or to speed the delivery or payment of medical services to employees receiving medical and related benefits under this chapter.
- (7) For purposes of this chapter, any medical provider shall charge only its customary fee for photocopying requested documents. However, in no event shall a photocopying fee of a medical provider or photocopying service exceed fifty cents (\$0.50) per page. In addition, there shall be no charge for reviewing any records of a medical provider, during regular business hours, by any party who is authorized to review the records and who requests a review pursuant to this chapter.
- (8)
 - (a) The executive director shall develop or adopt practice parameters or guidelines for clinical practice for use by medical providers under this chapter. The executive director may adopt any parameters for clinical practice as developed and updated by the federal Agency for Health Care Policy Research, or the executive director may adopt other parameters for clinical practice which are developed by qualified bodies, as determined by the executive director, with periodic updating based on data collected during the application of the parameters.
 - (b) Any provider of medical services under this chapter who has followed the practice parameters or guidelines developed or adopted pursuant to this subsection shall be presumed to have met the appropriate legal standard of

care in medical malpractice cases regardless of any unanticipated complication that may thereafter develop or be discovered.

- (9) (a) Notwithstanding any other provision of law to the contrary, the medical fee schedule adopted under subsection (4) of this section shall require all worker's compensation insurance carriers, worker's compensation self-insured groups, and worker's compensation self-insured employers to provide coverage and payment for surgical first assisting services to registered nurse first assistants as defined in KRS 216B.015.
- (b) The provisions of this subsection apply only if reimbursement for an assisting physician would be covered and a registered nurse first assistant who performed the services is used as a substitute for the assisting physician. The reimbursement shall be made directly to the registered nurse first assistant if the claim is submitted by a registered nurse first assistant who is not an employee of the hospital or the surgeon performing the service.

SB 171, AN ACT relating to unemployment insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 271B.14-220 is amended to read as follows:

- (1) A corporation administratively dissolved under KRS 271B.14-210, or revoked under the provisions of KRS 271A.615, which was repealed by 1988 Ky. Acts, ch. 23, sec. 248, may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution or revocation. The application shall:
- (a) Recite the name of the corporation and the effective date of its administrative dissolution or revocation;
 - (b) State that the ground or grounds for dissolution or revocation either did not exist or have been eliminated;
 - (c) State that the corporation's name satisfies the requirements of KRS 271B.4-010;
 - (d) Contain a certificate from the Department of Revenue reciting that all taxes owed by the corporation have been paid;~~and~~
 - (e) Contain a certificate from the Division of Unemployment Insurance in the Department for Workforce Investment reciting that all employer contributions, interest, penalties, and service capacity upgrade fund assessments have been paid; and
 - (f) Be accompanied by the reinstatement penalty and the current fee for filing each delinquent annual report provided for in KRS 271B.1-220.
- (2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution or revocation and prepare a certificate of existence that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing the notice by first class mail to the corporation at its registered office.
- (3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution or revocation and the corporation shall resume carrying on its business as if the administrative dissolution or revocation had never occurred.
- (4) Notwithstanding any other provision to the contrary, any corporation which was administratively dissolved or revoked and has taken the action necessary to wind up and liquidate its business and affairs under KRS 271B.14-050, and notify claimants under KRS 271B.14-060 and 271B.14-070, shall be prohibited from reinstatement.

Section 2. KRS 341.300 is amended to read as follows:

- (1) Contributions unpaid on the date on which they are due and payable, as prescribed by the secretary, shall be subject to interest at the rate of one and five-tenths percent (1.5%) per month or fraction thereof, not to exceed ninety percent (90%) of the amount of such contributions, from and after such date until payment is received by the Office of Employment and Training, Department of Workforce Investment, irrespective of whether such delinquency has been reduced to a judgment or not as provided in subsection (2) of this section or is the subject of an administrative appeal or court action. Such interest shall be paid into the unemployment compensation administration fund.
- (2) If, after due notice, any subject employer defaults in any payment of contributions, interest or penalties thereon, the amount due shall be collected by a civil action instituted in the Franklin Circuit Court or the Franklin District Court depending upon the jurisdictional amount in controversy including interest and penalties in the name of the state, and the subject employer adjudged in default shall pay the costs of the action. Civil actions brought under this section shall be heard by the court, without the intervention of a jury, at the earliest possible date, and shall be entitled to preference upon the calendar of the court over all other civil actions except petitions for judicial review under this chapter and cases arising under the workers' compensation law.
- (3) At or after the commencement of an action under subsection (2) of this section attachment may be had against the property of the liable subject employer for such contributions, interest and penalties without the execution of a bond, or after judgment has been entered an execution may be issued against the property of such employer without the execution of a bond.
- (4) An action for the recovery of contributions, interest, or penalties under this section shall be barred and any lien therefor

shall be canceled and extinguished unless collected or suit for collection has been filed within ten (10)~~five (5)~~ years from the due date of such contributions, except in the case of the filing of a false or fraudulent report the contributions due shall not be barred and may at any time be collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

Section 3. KRS 341.410 is amended to read as follows:

The secretary acting through his duly authorized representatives shall, upon request, determine the insured status of a worker. If a worker is found to have fully insured status, as defined in KRS 341.090(3), the Division of Unemployment Insurance shall notify all interested parties. If found to be not fully insured, the division shall notify the worker. The secretary may, at any time~~within a worker's benefit year~~, make~~such~~ further determinations as may affect the worker's eligibility for benefits or may set aside, reconsider, modify, or amend a determination at any time on the basis of additional information or to correct a clerical mistake. The secretary~~commission~~ may by regulation prescribe what constitutes a determination as used in this section and KRS 341.420(2) and (3). Any further determination made pursuant to this section may be appealed pursuant to KRS 341.420.

Section 4. KRS 341.800 is amended to read as follows:

- (1) In addition to any other remedy provided by the laws of the Commonwealth, if any subject employer assessed or determined liable for the payment of contributions, including penalties and interest, refuses to pay contributions when due and has not sought administrative or judicial review of the assessment or determination as provided for in this chapter, or if such subject employer has exhausted or abandoned administrative or judicial review provided in this chapter so that the assessment or determination is final, due and owing, then the secretary or his delegate may cause a demand to be made on the subject employer for the payment thereof. If the contributions, including interest and penalties, remain unpaid for ten (10) days after demand, then the secretary or his delegate may collect the contributions, including interest and penalties, and the costs of such collection by levy upon all nonexempt real and personal property, disposable earnings, and right to property, belonging to the subject employer or on which there is a lien provided in this chapter for the payment of such contributions.
- (2) As soon as practicable after seizure of property, notice in writing shall be given by the secretary or his delegate to the owner of the property. The notice shall be given to the owner either in person or by certified mail to his last known address. Such notice shall specify the sum demanded and shall contain, in the case of personal property, an account of the property seized and, in the case of real property, a description with reasonable certainty of the property seized.
- (3) The secretary or his delegate shall as soon as practicable after the seizure of the property cause a notification of the sale of the seized property to be published in the newspaper with the largest circulation within the county wherein such seizure is made. Such notice shall be published once each week for three (3) successive weeks. In addition, such notice shall be posted at the courthouse and three (3) other public places in the county where the seizure is made for fifteen (15) days next preceding sale. The notice shall specify the property to be sold, and the time, place, manner, and condition of the sale thereof.
- (4) If any property liable to levy is not divisible, so as to enable the secretary or his delegate by sale of a part thereof to raise the whole amount of the contributions, penalty, interest and cost of the levy, the whole of such property shall be sold.
- (5) The time of sale shall not be less than thirty (30) nor more than ninety (90) days from the time the seizure is made. The place of sale shall be within the county in which the property is seized, except by special order of the secretary.
- (6) The sale shall not be conducted in any manner other than by public auction, or by public sale under sealed bids. In the case of the seizure of several items of property, the secretary or his delegate may offer such items for sale separately, in groups, or in the aggregate and accept whichever method produces the highest aggregate amount.
- (7) The secretary or his delegate shall determine whether payment in full shall be required at the time of acceptance of a bid, or whether a part of such payment may be deferred for such period, not to exceed one (1) month, as he may determine to be appropriate. If payment in full is required at the time of acceptance of a bid and is not then and there paid, the secretary or his delegate shall forthwith proceed to again sell the property as provided in subsection (6) of this section. If the conditions of the sale permit part of the payment to be deferred, and if such part is not paid, within the prescribed period, suit may be instituted in the Franklin Circuit Court or the Circuit Court of the county where the sale was conducted against the purchaser for the purchase price or such part thereof as has not been paid, together with interest at the rate of twelve percent (12%) per annum from the date of the sale; or, in the discretion of the secretary, the sale may be declared to be null and void for failure to make full payment of the purchase price and the property may again be advertised and sold as provided in this section. In the event of such readvertisement and sale, any new purchaser shall receive such property or rights to property, free and clear of any claim or right of the former defaulting purchaser, of any nature whatsoever, and the amount paid upon the bid price by such defaulting purchaser shall be forfeited.
- (8) If the secretary or his delegate determines that any property seized is liable to perish or become greatly reduced in price or value by keeping, or that such property cannot be kept without great expense, he shall appraise the value of such property and, if the owner of the property can be readily found, the secretary or his delegate shall give him notice of such determination of the appraised value of the property. The property shall be returned to the owner if, within such time as may be specified in the notice, the owner pays to the secretary or his delegate an amount equal to the appraised value, or gives bond in such form, with such sureties, and in such amount as the secretary or his delegate determines to be appropriate in the circumstances. If the owner does not pay such amount or furnish such bond in accordance with this

subsection, the secretary or his delegate shall as soon as practicable make public sale of the property without regard to the advertisement requirements or the time limitations contained in subsections (3) and (5) of this section.

- (9) No proceedings under this section shall be commenced more than ten (10)~~five (5)~~ years after the assessment or determination becomes final.
- (10) The term "levy" as used in KRS 341.800 to 341.830 includes the power of distraint and seizure. A levy shall extend only to property possessed and obligations existing at the time thereof. In any case in which the secretary or his delegate may levy upon property or rights thereto, he may seize and sell such property and rights to property, whether real, personal, tangible or intangible.

Section 5. Section 1 of this Act takes effect July 1, 2008.

The Committee on Appropriations and Revenue reported SB 1, with Committee Substitute attached thereto, and SB 82 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 1, AN ACT relating to strategies to improve academic achievement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) The Advanced Placement incentive fund is hereby created to encourage schools to provide rigorous curricula and to make available accelerated classes and college credit for students. Funds shall be used to provide:
- (a) Payment of fees for the AP examination as defined in Section 4 of this Act;
 - (b) Two (2) year grants to schools to support the start-up of AP programs in calculus, physics, and chemistry;
 - (c) Monetary awards to teachers for students' success on AP examinations in calculus, physics, and chemistry;
 - (d) Two (2) year grants to middle schools to support accelerated student learning in mathematics and the sciences;
and
 - (e) Scholarships for public high school students to take AP courses in calculus, physics, and chemistry through the Kentucky Virtual High School when those courses are not offered at the school in which they are enrolled.
- (2) The Kentucky Board of Education shall promulgate an administrative regulation to define the request for proposal process and the reporting requirements for grant recipients, and to administer the Middle School Mathematics and Science Scholars Program. The Kentucky Department of Education shall administer the incentive fund, approve grant recipients, and distribute the funds to local school districts.
- (3) To qualify for a two (2) year grant, a school shall initiate at least one (1) of the following course offerings: AP calculus, AP physics, or AP chemistry. The use of funds during the first year shall be used for planning and training of staff. The use of funds during the second year shall be to support an AP course in calculus, physics, or chemistry, including additional training of the AP teacher, purchase of classroom supplies, textbooks, and other instructional materials, and purchase of laboratory equipment.
- (4) Schools applying for grants shall provide assurances that:
- (a) All AP teachers will participate in a College Board-endorsed summer AP training institute for each subject area for which the grant is awarded; and
 - (b) All students enrolled in the AP courses funded by the grants will take the AP examination in the respective courses.
- (5) The Kentucky Board of Education shall establish long-term and annual statewide goals for increasing:
- (a) The number of high schools providing rigorous curricula and making available accelerated classes and college credit for students;
 - (b) The number and percentage of students enrolled in AP calculus, chemistry, and physics courses;
 - (c) The number and percentage of students taking the calculus, chemistry, and physics AP examinations;
 - (d) The number and percentage of students receiving a score of "3" or better on the AP examinations in calculus, chemistry, and physics;
 - (e) The number and percentage of students eligible for free or reduced price lunch and receiving a score of "3" or better on AP examinations;
 - (f) The number of calculus, chemistry, and physics teachers successfully completing a College Board-endorsed summer AP training institute;
 - (g) The number of calculus, chemistry, and physics teachers with the knowledge and training needed to prepare students for high achievement on AP examinations in these content areas; and
 - (h) Other criteria determined by the board.
- (6) The Kentucky Department of Education shall develop and implement a research agenda regarding implementation of Sections 1 and 5, and paragraph (3)(c) of Section 11 of this Act. Beginning in 2007, the department shall submit an

annual report by December 1 to the Kentucky Board of Education and the Legislative Research Commission based on the research agenda and measuring progress against the statewide goals set by the board under subsection (5) of this section.

- (7) Notwithstanding KRS 157.350, no later than the 2009-2010 academic year, each teacher of AP calculus, AP chemistry, and AP physics shall receive a monetary award for each of his or her respective students with a grade of three (3) or above on the corresponding AP examination in the previous year. For each content area of calculus, chemistry, and physics, a teacher shall be eligible to receive only one (1) monetary award for each student, regardless of whether a student takes more than one (1) AP examination within the content area. The Kentucky Department of Education shall distribute the awards, based on the following scale:
- (a) Six hundred dollars (\$600) for each student eligible for free or reduced-price lunch who scores five (5) on the AP examination;
- (b) Five hundred dollars (\$500) for each student eligible for free or reduced-price lunch who scores four (4) on the AP examination;
- (c) Four hundred dollars (\$400) for each student eligible for free or reduced-price lunch who scores three (3) on the AP examination;
- (d) Four hundred dollars (\$400) for each student not eligible for free or reduced-price lunch who scores five (5) on the AP examination;
- (e) Three hundred dollars (\$300) for each student not eligible for free or reduced-priced lunch who scores four (4) on the AP examination; and
- (f) Two hundred dollars (\$200) for each student not eligible for free or reduced-price lunch who scores three (3) on the AP examination.
- (8) The annual aggregate award to a teacher may not exceed ten thousand dollars (\$10,000), regardless of the number of AP courses or sections of an AP course taught. If there are insufficient funds in the Advanced Placement incentive fund to award teachers in accordance with the scale outlined in this section, the expenditures to fulfill the provisions of this section shall be considered necessary government expense.
- (9) No later than the 2008-2009 academic year, the Kentucky Department of Education shall provide monetary awards to AP teachers who teach AP calculus, AP chemistry, and AP physics via the Kentucky Virtual High School that are based on one-half (1/2) of the per student allotment in the scale described in subsection (7) of this section.
- (10) Monetary awards for AP teachers shall not be considered in the calculation for contributions to the Kentucky Teachers' Retirement System.
- (11) Monetary awards for AP teachers shall be considered to be for services rendered.
- (12) No later than the 2008-2009 school year, and for each school year thereafter, the Kentucky Department of Education shall transfer funds from the Advanced Placement incentive fund to the Kentucky Higher Education Assistance Authority. The transfer shall be in an amount sufficient to provide scholarships to all public high school students who are enrolled in Advanced Placement courses in calculus, chemistry, and physics through the Kentucky Virtual High School when those courses are not offered at their school, and for whom tuition costs are not provided through a scholarship program administered by the authority. The authority shall use the transferred funds to offer scholarships as set forth in subsection (1)(d) of this section. Any unused balance of the transferred funds at the close of a fiscal year shall not lapse but shall be returned to the Advanced Placement incentive fund.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) No later than September 1, 2008, the Department of Education shall establish the Middle School Mathematics and Science Scholars Program to increase the number of students entering high school who are well-prepared to undertake rigorous mathematics and science coursework, culminating in successful completion of Advanced Placement courses and high achievement on AP examinations.
- (2) The program shall provide two (2) year renewable grants to middle schools to support intensive, accelerated student learning in mathematics and the sciences, to be offered at no cost to participants. Grants shall be used to support activities that may include but not be limited to programs during the school day, after-school programs, Saturday programs, or multiweek summer sessions.
- (3) The program shall focus particular attention on identifying and attracting student participants who are members of subpopulations for whom significant academic achievement gaps have been identified, including racial and ethnic minorities, and students with low socioeconomic status.

Section 3. KRS 156.160 is amended to read as follows:

- (1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:
- (a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content

directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453 and distributed to local school districts and schools. The administrative regulations shall provide that:

1. If a school offers American sign language, the course shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law; and
2. If a school offers the Reserve Officers Training Corps program, the course shall be accepted as meeting the physical education requirement for high school graduation notwithstanding other provisions of law;

(b) *Beginning in 2008-2009, courses of study or educational experiences available to students in all middle and high schools to fulfill the prerequisites for Advanced Placement courses in calculus, chemistry, and physics. The board shall establish the grade levels and sequences in which the prerequisite courses shall be offered. Notwithstanding KRS 160.345(2)(i), a school-based decision making council shall adopt a curriculum that conforms to the provisions of this paragraph.*

(c) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

~~(d)(e)}~~ The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;

~~(e)(d)}~~ Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

~~(f)(e)}~~ Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

~~(g)(f)}~~ Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

~~(h)(g)}~~ A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a public school, public preschool, or Head Start program;

~~(i)(h)}~~ The transportation of children to and from school;

~~(j)(i)}~~ The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

~~(k)(j)}~~ The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

~~(l)(k)}~~ A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

~~(m)(l)}~~ The disposal of real and personal property owned by local boards of education.

- (2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:
1. An alternative approach will achieve the same result required by the administrative regulation;
 2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
 3. There is a finding of good cause for the waiver.

- (b) The following shall not be subject to waiver:
 - 1. Administrative regulations relating to health and safety;
 - 2. Administrative regulations relating to civil rights;
 - 3. Administrative regulations required by federal law; and
 - 4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.
- (c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.
- (3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.
- (4) Any public school that violates the provisions of KRS 158.854 shall be subject to a penalty to be assessed by the commissioner of education as follows:
 - (a) The first violation shall result in a fine of no less than one (1) week's revenue from the sale of the competitive food;
 - (b) Subsequent violations shall result in a fine of no less than one (1) month's revenue from the sale of the competitive food;
 - (c) "Habitual violations," which means five (5) or more violations within a six (6) month period, shall result in a six (6) month ban on competitive food sales for the violating school; and
 - (d) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

Section 4. KRS 158.007 is amended to read as follows:

As used in KRS Chapter 158 unless the context requires otherwise:

- (1) "Advanced Placement" *or* "AP" means a college-level course that incorporates all topics and instructional strategies specified by~~for~~ the College Board ~~[Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board]~~ on its standard syllabus for a given subject area and is licensed by the College Board.
- (2) "Board" means the Kentucky Board of Education.
- (3) "College Board Advanced Placement examination" means the Advanced Placement test administered by the College Entrance Examination Board.
- (4) "College Board" means the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and Advanced Placement examinations.
- (5) "Core curriculum" means at least one (1) course in at least four (4) of the six (6) following subject areas: English, science, mathematics, social studies, foreign language, and the arts.
- (6) "Department" means the Kentucky Department of Education.
- (7) "Dual credit" means a college-level course of study developed in accordance with KRS 164.098 in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study.
- (8) "Dual enrollment" means a college-level course of study developed in accordance with KRS 164.098 in which a student is enrolled in a high school and postsecondary institution simultaneously.
- (9) "International Baccalaureate" means the International Baccalaureate Organization's Diploma Programme, a comprehensive two (2) year program designed for highly motivated students.
- (10) "Kentucky Virtual High School" means secondary-level instructional programs or courses offered by the Kentucky Department of Education through the Internet and other on-line, computer-based methods.
- (11) "Kentucky Virtual University" means a college-level instructional program offered by the Council on Postsecondary Education through the Internet or other on-line, computer-based methods.

Section 5. KRS 158.622 is amended to read as follows:

- (1) ~~[By December 31, 2002,]~~ The Kentucky Board of Education shall promulgate administrative regulations establishing the criteria a school shall meet in order to designate a course an Advanced Placement course, including content and program standards concerning student admission criteria, data collection, and reporting.
- (2) Upon receipt of adequate federal funding for these purposes, by December 31, 2002, the Department of Education shall:
 - (a) Expand Advanced Placement teacher training institutes, including offering Advanced Placement teacher training instruction and assistance through the Kentucky Virtual High School or in conjunction with the Council on Postsecondary Education through the Kentucky Virtual University;

- (b) Require teachers who are planning to participate in Advanced Placement teacher training and complete Advanced Placement training at Advanced Placement institutes facilitated by the department to sign an agreement to teach at least one (1) Advanced Placement course in a Kentucky public school or the Kentucky Virtual High School when assigned by the school principal;
 - (c) Develop the Kentucky Virtual Advanced Placement Academy which shall offer school districts and their students access to a core Advanced Placement curriculum through the Kentucky Virtual High School;
 - (d) Identify, in conjunction with the Council on Postsecondary Education, resources at the secondary and postsecondary levels that can be directed toward Advanced Placement or dual enrollment instruction;
 - (e) Compare the costs of offering Advanced Placement courses through traditional on-site instruction, the Kentucky Virtual High School, and other methods and shall offer each school district assistance, if requested, in analyzing how the school district can most cost-effectively offer the largest number of Advanced Placement courses;
 - (f) Identify current and future funding sources for Advanced Placement or dual enrollment instructional programs and the amount of funds available or anticipated from those sources; and
 - (g) Submit a report to the Kentucky General Assembly outlining compliance with this section.
- (3) ~~[Beginning with the 2002-2003 school year and thereafter,]~~ Each school district shall:
- (a) Accept for credit toward graduation any course a student successfully completes through the Kentucky Virtual High School and incorporate the grade the student receives in a Kentucky Virtual High School course in calculating that student's grade point average without distinction between the grade received in the Kentucky Virtual High School course and courses taught within the school district for which the student receives a grade;
 - (b) Accept for credit toward graduation and completion of high school course requirements an Advanced Placement, a high school equivalent, or a Kentucky Virtual High School course taken by a student in grades 5, 6, 7, or 8 if that student attains performance levels expected of high school students in that district as determined by achieving a score of "3" or higher on a College Board Advanced Placement examination or a grade of "B" or better in a high school equivalent or a Kentucky Virtual High School course; and
 - (c) Pay tuition and other costs for students from their districts who are enrolled in a Kentucky Virtual High School course for credit that is part of the student's regular school day coursework by proportionately sharing funds generated under KRS 157.360 or other funding sources.

Section 6. KRS 158.6453 is amended to read as follows:

- (1) The Kentucky Board of Education shall be responsible for creating and implementing a statewide assessment program to be known as the Commonwealth Accountability Testing System to ensure school accountability for student achievement of the goals set forth in KRS 158.645 and 158.6451. The board shall seek the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability in the development of the program. The statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.
- (2) The assessment program shall include the following components:
 - (a) A customized or commercially available norm-referenced test that measures, to the extent possible, the core content for assessment. The test shall provide valid and reliable results for individual students;
 - (b) Open-response or multiple-choice items, or both, to assess student skills in reading, mathematics, science, social studies, the arts, the humanities, and practical living and vocational studies; and an on-demand assessment of student writing. These assessments shall measure, to the extent possible, the core content for assessment;
 - (c) Writing portfolios consisting of samples of student work. After receiving the advice of the Writing Advisory Committee, the Kentucky Board of Education shall, by September 1 following April 14, 1998, file a notice of intent to promulgate an administrative regulation which reduces the teacher and student time involved in preparing a writing portfolio. Time reduction strategies included in the administrative regulation may include, but are not limited to, limiting the time spent on a single portfolio entry, limiting the number of revisions, or collecting entries at different grade levels;
 - (d) Performance assessment events for schools that have students enrolled in performing arts organizations sponsoring sanctioned events with an established protocol for adjudication; and
 - (e) A technically sound longitudinal comparison of the assessment results for the same students.
- (3) The provisions of subsection (2) of this section shall apply to elementary schools, and shall also apply to middle and high schools, except as provided in subsections (4) to (8) of this section.
- (4) No later than the 2007-2008 school year, and each year thereafter, the following provisions shall apply to the assessment program for middle and high schools:
 - (a) The assessment program shall include:
 - 1. A high school readiness examination to assess English, reading, mathematics, and science in grade eight

- (8);
- 2. A college readiness examination to assess English, reading, mathematics, and science in grade ten (10);
- 3. The ACT college admissions and placement examination to assess English, reading, mathematics, and science, to be taken by all students in grade eleven (11); and
- 4. Any other component necessary to comply with the No Child Left Behind Act of 2001, 20 U.S.C. sec. 6301 et seq., as determined by the United States Department of Education;
- (b) 1. A student whose scores on the high school readiness examination administered in grade eight (8) indicate a high degree of readiness for high school shall be counseled to enroll in accelerated courses; and
- 2. A student whose scores on the college readiness examination administered in grade ten (10) or the ACT college admissions and placement examination administered in grade eleven (11) indicate a high degree of readiness for college shall be counseled to enroll in accelerated courses, with an emphasis on Advanced Placement classes;
- (c) The cost of the initial ACT examination administered to students in grade eleven (11) shall be paid for by the Kentucky Department of Education. The costs of additional ACT examinations shall be the responsibility of the student; and
- (d) The components of the middle and high school assessment program set forth in paragraph (a) of this subsection shall be administered in lieu of a customized or commercially available norm-referenced test under subsection (2)(a) of this section.
- (5) No later than the 2007-2008 school year, and each year thereafter, students in grades ten (10), eleven (11), and twelve (12) may take the WorkKeys assessments from ACT, Inc. in reading for information, locating information, and applied mathematics.
 - (a) The costs of the initial WorkKeys assessments shall be paid by the Kentucky Department of Education. The cost of additional WorkKeys assessments shall be the responsibility of the student.
 - (b) A student whose scores on the WorkKeys assessments indicate that additional assistance is required in reading for information, locating information, or applied mathematics shall have intervention strategies for accelerated learning incorporated into his or her learning plan.
 - (c) A student meeting the WorkKeys threshold established by the Department of Workforce Investment shall be issued the appropriate Kentucky employability certificate.
- (6) (a) The Kentucky Department of Education shall conduct periodic studies comparing the standards in reading, mathematics, and science for middle and high schools within the Kentucky core content for assessment and the concepts and content measured by the ACT and the high school and college readiness examinations under subsection (4)(a) of this section.
- (b) If the department determines that reading, mathematics, and science assessments required under subsection (4)(a) of this section are shown to provide direct measures of content standards and concepts identified in the Kentucky core content for assessment, the Kentucky Board of Education shall seek the advice of the Office of Education Accountability, the School Curriculum, Assessment, and Accountability Council, and the National Technical Advisory Panel on Assessment and Accountability regarding reducing the number of questions on the Commonwealth Accountability Testing System.
- (c) The Kentucky Department of Education shall continue to include open-response or multiple-choice items, or both, that assess student knowledge and skills in reading, mathematics, and science to the degree necessary for adequate coverage of the elements of the Kentucky core content for assessment not covered by the examinations.
- (7) Accommodations provided by ACT, Inc. to a student with a disability taking the assessments under subsection (4)(a)3. of this section shall consist of:
 - (a) Accommodations provided in a manner allowed by ACT, Inc. when results in test scores are reportable to a postsecondary institution for admissions and placement purposes, except as provided in paragraph (b) of this subsection; or
 - (b) Accommodations provided in a manner allowed by a student's individualized education program as defined in KRS 158.281 for a student whose disability precludes valid assessment of his or her academic abilities using the accommodations provided under paragraph (a) of this subsection when the student's scores are not reportable to a postsecondary institution for admissions and placement purposes.
- (8) The assessments under subsections (4) and (5) of this section shall be known as the "Kentucky Work and College Readiness Examination" or "Readiness Examination."
- (9) Kentucky teachers shall have a significant role in the design of the assessments. The assessments shall be designed to:
 - (a) Measure grade appropriate core academic content, basic skills, and higher-order thinking skills and their application. The assessment shall measure the core content for assessment used by the Department of Education during the 1997-98 school year. Any revisions to the core content for assessment shall be developed through a

public process involving parents; educators at the elementary, secondary, and postsecondary education levels; professional education advocacy groups and organizations; and business and civic leaders and shall be distributed to all public schools;

- (b) Provide valid and reliable scores for schools. If scores are reported for students individually, they shall be valid and reliable; and
 - (c) Minimize the time spent by teachers and students on assessment.
- (10) Results from the state assessment under this section shall be reported to the school districts and schools no later than one hundred fifty (150) days following the first day the assessment can be administered.
- (11) The Department of Education shall gather information to establish the validity of the assessment and accountability program. It shall develop a biennial plan for validation studies that shall include but not be limited to the consistency of student results across multiple measures, the congruence of school scores with documented improvements in instructional practice and the school learning environment, and the potential for all scores to yield fair, consistent, and accurate student performance level and school accountability decisions. Validation activities shall take place in a timely manner and shall include a review of the accuracy of scores assigned to students and schools, as well as of the testing materials. The plan shall be submitted to the Commission by July 1 of the first year of each biennium. A summary of the findings shall be submitted to the Legislative Research Commission by September 1 of the second year of the biennium.
- (12) In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress. The continuous assessment shall provide diagnostic information to improve instruction to meet the needs of individual students.
- (13) The Kentucky Board of Education, after the Department of Education has received advice from the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation under KRS Chapter 13A to establish the components of a reporting structure for assessments administered under this section. The reporting structure shall include the following components:
- (a) A school report card that clearly communicates with parents and the public about school performance. The school report card shall be sent to the parents of the students of the districts, and a summary of the results for the district shall be published in the newspaper with the largest circulation in the county. It shall include but not be limited to the following components reported by race, gender, and disability when appropriate:
 - 1. Student academic achievement, including the results from each of the assessments administered under this section;
 - 2. Advanced Placement courses offered, the number of students enrolled in Advanced Placement courses, and the number of students taking the examination for each course. The number of students shall be disaggregated by gender, race, students with disabilities, and economic status. Examination scores shall not be reported;
 - 3. Nonacademic achievement, including the school's attendance, retention, dropout rates, and student transition to adult life; and
 - 4. ~~[3-]~~ School learning environment, including measures of parental involvement;
 - (b) An individual student report to parents for each fifth-grade student summarizing the student's readiness in reading and mathematics based on the student's fourth-grade state assessment results. The school's fifth-grade staff shall develop a plan for accelerated learning for any student with identified deficiencies;
 - (c) An individual report for each student who takes a high school or college readiness examination administered under subsection (4)(a) of this section that:
 - 1. Provides the student's test scores;
 - 2. Provides a judgment regarding whether or not a student has met or failed to meet the expectations for each standard assessed; and
 - 3. Is designed to assist students, parents, and teachers to identify, assess, and remedy academic deficiencies prior to high school graduation; and
 - (d) A student's scores on the ACT examination or WorkKeys assessments administered under subsections (4)(a) and (5) of this section and the ACT examination under KRS 158.6459(5) shall be recorded on his or her official high school transcript.

Section 7. KRS 160.348 is amended to read as follows:

- (1) ~~{Beginning with the 2003-2004 school year and thereafter,}~~ Each secondary school-based decision making council shall offer a core curriculum of Advanced Placement, International Baccalaureate, dual enrollment, or dual credit courses, using either or both on-site instruction or electronic instruction through the Kentucky Virtual High School or other on-line alternatives. In addition, each school-based decision making council shall comply with any additional requirements for Advanced Placement, International Baccalaureate, dual enrollment, and dual credit courses that may be established

cooperatively by the Kentucky Department of Education, the Education Professional Standards Board, and the Council on Postsecondary Education in accordance with the definitions in KRS 158.007.

- (2) Each secondary school-based decision making council shall establish a policy on the recruitment and assignment of students to Advanced Placement, International Baccalaureate, dual enrollment, and dual credit courses that recognizes that all students have the right to participate in rigorous and~~be~~ academically challenging curriculum~~challenged and should be encouraged to participate in these courses~~. All students who are willing to accept the challenge of a rigorous academic curriculum shall be admitted to Advanced Placement, International Baccalaureate, dual enrollment, and dual credit courses, provided they have the prerequisite courses.
- (3) No later than the 2008-2009 academic year, students enrolled in AP classes in the public schools shall have the cost of the AP examinations paid by the Department of Education.

Section 8. KRS 164.002 is amended to read as follows:

As used in KRS Chapter 164, unless the context requires otherwise:

- (1) "Advanced Placement" or "AP" means a college-level course that incorporates all topics and instructional strategies specified by~~for~~ the College Board~~Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board~~ on its standard syllabus for a given subject area and is licensed by the College Board.
- (2) "College Board Advanced Placement examination" means the Advanced Placement test administered by the College Entrance Examination Board.
- (3) "College Board" means the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and Advanced Placement examinations.
- (4) "Dual credit" means a college-level course of study developed in accordance with KRS 164.098 in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study.
- (5) "Dual enrollment" means a college-level course of study developed in accordance with KRS 164.098 in which a student is enrolled in a high school and postsecondary institution simultaneously.

Section 9. KRS 164.098 is amended to read as follows:

~~[By December 31, 2002:]~~

- (1) The Council on Postsecondary Education shall promulgate administrative regulations that require public postsecondary educational institutions~~, beginning with the 2003-2004 school year,~~ to grant credit toward graduation to a student who scores at least "3" on a College Board Advanced Placement examination.
- (2) The Council on Postsecondary Education shall publish information, in print and electronic format, about the scores required on College Board Advanced Placement examinations at which credit toward graduation and completion of degree requirements will be granted at all Kentucky public and private postsecondary educational institutions.
- (3) The Council on Postsecondary Education, in conjunction with the Kentucky Board of Education and the Education Professional Standards Board, shall develop guidelines for content knowledge and teacher training in dual enrollment and dual credit programs offered in Kentucky.

Section 10. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

- (1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the authority;
- (2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;
- (3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the authority, on the Scholastic Assessment Test;
- (4) "Authority" means the Kentucky Higher Education Assistance Authority;
- (5) "Award period" means two (2) consecutive academic terms;
- (6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;
- (7) "Council" means the Council on Postsecondary Education created under KRS 164.011;
- (8) "Eligible high school student" means any person who:
- (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;
 - (b) Was enrolled after July 1, 1998:
 1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the

Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year; or

2. In a Kentucky high school for the fall academic term of the senior year and who:
 - a. Was enrolled during the entire academic term;
 - b. Completed the high school's graduation requirements during the fall academic term; and
 - c. Was not enrolled in a secondary school during any other academic term of that academic year; and
3. Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and

(c) Is not a convicted felon;

- (9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:

- (a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;
- (b) Has the required postsecondary G.P.A. required under KRS 164.7881;
- (c) Has remaining semesters of eligibility under KRS 164.7881;
- (d) Is enrolled in a participating institution as a part-time or full-time student; and
- (e) Is not a convicted felon;

- (10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;

- (11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;

- (12) "High school" means any Kentucky public high school, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;

- (13) "KEES" means Kentucky educational excellence scholarship;

- (14) "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection (8)(b)2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the authority;

- (15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;

- (16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;

- (17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(~~d~~)(~~e~~). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;

- (18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:

- (a)
 1. Is publicly operated; or
 2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or
 3. Is designated by the authority as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and
- (b) Continues to commit financial resources to student financial assistance programs;

- (19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and

- (20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Section 11. KRS 164.7879 is amended to read as follows:

- (1) Kentucky educational excellence scholarship awards shall be based upon an established base scholarship amount and an eligible high school student's grade point average. The base scholarship amount for students attaining a grade point average of at least 2.5 for the 1998-1999 academic year shall be as follows:

2007 Regular Session

GPA	Amount	GPA	Amount
2.50	\$125.00	3.30	\$325.00
2.60	\$150.00	3.40	\$350.00
2.70	\$175.00	3.50	\$375.00
2.75	\$187.00	3.60	\$400.00
2.80	\$200.00	3.70	\$425.00
2.90	\$225.00	3.75	\$437.00
3.00	\$250.00	3.80	\$450.00
3.10	\$275.00	3.90	\$475.00
3.20	\$300.00	4.00	\$500.00
3.25	\$312.00		

The authority shall review the base amount of the Kentucky educational excellence scholarship each academic year and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (2) (a) The authority shall commit to provide to each eligible high school student the base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average. The award shall be based upon the eligible high school student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible high school student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence scholarship through the promulgation of an administrative regulation by the authority.
- (b) Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874, any high school student who maintains Kentucky residency and completes the academic courses that are required for a Kentucky educational excellence scholarship while participating in an approved educational high school foreign exchange program or participating in the United States Congressional Page School may apply his or her grade point average for that academic year toward the base as described in paragraph (a) of this subsection. The grade point average shall be reported by the student's Kentucky home high school, based on an official transcript from the school that the student attended during the out-of-state educational experience. The authority shall promulgate administrative regulations that describe the approval process for the educational exchange programs that qualify under this paragraph. The provisions in this paragraph shall likewise apply to any Kentucky high school student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.
- (c) 1. Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874 and the requirement that a student graduate from a Kentucky high school, a high school student who completes the KEES curriculum while attending an accredited out-of-state high school or Department of Defense school may apply the grade point average for any applicable academic year toward the base as described in paragraph (a) of this subsection and shall also qualify for a supplemental award under subsection (3) of this section when:
- His or her custodial parent or guardian is in active service of the Armed Forces of the United States; and
 - The custodial parent or guardian maintained Kentucky as the home of record at the time the student attended an accredited out-of-state high school or a Department of Defense school.
2. The student or parent shall arrange for the out-of-state school to report the student's grade point average each academic year and the student's highest ACT score to the authority as required under KRS 164.7885. The authority shall promulgate administrative regulations implementing the requirements in this paragraph, including:
- The documentation that the parent shall submit to the authority establishing the student's eligibility for the scholarship; and
 - The assurances that an out-of state institution shall submit to the authority for submission of the student grade point average.
3. The provisions in this paragraph shall apply to the 2001-2002 school year and thereafter.
- (3) (a) The authority shall commit to provide to each eligible high school student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT	Annual	ACT	Annual
Score	Bonus	Score	Bonus

JOURNAL OF THE HOUSE OF REPRESENTATIVES
2007 Regular Session

15	\$21	22	\$171
16	\$43	23	\$193
17	\$64	24	\$214
18	\$86	25	\$236
19	\$107	26	\$257
20	\$129	27	\$279
21	\$150	28 or above	\$300

Subsequent supplemental awards for eligible high school students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

- (b) The authority shall commit to provide to each eligible high school student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT		ACT	
Score	Amount	Score	Amount
15	\$36	22	\$286
16	\$71	23	\$321
17	\$107	24	\$357
18	\$143	25	\$393
19	\$179	26	\$428
20	\$214	27	\$464
21	\$250	28 and above	\$500

The authority shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (c) The authority shall commit to provide a supplemental award for achievement on an AP examination as defined in Section 8 of this Act to an eligible high school student who was eligible for free or reduced price meals under the national school meals program as set forth in 42 U.S.C. sec. 1751 et seq. for any year during high school enrollment. The supplemental award for AP examination scores are as follows:

1. Two hundred dollars (\$200) for each score of three (3);
2. Two hundred fifty dollars (\$250) for each score of four (4); and
3. Three hundred dollars (\$300) for each score of five (5).

- (d) The authority shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who are citizens, nationals, or permanent residents of the United States and who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education and Kentucky residents who are citizens, nationals, or permanent residents of the United States and who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class, and students under subsection (2)(c) of this section who do not attend an accredited high school.

Section 12. KRS 164.7881 is amended to read as follows:

- (1) Eligible high school students who have graduated from high school and eligible postsecondary students who have earned a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and a supplemental award, or a supplemental award only pursuant to KRS 164.7879(3)(d)(~~e~~), shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or a supplemental award only for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsections (5) and (6) of this section.
- (2) To receive the Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, an eligible high school or postsecondary student shall:
 - (a) Enroll in and attend a participating institution as a full-time student or a part-time student; and
 - (b) Maintain eligibility as provided in subsection (3) of this section.
- (3) Eligibility for a Kentucky educational excellence scholarship or a Kentucky educational excellence scholarship and supplemental award shall terminate upon the earlier of:
 - (a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or

2007 Regular Session

- (b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, for a cumulative total of eight (8) academic terms if the student enrolls as at least a part-time student in a four (4) year program.
- (4) (a) The maximum award amount shall be determined by the authority and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible postsecondary student for an award period shall be delivered by the authority to the participating institution for disbursement to the eligible postsecondary student.
- (b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible postsecondary student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible postsecondary student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible postsecondary student, except if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period.
- (c)
 1. An eligible postsecondary student who is enrolled full-time in an undergraduate program of study, in the pharmacy program at the University of Kentucky, or in a program of study designated as an equivalent undergraduate program of study by the authority in an administrative regulation, shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study.
 2. To retain the maximum award for the second award period, an eligible postsecondary student shall have at least a 2.5 grade point average at the end of the first award period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the maximum award for the award period in which he or she resumes enrollment.
 3. To retain the maximum award amount for subsequent award periods, an eligible postsecondary student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the same award for the award period in which he or she resumes enrollment as he or she received in the award period in which enrollment was interrupted.
 4. Any eligible postsecondary student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.
 5. Any eligible postsecondary student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.
 6. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each Kentucky educational excellence scholarship recipient enrolled as a full-time or part-time student at the participating institution.
 7. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.
- (5) The expiration of a student's eight (8) academic terms and five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:
 - (a) A serious and extended illness or injury of the student, certified by an attending physician;
 - (b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;
 - (c) Natural disasters that would render a student unable to attend classes; or
 - (d) 1. Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or the Americorps, for the total number of years during which the student was on active duty status. The number of months served on active duty status shall be rounded up to the next higher year to determine the maximum length of eligibility extension allowed[-, for up to three (3) years].

2. A student whose eligibility expired prior to the effective date of this Act due to the three (3) year time limit on eligibility extensions imposed by this paragraph prior to the effective date of this Act shall have his or her eligibility reinstated for the number of years beyond the three (3) years during which he or she was on active duty status. The number of months served on active duty status shall be rounded up to the next higher year to determine the maximum length of eligibility extension allowed.

- (6) An eligible postsecondary student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the authority shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award only for a maximum of ten (10) academic terms. The expiration of an eligible postsecondary student's five (5) year eligibility shall be extended to six (6) years for eligible postsecondary students meeting the requirements of this subsection.
- (7) Each eligible high school student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Senator Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement.

Section 13. KRS 164.7885 is amended to read as follows:

- (1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the authority, a compiled list of all high school students during the academic year. A high school shall report the grade point average of an eligible high school student pursuant to KRS 164.7874 by January 15 following the end of the fall academic term in which the student completed the high school graduation requirements. The list shall identify the high school and shall contain each high school student's name, Social Security number, address, grade point average for the academic year, expected or actual graduation date, ~~and~~ highest ACT score, eligibility status for free or reduced-price lunch and each Advanced Placement examination score. The list need not contain the ACT ~~or Advanced Placement scores~~ ~~score~~ if the authority receives the ~~scores~~ ~~ACT score~~ directly from the testing services. The authority shall notify each eligible high school student of his or her Kentucky educational excellence scholarship award earned each academic year. The authority shall determine the final Kentucky educational excellence scholarship and supplemental award based upon the actual final grade point average, ~~and~~ highest ACT score, and qualifying AP scores and shall notify each eligible twelfth-grade high school student of the final determination. The authority shall make available a list of eligible high school and postsecondary students to participating institutions.
- (2) The authority shall provide data access only to participating institutions that have either received an admission application from an eligible high school or postsecondary student or have been listed by the eligible high school or postsecondary student on the Free Application For Federal Student Aid.
- (3) For each eligible postsecondary student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:
 - (a) The student's initial eligibility for a Kentucky educational excellence scholarship, Kentucky educational excellence scholarship and supplemental award, or supplemental award only pursuant to KRS 164.7879(3)(~~d~~)(~~e~~) through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;
 - (b) The student's highest ACT score attained by the date of graduation from high school, provided that the participating institution need not report the ACT score if the authority receives the ACT score directly from the testing services;
 - (c) The eligible postsecondary student's full-time or part-time enrollment status at the beginning of each academic term; and
 - (d) The eligible postsecondary student's cumulative grade point average after the completion of each award period.
- (4) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible postsecondary students enrolled for that academic term. Kentucky educational excellence scholarships and supplemental awards shall be disbursed by the authority to each eligible postsecondary student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.
- (5) The Kentucky educational excellence scholarship and the supplemental award shall not be reduced, except as provided in KRS 164.7881(4).
- (6) Kentucky educational excellence scholarships and supplemental awards shall not be awarded or disbursed to any eligible postsecondary students who are:
 - (a) In default on any loan under Title IV of the federal act; or
 - (b) Liable for any amounts that exceed annual or aggregate limits on any loan under Title IV of the federal act; or
 - (c) Liable for overpayment of any grant or loan under Title IV of the federal act; or

- (d) In default on any obligation to the authority under any programs administered by the authority until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.
- (7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Kentucky educational excellence scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

The House Committee Substitute to SB 1 is as follows:

SB 1, AN ACT relating to strategies to improve academic achievement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

For the purposes of Sections 2, 3, 4 and 10 of this Act, "advanced science and mathematics" means Advanced Placement calculus, physics, and chemistry, and International Baccalaureate chemistry, physics, mathematical studies, and further mathematics.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) (a) The science and mathematics advancement fund is hereby created to provide incentives for schools to provide or expand student access to rigorous science and mathematics curricula in elementary, middle, and high school and to make available advanced science and mathematics courses and college credit in these disciplines for high school students. Funds shall be used to provide:
1. Payment of fees, expenses and stipends for teachers to participate in summer institutes in advanced science and mathematics;
 2. Monetary support to high schools to provide advanced science and mathematics courses;
 3. Grants to middle schools to support accelerated student learning in science and mathematics;
 4. Professional development opportunities, and payment of expenses and stipends for participation, for elementary school teachers to deepen their content knowledge and improve instructional practice in science and mathematics;
 5. Scholarships for public high school students to take advanced science and mathematics courses through the Kentucky Virtual High School when those courses are not offered at the school in which they are enrolled; and
 6. Grants to school districts for programs to develop and implement an energy technology engineering career track across middle and high schools within the district. The program components may include but not be limited to career exploration and counseling, strategies to increase the rigor of instruction in pertinent core content areas, strategies to link core content to an energy technology career focus, professional development for teachers, and cooperative learning opportunities with industry and postsecondary institutions.
- (b) The fund may receive state appropriations, grants, gifts, federal funds, or any other funds, public or private.
- (c) Funds from the science and mathematics advancement fund shall be distributed after all other funds available for these purposes have been obligated, including state funds, federal funds, or any funds available through a scholarship program administered by the Kentucky Higher Education Assistance Authority.
- (2) The Kentucky Board of Education shall promulgate administrative regulations to define the request for proposal process and the reporting requirements for recipients of funds and to administer the Middle School Mathematics and Science Scholars Program. The Kentucky Department of Education shall administer the science and mathematics advancement fund, develop the criteria application and approval process for the energy technology career path pilot program under subsection (1)(a)6. of this section, approve grant recipients, and distribute the funds to local school districts and other appropriate educational agencies.
- (3) The department shall pay the fees, expenses, and stipends for teachers to participate in summer institutes and follow-up training for advanced science and mathematics courses. The department shall also pay for instructional materials and classroom and laboratory supplies if they are provided to summer institute participants as a component of the program. Priority for training shall be given to teachers working in schools that do not offer an advanced science or mathematics course in their content areas and teachers who have not previously received the training.
- (4) The department shall distribute funds to high schools to support courses in advanced science and mathematics based on a calculation which takes into account:
- (a) An amount based on the number of students enrolled in advanced science and mathematics courses and annual enrollment growth in those courses; and
 - (b) Other factors, including:
 1. Start-up costs for schools initiating a course in advanced science and mathematics;

2. The unmet needs of schools currently offering a course in advanced science and mathematics; and
 3. Ongoing operating expenses need to maintain courses in advanced science and mathematics.
- (5) Funds to support courses in advanced science and mathematics may be used for the purchase of classroom supplies, textbooks, other instructional materials, laboratory equipment, and relevant professional development, including training in providing effective academic support for students enrolled in courses through the Kentucky Virtual High School or other virtual learning settings.
- (6) High schools receiving these funds shall provide assurances that:
- (a) All teachers of advanced science and mathematics courses will participate in a College Board-endorsed AP or International Baccalaureate summer training institute as available; and
 - (b) All students completing AP courses supported by the fund shall take the AP examination and all students enrolled in the International Baccalaureate courses supported by the fund shall take the International Baccalaureate examination in the respective content areas.
- (7) The Kentucky Board of Education shall establish long-term and annual statewide goals for increasing:
- (a) The number of high schools providing rigorous curricula and making available accelerated classes and college credit for students;
 - (b) The number and percentage of students enrolled in and completing AP and International Baccalaureate courses by content area;
 - (c) The number and percentage of students taking the AP and International Baccalaureate examinations in advanced science and mathematics;
 - (d) The number and percentage of students receiving a score of three (3) or better on the AP examinations or five (5) or better on International Baccalaureate examinations in advanced science and mathematics;
 - (e) The number and percentage of students whose families are eligible for free or reduced-price lunch and receiving a score of three (3) or better on AP examinations or five (5) or better on International Baccalaureate examinations;
 - (f) The number of teachers successfully completing a College Board-endorsed AP or International Baccalaureate summer training institute;
 - (g) The number of teachers with the knowledge and training needed to prepare students for high achievement on AP and International Baccalaureate examinations in advanced science and mathematics; and
 - (h) Other criteria determined by the board.
- (8) The Kentucky Department of Education shall develop and conduct a program evaluation framework regarding the use of the science and mathematics advancement fund for the purposes set forth in this section. The program evaluation shall provide information regarding program effectiveness and progress against the statewide goals set by the board under subsection (7) of this section. Beginning in 2007, the department shall submit an annual report by December 1 to the Kentucky Board of Education and the Legislative Research Commission. The report shall include the reporting of trends over time on the indicators established to measure progress against the goals.

SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) As soon as funds are available, the Department of Education shall establish the Middle School Mathematics and Science Scholars Program to increase the number of students entering high school who are well-prepared to undertake rigorous mathematics and science coursework, culminating in successful completion of advanced science and mathematics courses and high achievement on AP and International Baccalaureate examinations.
- (2)
 - (a) The program shall provide two (2) year renewable grants to middle schools to support intensive, accelerated student learning in mathematics and the sciences, to be offered at no cost to participants. Grants shall be used to support activities that may include but not be limited to programs during the school day, after-school programs, Saturday programs, or multiweek summer sessions.
 - (b) The grant application shall ensure that teachers participating in the grant have the skills to provide intensive, accelerated student learning in mathematics or the sciences, and that they will receive ongoing, relevant professional development.
 - (c) A middle school receiving grants shall collaborate with elementary schools from which it receives students, and with high schools to which it sends students to share information on grant activities, strengthen alignment of curricula, content knowledge expectations and instructional practice between schools, and provide relevant professional development opportunities.
- (3) The program shall focus particular attention on identifying and attracting student participants who are members of subpopulations for whom significant academic achievement gaps have been identified, including racial and ethnic minorities, and students with low socioeconomic status.

Section 4. KRS 156.160 is amended to read as follows:

- (1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate

administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

- (a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453 and distributed to local school districts and schools. The administrative regulations shall provide that:
 - 1. If a school offers American sign language, the course shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law; and
 - 2. If a school offers the Reserve Officers Training Corps program, the course shall be accepted as meeting the physical education requirement for high school graduation notwithstanding other provisions of law;
 - (b) As soon as funds are available, courses of study or educational experiences available to students in all middle and high schools to fulfill the prerequisites for courses in advanced science and mathematics as defined in Section 1 of this Act.
 - (c) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;
 - ~~(d)(e)~~ The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;
 - ~~(e)(d)~~ Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;
 - ~~(f)(e)~~ Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;
 - ~~(g)(f)~~ Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;
 - ~~(h)(e)~~ A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a public school, public preschool, or Head Start program;
 - ~~(i)(h)~~ The transportation of children to and from school;
 - ~~(j)(i)~~ The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;
 - ~~(k)(j)~~ The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;
 - ~~(l)(k)~~ A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and
 - ~~(m)(l)~~ The disposal of real and personal property owned by local boards of education.
- (2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:
- 1. An alternative approach will achieve the same result required by the administrative regulation;
 - 2. Implementation of the administrative regulation will cause a hardship on the school district or school or

jeopardize the continuation or development of programs; or

3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;

2. Administrative regulations relating to civil rights;

3. Administrative regulations required by federal law; and

4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

(4) Any public school that violates the provisions of KRS 158.854 shall be subject to a penalty to be assessed by the commissioner of education as follows:

(a) The first violation shall result in a fine of no less than one (1) week's revenue from the sale of the competitive food;

(b) Subsequent violations shall result in a fine of no less than one (1) month's revenue from the sale of the competitive food;

(c) "Habitual violations," which means five (5) or more violations within a six (6) month period, shall result in a six (6) month ban on competitive food sales for the violating school; and

(d) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

Section 5. KRS 156.553 is amended to read as follows:

(1) The teachers' professional growth fund is hereby created to provide teachers with high quality professional development in content knowledge in mathematics, reading, science, language arts, social studies, arts and humanities, practical living, vocational studies, and foreign languages; classroom-based screening, diagnostic, assessment, and intervention strategies; and teaching methodologies. Based on available funds, student achievement data, and teacher data, the Kentucky Board of Education shall annually determine the priority for content emphasis based on the greatest needs.

(2) (a) The fund may provide moneys to teachers for:

1. Tuition reimbursement for successful completion of college or university level courses, including on-line courses and seminars, approved for this purpose by the Education Professional Standards Board;

2. Stipends for participation in and successful completion of:

a. College or university courses, including on-line courses and seminars, approved for this purpose by the Education Professional Standards Board;

b. Teacher institutes developed for core content instructors by the Department of Education in compliance with KRS 156.095; and

c. Other professional development programs approved by the Kentucky Department of Education, including professional development for teachers participating in grants awarded by the Middle School Mathematics and Science Scholars Program established under Section 3 of this Act;

3. Reimbursement for the purchase of materials required for professional development programs; and

4. Reimbursement for other approved professional development activities throughout the school year, including reimbursement for:

a. Travel to and from professional development workshops; and

b. Travel to and from other schools for the observation of, and consultation with, peer mentors; or

(b) The fund may be used to provide grants to local school districts to support staff participation in specific, statewide initiatives for the professional development of teachers and administrators in specific content areas as established by the Kentucky Department of Education and the Kentucky Board of Education under the provisions of subsections (4), (5), and (6) of this section and referenced in KRS 158.842.

(c) The fund may be used to provide grants to colleges and universities to plan and develop statewide professional development institutes and other professional development services.

(d) The fund may be used to provide grants to local school districts, to colleges and universities, or other entities to assist the Kentucky Department of Education in evaluating costs and the effectiveness of activities and initiatives established under this section.

- (3) The Education Professional Standards Board shall determine the college and university courses, including on-line courses and seminars, for which teachers may receive reimbursement from the fund.
- (4) The Department of Education shall:
 - (a) Administer the fund. In order to process reimbursements to teachers promptly, the reimbursements shall not be subject to KRS 45A.690 to 45A.725;
 - (b) Determine the professional development programs for which teachers may receive reimbursement, or districts or colleges and universities may receive grants, from the fund;
 - (c) Determine the level of stipend or reimbursement, subject to the availability of appropriated funds, for particular courses and programs, under subsection (2) of this section; and
 - (d) Provide an accounting of fund expenditures and results of the use of the funds for each biennium to the Interim Joint Committee on Education by November 1 of each odd-numbered year.
- (5) The professional development programs approved by the Department of Education for which teachers may receive support from the fund shall:
 - (a) Focus on improving the content knowledge of teachers;
 - (b) Provide training in the use of research-based and developmentally appropriate classroom-based screening, diagnostic, assessment, and intervention strategies;
 - (c) Provide instruction on teaching methods to effectively impart content knowledge to all students;
 - (d) Include intensive training institutes and workshops during the summer;
 - (e) Provide programs for the ongoing support of teacher participants throughout the year, which may include:
 - 1. A peer coaching or mentoring, and assessment program; and
 - 2. Planned activities, including:
 - a. Follow-up workshops; and
 - b. Support networks of teachers of the core disciplines using technologies, including but not limited to telephone, video, and on-line computer networks; and
 - (f) Provide teacher participants with professional development credit toward renewal of certification under the provisions of KRS 161.095, relating to continuing education for teachers.
- (6) The Kentucky Board of Education shall specify through promulgation of administrative regulations:
 - (a) The application and approval process for receipt of funds;
 - (b) The requirements and process for the disbursement of funds; and
 - (c) The number of each kind of approved course for which applicants may receive funds.
- (7) Notwithstanding any other provisions to the contrary, a local school board may advance the funds necessary for its teachers to participate in a college course or professional development seminar or activity approved by the Kentucky Department of Education and the Education Professional Standards Board under provisions of this section and receive reimbursement from the department at the conclusion of the activity or course by the teacher. If funds are advanced for the benefit of a teacher under this subsection, but the teacher does not fulfill his or her obligation, the teacher shall reimburse the school district for the funds expended by the district on the teacher's behalf.
- (8) Notwithstanding the provisions of KRS 45.229, unexpended funds in the teachers' professional growth fund in the 2000-2001 fiscal year or in any subsequent fiscal year shall not lapse but shall carry forward to the next fiscal year and shall be used for the purposes established in subsections (1) and (2) of this section.
- (9) Notwithstanding any provisions of this section to the contrary, beginning June 1, 2006, through the 2009-2010 school year, priority for the use of funds from the teachers' professional growth fund shall be used to train and support teams of teachers from all school levels to be trained as reading coaches and mentors or as mathematics coaches and mentors in statewide institutes referenced in KRS 158.840 and 158.842, and for selected teachers to be highly trained in providing diagnostic assessment and intervention services for students in the primary program struggling with mathematics.
 - (a) The design of the statewide mathematics institutes to train mathematics coaches and mentors shall be developed by the Committee for Mathematics Achievement established in KRS 158.842. The committee shall provide recommendations to the Kentucky Department of Education and the Kentucky Board of Education in the preparation of administrative regulations that may be promulgated by the board to implement the provisions of this subsection relating to mathematics.
 - (b) The design of the professional development program to provide highly trained mathematics intervention teachers in the primary program shall be developed by the Center for Mathematics in collaboration with public and private institutions of postsecondary education.
 - (c) The development of the statewide program to train reading coaches and mentors shall be coordinated by the Kentucky Department of Education with recommendations from the Collaborative Center for Literacy Development, established in KRS 164.0207, and the reading steering committee established in KRS 158.794. The

design of the program shall reflect a consensus of the agencies involved in the development of the program. The training program for reading coaches and mentors shall complement other statewide reading initiatives, funded with state and federal funds, and shall give priority to teachers in grades four (4) through twelve (12). The program shall be implemented no later than June 1, 2006. The board shall promulgate administrative regulations required to implement the provisions of this subsection relating to reading.

Section 6. KRS 156.555 is amended to read as follows:

- (1) The Center for Middle School Academic Achievement is created to improve the content knowledge and instructional practice of middle school teachers through the coordination of professional development programs for middle school teachers, the provision of technical assistance to schools and teachers, and the collection and dissemination of information and research regarding effective models of teaching the core disciplines to middle school students.
- (2) The center shall:
 - (a) Foster collaboration between the center, the Department of Education, the Education Professional Standards Board, postsecondary institutions of education, postsecondary departments or colleges of arts and sciences, and other entities to develop content-based teacher preparation programs and ongoing professional development programs for middle school teachers, aligned with the Department of Education's core content for assessment;
 - (b) Assist school districts in assessing and addressing their needs and deficiencies in middle school curriculum and instruction;
 - (c) Assist grant recipients of the Middle School Mathematics and Science Scholars Program established under Section 3 of this Act with professional development for participating teachers;
 - (d) Assist middle school teachers in establishing and maintaining networks of communication to share information regarding middle school instructional practice, curriculum development, and other areas of common interest, building upon existing networks;
 - ~~(e)~~ Develop and maintain a clearinghouse for information about:
 1. Educational models addressing content knowledge and skills of middle school students, based on reliable, replicable research;
 2. Core content achievement levels of Kentucky students in relation to students in other states and other countries; and
 3. The relationship between student achievement levels and curriculum content, curriculum structure and alignment with content, teacher training, and teaching methods;
 - ~~(f)~~ Develop and implement a research structure, in collaboration with the Department of Education, to evaluate the effectiveness of different middle school instructional models; and
 - ~~(g)~~ Submit an annual report to the Governor and the Legislative Research Commission by September 1 of each year. The report shall include information outlining the center's activities, information provided by the Kentucky Department of Education regarding the use of money from the Teachers' Professional Growth Fund, and other information regarding efforts to improve the quality of middle school instruction in Kentucky.
- (3) With the advice of the commissioner of education and the Education Professional Standards Board, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Center for Middle School Academic Achievement at a public or private college or university. The council shall choose a college or university that has demonstrated the coordination of course delivery between the faculties of the college of education and arts and sciences departments within the college or university. The council shall approve the location for the center no later than November 15, 2000.

Section 7. KRS 158.007 is amended to read as follows:

As used in KRS Chapter 158 unless the context requires otherwise:

- (1) "Advanced Placement" or "AP" means a college-level course that incorporates all topics and instructional strategies specified by~~for~~ the College Board ~~[Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board]~~ on its standard syllabus for a given subject area and is licensed by the College Board.
- (2) "Advanced science and mathematics" means Advanced Placement calculus, physics, and chemistry, and International Baccalaureate chemistry, physics, mathematical studies, and further mathematics.
- (3) "Board" means the Kentucky Board of Education.
- ~~(4)~~ "College Board Advanced Placement examination" means the Advanced Placement test administered by the College Entrance Examination Board.
- ~~(5)~~ "College Board" means the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and Advanced Placement examinations.
- ~~(6)~~ "Core curriculum" means at least one (1) course in science, one (1) course in mathematics, and at least one (1) course in two (2)~~four (4)~~ of the ~~six (6)~~ following subject areas: English,~~science, mathematics,~~ social studies, foreign

language, and the arts.

~~(7)(6)~~ "Department" means the Kentucky Department of Education.

~~(8)(7)~~ "Dual credit" means a college-level course of study developed in accordance with KRS 164.098 in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study.

~~(9)(8)~~ "Dual enrollment" means a college-level course of study developed in accordance with KRS 164.098 in which a student is enrolled in a high school and postsecondary institution simultaneously.

~~(10)(9)~~ "International Baccalaureate" means the International Baccalaureate Organization's Diploma Programme, a comprehensive two (2) year program designed for highly motivated students.

~~(11)(10)~~ "Kentucky Virtual High School" means secondary-level instructional programs or courses offered by the Kentucky Department of Education through the Internet and other on-line, computer-based methods.

~~(12)(11)~~ "Kentucky Virtual University" means a college-level instructional program offered by the Council on Postsecondary Education through the Internet or other on-line, computer-based methods.

Section 8. KRS 158.622 is amended to read as follows:

- (1) ~~[By December 31, 2002,]~~The Kentucky Board of Education shall promulgate administrative regulations establishing the criteria a school shall meet in order to designate a course an Advanced Placement course, including content and program standards concerning student admission criteria, data collection, and reporting.
- (2) Upon receipt of adequate federal funding for these purposes, by December 31, 2002, the Department of Education shall:
 - (a) Expand Advanced Placement teacher training institutes, including offering Advanced Placement teacher training instruction and assistance through the Kentucky Virtual High School or in conjunction with the Council on Postsecondary Education through the Kentucky Virtual University;
 - (b) Require teachers who are planning to participate in Advanced Placement teacher training and complete Advanced Placement training at Advanced Placement institutes facilitated by the department to sign an agreement to teach at least one (1) Advanced Placement course in a Kentucky public school or the Kentucky Virtual High School when assigned by the school principal;
 - (c) Develop the Kentucky Virtual Advanced Placement Academy which shall offer school districts and their students access to a core Advanced Placement curriculum through the Kentucky Virtual High School;
 - (d) Identify, in conjunction with the Council on Postsecondary Education, resources at the secondary and postsecondary levels that can be directed toward Advanced Placement or dual enrollment instruction;
 - (e) Compare the costs of offering Advanced Placement courses through traditional on-site instruction, the Kentucky Virtual High School, and other methods and shall offer each school district assistance, if requested, in analyzing how the school district can most cost-effectively offer the largest number of Advanced Placement courses;
 - (f) Identify current and future funding sources for Advanced Placement or dual enrollment instructional programs and the amount of funds available or anticipated from those sources; and
 - (g) Submit a report to the Kentucky General Assembly outlining compliance with this section.
- (3) ~~[Beginning with the 2002-2003 school year and thereafter,]~~Each school district shall:
 - (a) Accept for credit toward graduation any course a student successfully completes through the Kentucky Virtual High School and incorporate the grade the student receives in a Kentucky Virtual High School course in calculating that student's grade point average without distinction between the grade received in the Kentucky Virtual High School course and courses taught within the school district for which the student receives a grade;
 - (b) Accept for credit toward graduation and completion of high school course requirements an Advanced Placement, a high school equivalent, or a Kentucky Virtual High School course taken by a student in grades 5, 6, 7, or 8 if that student attains performance levels expected of high school students in that district as determined by achieving a score of "3" or higher on a College Board Advanced Placement examination or a grade of "B" or better in a high school equivalent or a Kentucky Virtual High School course; and
 - (c) Pay tuition and other costs for students from their districts who are enrolled in a Kentucky Virtual High School course for credit that is part of the student's regular school day coursework by proportionately sharing funds generated under KRS 157.360 or other funding sources.

Section 9. KRS 158.6453 is amended to read as follows:

- (1) The Kentucky Board of Education shall be responsible for creating and implementing a statewide assessment program to be known as the Commonwealth Accountability Testing System to ensure school accountability for student achievement of the goals set forth in KRS 158.645 and 158.6451. The board shall seek the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability in the development of the program. The statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.

- (2) The assessment program shall include the following components:
- (a) A customized or commercially available norm-referenced test that measures, to the extent possible, the core content for assessment. The test shall provide valid and reliable results for individual students;
 - (b) Open-response or multiple-choice items, or both, to assess student skills in reading, mathematics, science, social studies, the arts, the humanities, and practical living and vocational studies; and an on-demand assessment of student writing. These assessments shall measure, to the extent possible, the core content for assessment;
 - (c) Writing portfolios consisting of samples of student work. After receiving the advice of the Writing Advisory Committee, the Kentucky Board of Education shall, by September 1 following April 14, 1998, file a notice of intent to promulgate an administrative regulation which reduces the teacher and student time involved in preparing a writing portfolio. Time reduction strategies included in the administrative regulation may include, but are not limited to, limiting the time spent on a single portfolio entry, limiting the number of revisions, or collecting entries at different grade levels;
 - (d) Performance assessment events for schools that have students enrolled in performing arts organizations sponsoring sanctioned events with an established protocol for adjudication; and
 - (e) A technically sound longitudinal comparison of the assessment results for the same students.
- (3) The provisions of subsection (2) of this section shall apply to elementary schools, and shall also apply to middle and high schools, except as provided in subsections (4) to (8) of this section.
- (4) No later than the 2007-2008 school year, and each year thereafter, the following provisions shall apply to the assessment program for middle and high schools:
- (a) The assessment program shall include:
 - 1. A high school readiness examination to assess English, reading, mathematics, and science in grade eight (8);
 - 2. A college readiness examination to assess English, reading, mathematics, and science in grade ten (10);
 - 3. The ACT college admissions and placement examination to assess English, reading, mathematics, and science, to be taken by all students in grade eleven (11); and
 - 4. Any other component necessary to comply with the No Child Left Behind Act of 2001, 20 U.S.C. sec. 6301 et seq., as determined by the United States Department of Education;
 - (b)
 - 1. A student whose scores on the high school readiness examination administered in grade eight (8) indicate a high degree of readiness for high school shall be counseled to enroll in accelerated courses; and
 - 2. A student whose scores on the college readiness examination administered in grade ten (10) or the ACT college admissions and placement examination administered in grade eleven (11) indicate a high degree of readiness for college shall be counseled to enroll in accelerated courses, with an emphasis on Advanced Placement classes;
 - (c) The cost of the initial ACT examination administered to students in grade eleven (11) shall be paid for by the Kentucky Department of Education. The costs of additional ACT examinations shall be the responsibility of the student; and
 - (d) The components of the middle and high school assessment program set forth in paragraph (a) of this subsection shall be administered in lieu of a customized or commercially available norm-referenced test under subsection (2)(a) of this section.
- (5) No later than the 2007-2008 school year, and each year thereafter, students in grades ten (10), eleven (11), and twelve (12) may take the WorkKeys assessments from ACT, Inc. in reading for information, locating information, and applied mathematics.
- (a) The costs of the initial WorkKeys assessments shall be paid by the Kentucky Department of Education. The cost of additional WorkKeys assessments shall be the responsibility of the student.
 - (b) A student whose scores on the WorkKeys assessments indicate that additional assistance is required in reading for information, locating information, or applied mathematics shall have intervention strategies for accelerated learning incorporated into his or her learning plan.
 - (c) A student meeting the WorkKeys threshold established by the Department of Workforce Investment shall be issued the appropriate Kentucky employability certificate.
- (6)
- (a) The Kentucky Department of Education shall conduct periodic studies comparing the standards in reading, mathematics, and science for middle and high schools within the Kentucky core content for assessment and the concepts and content measured by the ACT and the high school and college readiness examinations under subsection (4)(a) of this section.
 - (b) If the department determines that reading, mathematics, and science assessments required under subsection (4)(a) of this section are shown to provide direct measures of content standards and concepts identified in the Kentucky core content for assessment, the Kentucky Board of Education shall seek the advice of the Office of Education

Accountability, the School Curriculum, Assessment, and Accountability Council, and the National Technical Advisory Panel on Assessment and Accountability regarding reducing the number of questions on the Commonwealth Accountability Testing System.

- (c) The Kentucky Department of Education shall continue to include open-response or multiple-choice items, or both, that assess student knowledge and skills in reading, mathematics, and science to the degree necessary for adequate coverage of the elements of the Kentucky core content for assessment not covered by the examinations.
- (7) Accommodations provided by ACT, Inc. to a student with a disability taking the assessments under subsection (4)(a)3. of this section shall consist of:
 - (a) Accommodations provided in a manner allowed by ACT, Inc. when results in test scores are reportable to a postsecondary institution for admissions and placement purposes, except as provided in paragraph (b) of this subsection; or
 - (b) Accommodations provided in a manner allowed by a student's individualized education program as defined in KRS 158.281 for a student whose disability precludes valid assessment of his or her academic abilities using the accommodations provided under paragraph (a) of this subsection when the student's scores are not reportable to a postsecondary institution for admissions and placement purposes.
- (8) The assessments under subsections (4) and (5) of this section shall be known as the "Kentucky Work and College Readiness Examination" or "Readiness Examination."
- (9) Kentucky teachers shall have a significant role in the design of the assessments. The assessments shall be designed to:
 - (a) Measure grade appropriate core academic content, basic skills, and higher-order thinking skills and their application. The assessment shall measure the core content for assessment used by the Department of Education during the 1997-98 school year. Any revisions to the core content for assessment shall be developed through a public process involving parents; educators at the elementary, secondary, and postsecondary education levels; professional education advocacy groups and organizations; and business and civic leaders and shall be distributed to all public schools;
 - (b) Provide valid and reliable scores for schools. If scores are reported for students individually, they shall be valid and reliable; and
 - (c) Minimize the time spent by teachers and students on assessment.
- (10) Results from the state assessment under this section shall be reported to the school districts and schools no later than one hundred fifty (150) days following the first day the assessment can be administered.
- (11) The Department of Education shall gather information to establish the validity of the assessment and accountability program. It shall develop a biennial plan for validation studies that shall include but not be limited to the consistency of student results across multiple measures, the congruence of school scores with documented improvements in instructional practice and the school learning environment, and the potential for all scores to yield fair, consistent, and accurate student performance level and school accountability decisions. Validation activities shall take place in a timely manner and shall include a review of the accuracy of scores assigned to students and schools, as well as of the testing materials. The plan shall be submitted to the Commission by July 1 of the first year of each biennium. A summary of the findings shall be submitted to the Legislative Research Commission by September 1 of the second year of the biennium.
- (12) In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress. The continuous assessment shall provide diagnostic information to improve instruction to meet the needs of individual students.
- (13) The Kentucky Board of Education, after the Department of Education has received advice from the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation under KRS Chapter 13A to establish the components of a reporting structure for assessments administered under this section. The reporting structure shall include the following components:
 - (a) A school report card that clearly communicates with parents and the public about school performance. The school report card shall be sent to the parents of the students of the districts, and a summary of the results for the district shall be published in the newspaper with the largest circulation in the county. It shall include but not be limited to the following components reported by race, gender, and disability when appropriate:
 - 1. Student academic achievement, including the results from each of the assessments administered under this section;
 - 2. **For Advanced Placement and International Baccalaureate, the courses offered, the number of students enrolled, completing, and taking the examination for each course, and the percentage of examinees receiving a score of three (3) or better on AP examinations or a score of five (5) or better on International Baccalaureate examinations. The data shall be disaggregated by gender, race, students with disabilities, and economic status;**

3. Nonacademic achievement, including the school's attendance, retention, dropout rates, and student transition to adult life; and
 - 4.~~[3-]~~ School learning environment, including measures of parental involvement;
- (b) An individual student report to parents for each fifth-grade student summarizing the student's readiness in reading and mathematics based on the student's fourth-grade state assessment results. The school's fifth-grade staff shall develop a plan for accelerated learning for any student with identified deficiencies;
 - (c) An individual report for each student who takes a high school or college readiness examination administered under subsection (4)(a) of this section that:
 1. Provides the student's test scores;
 2. Provides a judgment regarding whether or not a student has met or failed to meet the expectations for each standard assessed; and
 3. Is designed to assist students, parents, and teachers to identify, assess, and remedy academic deficiencies prior to high school graduation; and
 - (d) A student's scores on the ACT examination or WorkKeys assessments administered under subsections (4)(a) and (5) of this section and the ACT examination under KRS 158.6459(5) shall be recorded on his or her official high school transcript.

Section 10. KRS 160.348 is amended to read as follows:

- (1) (a) The Kentucky Department of Education shall make available to middle and high schools information concerning the prerequisite content necessary for success in secondary, Advanced Placement, and International Baccalaureate courses. The department shall provide sample syllabi, instructional resources, and instructional supports for teachers that will assist in preparing students for more rigorous coursework. Instructional supports shall include professional development for assisting students enrolled in the Kentucky Virtual high school or other virtual learning settings.
- (b) ~~[Beginning with the 2003-2004 school year and thereafter,]~~ Each secondary school-based decision making council shall offer a core curriculum of advanced placement, International Baccalaureate, dual enrollment, or dual credit courses, using either or both on-site instruction or electronic instruction through the Kentucky Virtual High School or other on-line alternatives. In addition, each school-based decision making council shall comply with any additional requirements for advanced placement, International Baccalaureate, dual enrollment, and dual credit courses that may be established cooperatively by the Kentucky Department of Education, the Education Professional Standards Board, and the Council on Postsecondary Education in accordance with the definitions in KRS 158.007.
- (2) Each secondary school-based decision making council shall establish a policy on the recruitment and assignment of students to advanced placement, International Baccalaureate, dual enrollment, and dual credit courses that recognizes that all students have the right to participate in a rigorous and~~[be]~~ academically challenging curriculum~~[challenged and should be encouraged to participate in these courses]~~. All students who are willing to accept the challenge of a rigorous academic curriculum shall be admitted to Advanced Placement courses, including Advanced Placement courses offered through the Kentucky Virtual High School and accepted for credit toward graduation under subsection (3)(a) of Section 8 of this Act, International Baccalaureate, dual enrollment, and dual credit courses, provided they have the prerequisite courses. If a school does not offer an AP course in a particular subject area, the school shall permit a student with the prerequisite coursework to enroll in the AP course offered by the Kentucky Virtual High School and receive credit toward graduation under subsection 3(a) of Section 8 of this Act.
- (3) As soon as funds are available, students enrolled in AP or International Baccalaureate courses in the public schools shall have the cost of the examinations paid by the Department of Education.
- (4) All middle school students shall have access to a rigorous and academically challenging curriculum.
 - (a) Each middle school shall establish a policy on the recruitment and assignment of students to secondary coursework, including but not limited to algebra, biology, chemistry, or physics.
 - (b) Each middle school shall make available the secondary courses by offering the course with an appropriately certified teacher, through arrangements with a high school, or the Kentucky Virtual High School or other distance learning option.
 - (c) All middle school students who are willing to accept the challenge of a rigorous curriculum shall be admitted provided they have the prerequisite coursework or knowledge and skills.

Section 11. KRS 164.002 is amended to read as follows:

As used in KRS Chapter 164, unless the context requires otherwise:

- (1) "Advanced Placement" or "AP" means a college-level course that incorporates all topics and instructional strategies specified by~~[for] the College Board~~ Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board on its standard syllabus for a given subject area and is licensed by the College Board.

2007 Regular Session

- (2) "College Board Advanced Placement examination" means the Advanced Placement test administered by the College Entrance Examination Board.
- (3) "College Board" means the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and Advanced Placement examinations.
- (4) "Dual credit" means a college-level course of study developed in accordance with KRS 164.098 in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study.
- (5) "Dual enrollment" means a college-level course of study developed in accordance with KRS 164.098 in which a student is enrolled in a high school and postsecondary institution simultaneously.
- (6) "International Baccalaureate" means the International Baccalaureate Organization's Diploma Programme, a comprehensive two (2) year program designed for highly motivated students.

Section 12. KRS 164.098 is amended to read as follows:

~~{By December 31, 2002:}~~

- (1) The Council on Postsecondary Education shall promulgate administrative regulations that require public postsecondary educational institutions~~[-beginning with the 2003-2004 school year,]~~ to grant credit toward graduation to a student who scores at least "3" on a College Board Advanced Placement examination.
- (2) The Council on Postsecondary Education shall publish information, in print and electronic format, about the scores required on College Board Advanced Placement examinations at which credit toward graduation and completion of degree requirements will be granted at all Kentucky public and private postsecondary educational institutions.
- (3) The Council on Postsecondary Education, in conjunction with the Kentucky Board of Education and the Education Professional Standards Board, shall develop guidelines for content knowledge and teacher training in dual enrollment and dual credit programs offered in Kentucky.

Section 13. KRS 164.525 is amended to read as follows:

- (1) The Center for Mathematics is hereby created to make available professional development for teachers in reliable, research-based diagnostic assessment and intervention strategies, coaching and mentoring models, and other programs in mathematics. The center shall be headed by an executive director and administered by a public postsecondary education institution. The center shall:
 - (a) Act as a clearinghouse for information about professional development programs for teachers that address mathematics diagnostic assessment, intervention programs, coaching and mentoring programs, and other instructional strategies to address students' needs;
 - (b) Collaborate with Kentucky's other public and private postsecondary institutions to develop teachers' mathematical knowledge needed for teaching and help teachers improve students' mathematical concepts, thinking, problem-solving, and skills, with an emphasis on diagnostic assessment and intervention programs for students in the primary program;
 - (c) Provide teacher training to develop teacher leaders and teaching specialists in primary programs who have skills in diagnostic assessment and intervention services to assist struggling students or those who are at risk of failure in mathematics. The center may contract for services in order to carry out this responsibility;
 - (d) Maintain a demonstration and training site for mathematics located at each of the public universities;
 - (e) Advise the Kentucky Department of Education and Kentucky Board of Education regarding:
 - 1. Early mathematics content, diagnostic assessment practices, and intervention programs;
 - 2. Costs and effectiveness of various mathematics intervention programs;
 - 3. Coaching and mentoring models that help improve student achievements;~~[-and]~~
 - 4. Trends and issues relating to mathematics programs in schools throughout the state;~~[-and]~~
 - 5. The establishment and implementation of the Middle School Mathematics and Science Scholars Program established under Section 3 of this Act; and
 - (f) Disseminate information to teachers, administrators, and policymakers on an ongoing basis.
- (2) The Council on Postsecondary Education shall select a location for the center no later than January 1, 2006. The council shall use a request for proposal process. In developing the request for proposal, the council shall seek advice from the Committee for Mathematics Achievement created in KRS 158.842 and the commissioner of education. The center shall be located at the selected university through July 1, 2011, unless funding is not available, the council deems the performance of the institute to be inadequate, or the university requests to discontinue its relationship to the institute. Contingent upon available funding at the end of the initial cycle, and each five (5) year period thereafter, the council shall issue a request for proposal to all public postsecondary education institutions to administer the center.

Section 14. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

- (1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the authority;
- (2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;
- (3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the authority, on the Scholastic Assessment Test;
- (4) "Authority" means the Kentucky Higher Education Assistance Authority;
- (5) "Award period" means two (2) consecutive academic terms;
- (6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;
- (7) "Council" means the Council on Postsecondary Education created under KRS 164.011;
- (8) "Eligible high school student" means any person who:
 - (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;
 - (b) Was enrolled after July 1, 1998:
 1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year; or
 2. In a Kentucky high school for the fall academic term of the senior year and who:
 - a. Was enrolled during the entire academic term;
 - b. Completed the high school's graduation requirements during the fall academic term; and
 - c. Was not enrolled in a secondary school during any other academic term of that academic year; and
 3. Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and
 - (c) Is not a convicted felon;
- (9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:
 - (a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;
 - (b) Has the required postsecondary G.P.A. required under KRS 164.7881;
 - (c) Has remaining semesters of eligibility under KRS 164.7881;
 - (d) Is enrolled in a participating institution as a part-time or full-time student; and
 - (e) Is not a convicted felon;
- (10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;
- (11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;
- (12) "High school" means any Kentucky public high school, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;
- (13) "KEES" means Kentucky educational excellence scholarship;
- (14) "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection (8)(b)2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the authority;
- (15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;
- (16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;
- (17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)~~(d)~~~~(e)~~. The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;
- (18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the

administration of its programs, and:

- (a)
 1. Is publicly operated; or
 2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or
 3. Is designated by the authority as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and
 - (b) Continues to commit financial resources to student financial assistance programs;
- (19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and
- (20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Section 15. KRS 164.7879 is amended to read as follows:

- (1) Kentucky educational excellence scholarship awards shall be based upon an established base scholarship amount and an eligible high school student's grade point average. The base scholarship amount for students attaining a grade point average of at least 2.5 for the 1998-1999 academic year shall be as follows:

GPA	Amount	GPA	Amount
2.50	\$125.00	3.30	\$325.00
2.60	\$150.00	3.40	\$350.00
2.70	\$175.00	3.50	\$375.00
2.75	\$187.00	3.60	\$400.00
2.80	\$200.00	3.70	\$425.00
2.90	\$225.00	3.75	\$437.00
3.00	\$250.00	3.80	\$450.00
3.10	\$275.00	3.90	\$475.00
3.20	\$300.00	4.00	\$500.00
3.25	\$312.00		

The authority shall review the base amount of the Kentucky educational excellence scholarship each academic year and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (2) (a) The authority shall commit to provide to each eligible high school student the base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average. The award shall be based upon the eligible high school student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible high school student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence scholarship through the promulgation of an administrative regulation by the authority.
- (b) Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874, any high school student who maintains Kentucky residency and completes the academic courses that are required for a Kentucky educational excellence scholarship while participating in an approved educational high school foreign exchange program or participating in the United States Congressional Page School may apply his or her grade point average for that academic year toward the base as described in paragraph (a) of this subsection. The grade point average shall be reported by the student's Kentucky home high school, based on an official transcript from the school that the student attended during the out-of-state educational experience. The authority shall promulgate administrative regulations that describe the approval process for the educational exchange programs that qualify under this paragraph. The provisions in this paragraph shall likewise apply to any Kentucky high school student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.
- (c) 1. Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874 and the requirement that a student graduate from a Kentucky high school, a high school student who completes the KEES curriculum while attending an accredited out-of-state high school or Department of Defense school may apply the grade point average for any applicable academic year toward the base as described in paragraph (a) of this subsection and shall also qualify for a supplemental award under subsection (3) of this section when:
- a. His or her custodial parent or guardian is in active service of the Armed Forces of the United States;

and

- b. The custodial parent or guardian maintained Kentucky as the home of record at the time the student attended an accredited out-of-state high school or a Department of Defense school.
2. The student or parent shall arrange for the out-of-state school to report the student's grade point average each academic year and the student's highest ACT score to the authority as required under KRS 164.7885. The authority shall promulgate administrative regulations implementing the requirements in this paragraph, including:
 - a. The documentation that the parent shall submit to the authority establishing the student's eligibility for the scholarship; and
 - b. The assurances that an out-of state institution shall submit to the authority for submission of the student grade point average.
3. The provisions in this paragraph shall apply to the 2001-2002 school year and thereafter.

- (3) (a) The authority shall commit to provide to each eligible high school student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Annual Bonus	ACT Score	Annual Bonus
15	\$21	22	\$171
16	\$43	23	\$193
17	\$64	24	\$214
18	\$86	25	\$236
19	\$107	26	\$257
20	\$129	27	\$279
21	\$150	28 or above	\$300

Subsequent supplemental awards for eligible high school students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

- (b) The authority shall commit to provide to each eligible high school student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Amount	ACT Score	Amount
15	\$36	22	\$286
16	\$71	23	\$321
17	\$107	24	\$357
18	\$143	25	\$393
19	\$179	26	\$428
20	\$214	27	\$464
21	\$250	28 and above	\$500

The authority shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (c) The authority shall commit to provide a supplemental award for achievement on examinations for Advanced Placement or International Baccalaureate as defined in Section 11 of this Act to an eligible high school student whose family was eligible for free or reduced price lunch for any year during high school enrollment.

1. The supplemental award for AP examination scores are as follows:

- a. Two hundred dollars (\$200) for each score of three (3);
- b. Two hundred fifty dollars (\$250) for each score of four (4); and
- c. Three hundred dollars (\$300) for each score of five (5).

2. The supplemental award for International Baccalaureate examination scores are as follows:

- a. Two hundred dollars (\$200) for each score of five (5);

b. Two hundred fifty dollars (\$250) for each score of six (6); and

c. Three hundred dollars (\$300) for each score of seven (7).

- (d)** The authority shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who are citizens, nationals, or permanent residents of the United States and who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education and Kentucky residents who are citizens, nationals, or permanent residents of the United States and who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class, and students under subsection (2)(c) of this section who do not attend an accredited high school.

Section 16. KRS 164.7881 is amended to read as follows:

- (1) Eligible high school students who have graduated from high school and eligible postsecondary students who have earned a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and a supplemental award, or a supplemental award only pursuant to KRS 164.7879(3)(~~d~~)(~~e~~), shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or a supplemental award only for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsections (5) and (6) of this section.
- (2) To receive the Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, an eligible high school or postsecondary student shall:
 - (a) Enroll in and attend a participating institution as a full-time student or a part-time student; and
 - (b) Maintain eligibility as provided in subsection (3) of this section.
- (3) Eligibility for a Kentucky educational excellence scholarship or a Kentucky educational excellence scholarship and supplemental award shall terminate upon the earlier of:
 - (a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or
 - (b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, for a cumulative total of eight (8) academic terms if the student enrolls as at least a part-time student in a four (4) year program.
- (4)
 - (a) The maximum award amount shall be determined by the authority and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible postsecondary student for an award period shall be delivered by the authority to the participating institution for disbursement to the eligible postsecondary student.
 - (b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible postsecondary student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible postsecondary student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible postsecondary student, except if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period.
- (c)
 1. An eligible postsecondary student who is enrolled full-time in an undergraduate program of study, in the pharmacy program at the University of Kentucky, or in a program of study designated as an equivalent undergraduate program of study by the authority in an administrative regulation, shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study.
 2. To retain the maximum award for the second award period, an eligible postsecondary student shall have at least a 2.5 grade point average at the end of the first award period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the maximum award for the award period in which he or she resumes enrollment.
 3. To retain the maximum award amount for subsequent award periods, an eligible postsecondary student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the same award for the award period in which he or she resumes enrollment as he or she received in the award period in which enrollment was interrupted.

4. Any eligible postsecondary student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period.
 5. Any eligible postsecondary student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.
 6. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each Kentucky educational excellence scholarship recipient enrolled as a full-time or part-time student at the participating institution.
 7. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.
- (5) The expiration of a student's eight (8) academic terms and five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:
- (a) A serious and extended illness or injury of the student, certified by an attending physician;
 - (b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;
 - (c) Natural disasters that would render a student unable to attend classes; or
 - (d) 1. Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or the Americorps, *for the total number of years during which the student was on active duty status. The number of months served on active duty status shall be rounded up to the next higher year to determine the maximum length of eligibility extension allowed*~~[, for up to three (3) years].~~
 2. A student whose eligibility expired prior to the effective date of this Act due to the three (3) year time limit on eligibility extensions imposed by this paragraph prior to the effective date of this Act shall have his or her eligibility reinstated for the number of years beyond the three (3) years during which he or she was on active duty status. The number of months served on active duty status shall be rounded up to the next higher year to determine the maximum length of eligibility extension allowed.
- (6) An eligible postsecondary student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the authority shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award only for a maximum of ten (10) academic terms. The expiration of an eligible postsecondary student's five (5) year eligibility shall be extended to six (6) years for eligible postsecondary students meeting the requirements of this subsection.
- (7) Each eligible high school student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Senator Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement.
- Section 17. KRS 164.7885 is amended to read as follows:
- (1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the authority, a compiled list of all high school students during the academic year. A high school shall report the grade point average of an eligible high school student pursuant to KRS 164.7874 by January 15 following the end of the fall academic term in which the student completed the high school graduation requirements. The list shall identify the high school and shall contain each high school student's name, Social Security number, address, grade point average for the academic year, expected or actual graduation date,~~[and]~~ highest ACT score, family eligibility status for free or reduced-price lunch and each Advanced Placement or International Baccalaureate examination score. The list need not contain the ACT, Advanced Placement, or International Baccalaureate scores~~[score]~~ if the authority receives the scores~~[ACT score]~~ directly from the testing services. The authority shall notify each eligible high school student of his or her Kentucky educational excellence scholarship award earned each academic year. The authority shall determine the final Kentucky educational excellence scholarship and supplemental award based upon the actual final grade point average,~~[and]~~ highest ACT score, and qualifying AP or International Baccalaureate scores and shall notify each eligible twelfth-grade high school student of the final determination. The authority shall make available a list of eligible high school and postsecondary students to participating institutions.
 - (2) The authority shall provide data access only to participating institutions that have either received an admission application from an eligible high school or postsecondary student or have been listed by the eligible high school or postsecondary student on the Free Application For Federal Student Aid.
 - (3) For each eligible postsecondary student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:

- (a) The student's initial eligibility for a Kentucky educational excellence scholarship, Kentucky educational excellence scholarship and supplemental award, or supplemental award only pursuant to KRS 164.7879(3)(d)(e) through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;
 - (b) The student's highest ACT score attained by the date of graduation from high school, provided that the participating institution need not report the ACT score if the authority receives the ACT score directly from the testing services;
 - (c) The eligible postsecondary student's full-time or part-time enrollment status at the beginning of each academic term; and
 - (d) The eligible postsecondary student's cumulative grade point average after the completion of each award period.
- (4) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible postsecondary students enrolled for that academic term. Kentucky educational excellence scholarships and supplemental awards shall be disbursed by the authority to each eligible postsecondary student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.
- (5) The Kentucky educational excellence scholarship and the supplemental award shall not be reduced, except as provided in KRS 164.7881(4).
- (6) Kentucky educational excellence scholarships and supplemental awards shall not be awarded or disbursed to any eligible postsecondary students who are:
- (a) In default on any loan under Title IV of the federal act; or
 - (b) Liable for any amounts that exceed annual or aggregate limits on any loan under Title IV of the federal act; or
 - (c) Liable for overpayment of any grant or loan under Title IV of the federal act; or
 - (d) In default on any obligation to the authority under any programs administered by the authority until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.
- (7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Kentucky educational excellence scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

SECTION 18. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

- (1) By July 1, 2008, the Education Professional Standards Board, in cooperation with teacher education institutions, shall develop a training program for certified and classified personnel to become on-line coaches to provide effective support to students enrolled in courses through the Kentucky Virtual High School.**
- (2) If the curriculum for the on-line coaches training includes a practicum, employees shall be permitted to provide services prior to the completion of the practicum.**

SECTION 19. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

By July 1, 2009, at least one (1) employee in each middle school and high school shall have successfully completed the online coaches training under Section 18 of this Act. The cost of acquiring the training shall be borne by the local school district.

SB 82, AN ACT relating to brownfields redevelopment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Department" means the Department of Revenue.
- (2) "Taxpayer" means any person made liable by law to file a return or pay a tax.
- (3) "Real property" includes all lands within this state and improvements thereon.
- (4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.
- (5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.
- (6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent (\$0.001) per one hundred dollars (\$100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation

exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

- (7) "Net assessment growth" means the difference between:
- (a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and
 - (b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year.
- (8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:
- (a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;
 - (b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;
 - (c) The value of improvements to existing nonresidential property;
 - (d) The value of new residential improvements to property;
 - (e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;
 - (f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator, the value of such property as a farm shall be a deletion from that category;
 - (g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;
 - (h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and
 - (i) The value of improvements to real property previously under assessment moratorium.
- "Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.
- (9) "Agricultural land" means:
- (a) Any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber;
 - (b) Any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for aquaculture; or
 - (c) Any tract of land devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government.
- (10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants.
- (11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:
- (a) Relative percentages of tillable land, pasture land, and woodland;
 - (b) Degree of productivity of the soil;
 - (c) Risk of flooding;
 - (d) Improvements to and on the land that relate to the production of income;
 - (e) Row crop capability including allotted crops other than tobacco;
 - (f) Accessibility to all-weather roads and markets; and
 - (g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.
- (12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash

value.

- (13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto.
- (14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.
- (15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.
- (16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.
- (17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.
 - (a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.
 - (b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.
 - (c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.
 - (d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.
- (18) "Hazardous substances" shall have the meaning provided in KRS 224.01-400.
- (19) "Pollutant or contaminant" shall have the meaning provided in KRS 224.01-400.
- (20) "Release" shall have the meaning as provided in either or both KRS 224.01-400 and KRS 224.60-115.
- (21) "Qualifying voluntary environmental remediation property" means real property subject to the provisions of KRS 224.01-400 and 224.01-405, or 224.60-135 where ~~for which~~ the Environmental and Public Protection Cabinet has made a determination that:
 - (a) All releases of hazardous substances, pollutants, contaminants, petroleum or petroleum products at the property occurred prior to the property owner's acquisition of the property ~~[The responsible parties are financially unable to carry out the obligations in KRS 224.01-400 and 224.01-405]; and~~
 - (b) The property owner made all appropriate inquiry into previous ownership and uses of the property in accordance with generally accepted practices prior to the acquisition of the property; ~~[The property was acquired after January 1, 2005, by a bona fide prospective purchaser as defined in 42 U.S.C. sec. 9601(40).]~~
 - (c) The property owner or a responsible party have provided all legally required notices with respect to hazardous substances, pollutants, contaminants, petroleum or petroleum products found at the property;
 - (d) The property owner is in compliance with all land use restrictions and does not impede the effectiveness or integrity of any institutional control;
 - (e) The property owner complied with any information request or administrative subpoena under KRS Chapter 224; and
 - (f) The property owner is not affiliated with any person who is potentially liable for the release of hazardous substances, pollutants, contaminants, petroleum or petroleum products on the property pursuant to KRS 224.01-400, 224.01-405, or 224.60-135, through:
 - 1. Direct or indirect familial relationship;
 - 2. Any contractual, corporate, or financial relationship, excluding relationships created by instruments convey or financing title or by contracts for sale of goods or services; or
 - 3. Reorganization of a business entity that was potentially liable.
- ~~(22)~~~~(19)~~ "Intangible personal property" means stocks, mutual funds, money market funds, bonds, loans, notes, mortgages, accounts receivable, land contracts, cash, credits, patents, trademarks, copyrights, tobacco base, allotments, annuities,

deferred compensation, retirement plans, and any other type of personal property that is not tangible personal property.

Section 2. KRS 132.020 is amended to read as follows:

- (1) The owner or person assessed shall pay an annual ad valorem tax for state purposes at the rate of:
- (a) Thirty-one and one-half cents (\$0.315) upon each one hundred dollars (\$100) of value of all real property directed to be assessed for taxation;
 - (b) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, upon the prior approval of the Kentucky Economic Development Finance Authority, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;
 - (c) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all qualifying voluntary environmental remediation property, provided the property owner~~[bona fide prospective purchaser]~~ has corrected the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products located on the property consistent with a corrective action plan approved by the Environmental and Public Protection Cabinet pursuant to KRS 224.01-400, 224.01-405, or 224.60-135 and provided the cleanup was not financed through a public grant or the Petroleum Storage Tank Environmental Assurance Fund~~[obtained a covenant not to sue from the Environmental and Public Protection Cabinet under KRS 224.01-526 for all known releases located on the property]~~. This rate shall apply for a period of three (3) years following the Environmental and Public Protection Cabinet's issuance of a No Further Action Letter or its equivalent~~[the covenant not to sue]~~, after which the regular tax rate shall apply;
 - (d) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of all tobacco directed to be assessed for taxation;
 - (e) One and one-half cents (\$0.015) upon each one hundred dollars (\$100) of value of unmanufactured agricultural products;
 - (f) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations;
 - (g) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all livestock and domestic fowl;
 - (h) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;
 - (i) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all machinery actually engaged in manufacturing;
 - (j) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna;
 - (k) Fifteen cents (\$0.15) upon each one hundred dollars (\$100) of value of all property which has been certified as a pollution control facility as defined in KRS 224.01-300;
 - (l) One-tenth of one cent (\$0.001) upon each one hundred dollars (\$100) of value of all property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390;
 - (m) Twenty-five cents (\$0.25) upon each one hundred dollars (\$100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043;
 - (n) Five cents (\$0.05) upon each one hundred dollars (\$100) of value of goods held for sale in the regular course of business, which includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business;
 - (o) Ten cents (\$0.10) per one hundred dollars (\$100) of assessed value on the operating property of railroads or railway companies that operate solely within the Commonwealth;
 - (p) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value on aircraft not used in the business of transporting persons or property for compensation or hire;
 - (q) One and one-half cents (\$0.015) per one hundred dollars (\$100) of assessed value on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes; and
 - (r) Forty-five cents (\$0.45) upon each one hundred dollars (\$100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in KRS 132.030, 132.200, 136.300,

and 136.320, providing a different tax rate for particular property.

- (2) Notwithstanding subsection (1)(a) of this section, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%), excluding:
- (a) The assessment of new property as defined in KRS 132.010(8);
 - (b) The assessment from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
 - (c) The assessment from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1)(b) of this section. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.
- (3) By July 1 each year, the department shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (2) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the department shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the department, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the department, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.
- (4) If the tax rate set by the department as provided in subsection (2) of this section produces more than a four percent (4%) increase in real property tax revenues, excluding:
- (a) The revenue resulting from new property as defined in KRS 132.010(8);
 - (b) The revenue from property which is subject to tax increment financing pursuant to KRS Chapter 65; and
 - (c) The revenue from leasehold property which is owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 and entitled to the reduced rate of one and one-half cents (\$0.015) pursuant to subsection (1) of this section;
- the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.
- (5) The provisions of subsection (2) of this section notwithstanding, the assessed value of unmined coal certified by the department after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (2) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 to 146.570, except that four hundred thousand dollars (\$400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Office of Energy Policy for the purpose of public education of coal-related issues.

Section 3. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs, except the class of property described in KRS 132.030 and the following classes of property, which shall be subject to taxation for state purposes only:

- (1) Farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operation;
- (2) Livestock, ratite birds, and domestic fowl;
- (3) Capital stock of savings and loan associations;
- (4) Machinery actually engaged in manufacturing, products in the course of manufacture, and raw material actually on hand at the plant for the purpose of manufacture. The printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be manufacturing;
- (5) Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;
- (6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents (\$0.015) on each one hundred dollars (\$100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents (\$0.045) on each one hundred dollars (\$100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

- (7) All privately owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;
- (8) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;
- (9) Property which has been certified as an alcohol production facility as defined in KRS 247.910;
- (10) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;
- (11) Tangible personal property located in a foreign trade zone established pursuant to 19 U.S.C. sec. 81, provided that the zone is activated in accordance with the regulations of the United States Customs Service and the Foreign Trade Zones Board;
- (12) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460;
- (13) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;
- (14) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230, and all motor vehicles with a salvage title held by an insurance company;
- (15) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.095;
- (16) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800;
- (17) New boats and new marine equipment held for retail sale under a floor plan financing arrangement by a dealer registered under KRS 235.220;
- (18) Aircraft not used in the business of transporting persons or property for compensation or hire if an exemption is approved by the county, city, school, or other taxing district in which the aircraft has its taxable situs;
- (19) Federally documented vessels not used in the business of transporting persons or property for compensation or hire or for other commercial purposes, if an exemption is approved by the county, city, school, or other taxing district in which the federally documented vessel has its taxable situs;
- (20) Any nonferrous metal that conforms to the quality, shape, and weight specifications set by the New York Mercantile Exchange's special contract rules for metals, and which is located or stored in a commodity warehouse and held on warrant, or for which a written request has been made to a commodity warehouse to place it on warrant, according to the rules and regulations of a trading facility. In this subsection:
 - (a) "Commodity warehouse" means a warehouse, shipping plant, depository, or other facility that has been designated or approved by a trading facility as a regular delivery point for a commodity on contracts of sale for future delivery; and
 - (b) "Trading facility" means a facility that is designated by or registered with the federal Commodity Futures Trading Commission under 7 U.S.C. secs. 1 et seq. "Trading facility" includes the Board of Trade of the City of Chicago, the Chicago Mercantile Exchange, and the New York Mercantile Exchange; and
- (21) Qualifying voluntary environmental remediation property for a period of three (3) years following the Environmental and Public Protection Cabinet's issuance of a No Further Action Letter or its equivalent, pursuant to the correction of the effect of all known releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products located on the property consistent with a corrective action plan approved by the Environmental and Public Protection Cabinet pursuant to KRS 224.01-400, 224.01-405, or 224.60-135 and provided the cleanup was not financed through a public grant program of the Petroleum Storage Tank Environmental Assurance Fund [issuance of a covenant not to sue by the Environmental and Public Protection Cabinet for all known releases located on the property]; and
- (22) Biotechnology products held in a warehouse for distribution by the manufacturer or by an affiliate of the manufacturer. For the purposes of this section:
 - (a) "Biotechnology products" means those products that are applicable to the prevention, treatment, or cure of a disease or condition of human beings and that are produced using living organisms, materials derived from living organisms, or cellular, subcellular, or molecular components of living organisms. Biotechnology products does not include pharmaceutical products which are produced from chemical compounds;
 - (b) "Warehouse" includes any establishment that is designed to house or store biotechnology products, but does not include blood banks, plasma centers, or other similar establishments; and
 - (c) "Affiliate" means an individual, partnership, or corporation that directly or indirectly owns or controls, or is owned or controlled by, or is under common ownership or control with, another individual, partnership, or corporation.

Section 4. KRS 141.418 is amended to read as follows:

(1) As used in this section:

- (a) "Hazardous substances" shall have the meaning provided in KRS 224.01-400;
- (b) "Pollutant or contaminant" shall have the meaning provided in KRS 224.01-400;
- (c) "Petroleum" and "petroleum products" shall have the meaning provided in KRS 224.60-115;
- (d) "Release" shall have the meaning as provided in either or both KRS 224.01-400 and KRS 224.60-115;

~~(e)(b)~~ "Qualifying voluntary environmental remediation property" means real property subject to the provisions of KRS 224.01-400, ~~and~~ KRS 224.01-405, or 224.60-135 where~~for which~~ the Environmental and Public Protection Cabinet has made a determination that:

1. All releases of hazardous substances, pollutants, contaminants, petroleum, or petroleum products on the property occurred prior to the property owner's acquisition of the property~~[The responsible parties are financially unable to carry out the obligations in KRS 224.01-400 and KRS 224.01-405]; and~~
2. The property owner made all appropriate inquiry into previous ownership and uses of the property in accordance with generally accepted practices~~[The property was acquired after March 18, 2005, by a bona fide prospective purchaser as defined in 42 U.S.C. sec. 9601(40)];~~
3. The property owner or a responsible party have provided all legally required notices with respect to hazardous substances, pollutants, contaminants, petroleum, or petroleum products found at the property;
4. The property owner is in compliance with all land use restrictions and does not impede the effectiveness or integrity of any institutional control;
5. The property owner complied with any information request or administrative subpoena under KRS Chapter 224; and
6. The property owner is not affiliated with any person who is potentially liable for the release of hazardous substances, pollutants, contaminants, petroleum, or petroleum products on the property pursuant to KRS 224.01-400, 224.01-405, or 224.60-135, through:
 - a. Direct or indirect familial relationship;
 - b. Any contractual, corporate or financial relationship, excluding relationships created by instruments conveying or financing title or by contracts for sale of goods or services; or
 - c. Reorganization of a business entity that was potentially liable;

~~(f)(b)~~ "Expenditures" means payment for work to characterize the extent of contamination and to remediate the contamination at a qualifying voluntary environmental remediation property; and

~~(g)(e)~~ "Taxpayer" means an individual subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040.

- (2) (a) There shall be allowed a nonrefundable credit against the tax imposed under KRS 141.020 or 141.040 for taxable years beginning after December 31, 2004, and against the tax imposed by KRS 141.0401 for taxable years beginning after December 31, 2006, for taxpayer expenditures made at a qualifying voluntary environmental remediation property in order to correct the effect of a release of hazardous substances, pollutants, contaminants, petroleum, or petroleum products on the property pursuant to KRS 224.01-400, 224.01-405, or 224.60-135, consistent with a corrective action plan approved by the Environmental and Public Protection Cabinet pursuant to KRS 224.01-400, 224.01-405, or 224.60-135 and provided the cleanup was not financed through a public grant program or the Petroleum Storage Tank Environmental Assurance Fund~~meet the requirements of an agreed order entered into by the taxpayer under the provisions of KRS 224.01-518, provided that the taxpayer has obtained a covenant not to sue from the Environmental and Public Protection Cabinet under KRS 224.01-526~~.
- (b) The credit allowed under paragraph (a) of this subsection shall be applied both to the income tax imposed under KRS 141.020 or 141.040 and to the limited liability entity tax imposed under KRS 141.0401, with the ordering of the credits as provided in KRS 141.0205.
- (3) The maximum total credit for each taxpayer shall not exceed one hundred fifty thousand dollars (\$150,000). For purposes of this section, an affiliated group of taxpayers required to file a consolidated return under KRS 141.200 shall be treated as one (1) taxpayer.
- (4) A taxpayer claiming a credit under this section shall submit receipts to the Environmental and Public Protection Cabinet~~Finance and Administration Cabinet~~ in proof of the expenditures claimed. The Environmental and Public Protection Cabinet~~Finance and Administration Cabinet~~ shall verify~~forward~~ the receipts~~to the Environmental and Public Protection Cabinet for verification~~. After the receipts are verified, the Finance and Administration Cabinet shall notify the taxpayer of eligibility for the credit.

- (5) The credit may be first claimed on the income tax return of the taxpayer filed in the taxable year during which the credit was certified. The amount of the allowable credit for any taxable year shall be twenty-five percent (25%) of the maximum credit approved. The credit may be carried forward for ten (10) successive taxable years.
- (6) If the taxpayer is a pass-through entity, the taxpayer shall apply the credit against the limited liability entity tax imposed by KRS 141.0401, and shall also pass the credit through to its members, partners, or shareholders in the same proportion as the distributive share of income or loss is passed through.

The Committee on Local Government reported SB 143 with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 143, AN ACT relating to oversight of local government projects.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

The Department for Local Government, which oversees the disbursement of various state funds, shall take the necessary steps to ensure that these funds are used appropriately and in the best interests of the citizens of the Commonwealth.

- (1) (a) *The recipient of each project fund under the oversight of the Department for Local Government that receives funds in excess of fifty thousand dollars (\$50,000) shall file a quarterly report with the Department for Local Government. The department may require a quarterly report from all other projects.*
- (b) *A completion report for all projects under the oversight of the Department for Local Government shall be filed with the department.*
- (2) *The Department for Local Government shall not disburse funds to a project until the intended recipient has filed with the department a request for disbursement form and included all necessary supporting documentation.*
- (3) *The Department for Local Government shall monitor the progress and completion of each project receiving state funds under the jurisdiction of the department. This monitoring shall include but not be limited to a determination that projects have complied with all statutory requirements.*
- (4) *The Department for Local Government shall ensure that excess project funds are returned to the relevant state fund account for reallocation. These excess funds may include but not be limited to funds from projects with expired agreements that have not been extended or projects that, upon completion, have a remaining fund balance.*
- (5) *The Department for Local Government may promulgate administrative regulations in accordance with KRS Chapter 13A to implement this section, including establishing the forms for quarterly reports, requests for disbursement, project completion reports, and any additional forms which may be required by the department to implement this section.*

Calendar

SB 125, 187, 25, 91, SJR 109, HB 498, 529, SB 175, 185, 186, 197, HB 528, SB 34, 88, 43, 92 and 196 taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Pursuant to House Rule 48, a Discharge Petition on HB 88 was signed and filed by Representatives Mobley, Dossett, Wuchner, Koenig, Crimm, Brinkman, B. Smith, Embry, Montell, DeCesare, Butler, Dedman, Osborne, Upchurch, Harmon, Floyd, DeWeese, Moore, S. Lee, Bratcher, Fischer, Ford, Santoro, Farmer, Rudy, and Comer.

Representative Gray moved that the rules be suspended to grant floor privileges and to act on a Resolution. Agreed.

Representative Gray moved the adoption of the following **HR 181**:

HR 181, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Russell Kelgor Johnson.

WHEREAS, Russell Kelgor Johnson was born on June 9, 1955, in Alabama, the son of Robert and Jane Russell Johnson; and

WHEREAS, Mr. Johnson was a graduate of Daviess County High School, the University of Kentucky, and the Salmon P. Chase College of Law; and

WHEREAS, despite a childhood filled with numerous moves due to his father's career with General Electric, and his parents' subsequent move to Virginia, Mr. Johnson chose to live and work in Kentucky, joining the Commonwealth's public advocate system upon graduating from law school; and

WHEREAS, Mr. Johnson was dedicated to the legal profession and the fair and just application of the law to all citizens.

Mr. Johnson became a partner with the firm of Ovey & Johnson in 1983 before becoming Assistant Commonwealth Attorney for the 56th Circuit, comprised of Lyon, Livingston, Caldwell, and Trigg counties, in 1988. He was a member of the Kentucky Bar Association, the Bar Association of the 56th Circuit, the Bar Association of the U.S. District Court in Paducah, and the Kentucky Commonwealth Attorney's Association; and

WHEREAS, Mr. Johnson was a dedicated member of the Eddyville United Methodist Church and a committed volunteer in his community. Mr. Johnson was an active member of the Eddyville Lions Clubs and was attorney coach for the Lyon County High School Mock Trial Team during the 2001-2002 school year, helping many students to develop a passion for the legal profession; and

WHEREAS, in all his professional activities, he was known as a man of uncompromising and immeasurable compassion who steadfastly pursued justice for the Commonwealth's crime victims. He was also recognized for his intellect and his sensible and logical approach to the complex legal problems that confronted him; and

WHEREAS, Mr. Johnson was the devoted husband of 18 years of Teresa Holt Johnson, the loving father of Kellon Baccus, Chase Johnson, and Victoria Johnson, and the adoring grandfather of Bella Baccus; and

WHEREAS, Mr. Johnson departed this life on January 16, 2007, and the residents of Lyon County and the surrounding area join his family and many friends in mourning his loss;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its sympathy upon the passing of Russell Kelgor Johnson and extends its sincere condolences his family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Russell Kelgor Johnson.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Teresa Holt Johnson, 59 Lakeview Drive, Eddyville, Kentucky 42038.

There being no objection, **HR 181** was adopted.

Representative Damron moved that House Floor Amendments Nos. 1, 2, and 3 to **SB 29** be withdrawn. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 71, 108, 312, 316, and 321** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 3:20 p.m.)

Representative Adkins moved that the rules be suspended to allow the Committee on Health and Welfare to meet in the Speaker Pro-Tem's Office upon recess. Agreed.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved that the rules be suspended for a Committee on Rules report. Agreed.

Report of Committees

The Committee on Rules reported that **SB 58, 14, 57, 100, 130, 144, 25, 34, 43, 88, 91, 92, 125, 175, 185, 186, 187, 196, 197, SJR 109, and SB 155** have been posted for passage in the Regular Orders of the Day for March 9, 2007.

Representative Pasley moved that the rules be suspended to act on a Resolution. Agreed.

Representative Pasley moved the adoption of the following **HR 184**:

HR 184, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Homer Ledford, a Kentucky legend.

WHEREAS, Homer C. Ledford, legendary bluegrass musician and instrument crafter, was born September 26, 1927, in Overton County, Tennessee, in the heart of the Tennessee Mountains, and passed from this earthly life December 11, 2006, at the age of 79 years. At an early age, in Tennessee, he started making musical instruments, beginning with a match stick fiddle. At age 18, he was given a scholarship to attend the John C. Campbell Folk School in Brasstown, North Carolina, and it was there, while recuperating from rheumatic fever, that he crafted his first dulcimer; and

WHEREAS, Mr. Ledford attended Berea College in 1949, then transferred to Eastern Kentucky University where he received a B.S. degree in 1954. He was posthumously awarded an Honorary Doctorate of Humanities Degree from his alma mater on December 16, 2006. After teaching industrial arts for ten years, he resigned from teaching in 1963 to become a full-time instrument maker. Throughout his life, he completed some 6,000 dulcimers, as well as many banjos, mandolins, guitars, ukuleles, dulcitar, dulcijo, dulcibros, violins, at least one bowed dulcimer, and several others. His work is represented at the Smithsonian Institute by a dulcitar (an instrument of his own invention), and he has registered in the U.S. Patent Office his fretless banjo and Appalachian dulcimer; and

WHEREAS, the Appalachian dulcimer is Kentucky's official instrument, and Homer Ledford's talents, both as a craftsman and an entertainer, brought national and international acclaim to his Commonwealth. Through the years, he shared the stage with Bill Monroe and his Bluegrass Boys at the Homer Ledford Bluegrass Festival; received a special invitation by the Japan-America Society of Kentucky to play solo concerts on a ten-day tour of Japan; and was the opening act for Bill Monroe at the Kentucky Theater in Lexington, Kentucky. He also performed for the Kentucky Music Educators Association in Louisville, Kentucky; performed a free concert for the 1994 Southern Region 4-H Leadership Forum at the Rock Eagle 4-H Center in Eatonton, Georgia; and was an opening act for the Allison Krauss Bluegrass Band at the Kentucky Theater in Lexington. He conducted performances for the staff of the Lands End company in Milwaukee, Wisconsin; entertained the last five Governors of the Commonwealth; and regularly performed at schools, colleges, universities, and nursing homes; and

WHEREAS, Homer Ledford has been featured in KET's "Homer Ledford: Instrument Maker," which is described as a "chronicle of the creation of a dulcimer, from conception to finished instrument, interwoven with the life story of Winchester craftsman Homer Ledford, America's premier dulcimer maker." He is one of the original inductees for the Kentucky Walk of Fame, and he received his sidewalk star in such good company as Rosemary Clooney, Loretta Lynn, and Patricia Neal; and

WHEREAS, Homer Ledford is survived by his loving wife of more than 50 years, Colista, whom he married while the two were students at Berea College;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deep sense of loss upon the passing of Homer C. Ledford, and extends to his family, friends, community, and colleagues its sincere condolences.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Homer C. Ledford, a Kentucky legend.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Colista Ledford, Ledford's Musical Instruments, 125 Sunset Heights, Winchester, Kentucky 40391.

There being no objection, **HR 184** was adopted.

Representative Adkins moved to suspend the rules to allow the House to recess. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Speaker Pro-Tem Clark assumed the Chair.

Speaker Richards addressed the House.

Speaker Richards resumed the Chair.

Orders of the Day

SB 65 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hall moved that **SB 65** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See March 8, 2007, roll call on **SB 65** - Appendix.)

SB 65 was passed and the title agreed to.

Representative Hall moved that the vote by which **SB 65** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 23 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meeks moved that **SB 23** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See March 8, 2007, roll call on **SB 23** - Appendix.)

SB 23 was passed and the title agreed to.

Representative Meeks moved that the vote by which **SB 23** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 26 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Greer moved that **SB 26** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See March 8, 2007, roll call on **SB 26** - Appendix.)

SB 26 was passed and the title agreed to.

Representative Greer moved that the vote by which **SB 26** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 47 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved that **SB 47** be passed.

On the roll call the vote was: **Yeas 94, Nays 0.** (See March 8, 2007, roll call on **SB 47** - Appendix.)

SB 47 was passed and the title agreed to.

Representative B. Smith moved that the vote by which **SB 47** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 68, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Combs moved the adoption of the House Committee Substitute to **SB 68**. Agreed.

Representative Combs moved that **SB 68**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See March 8, 2007, roll call on **SB 68** - Appendix.)

SB 68, by way of House Committee Substitute, was passed and the title agreed to.

Representative Combs moved that the vote by which **SB 68**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 69 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Lee moved that **SB 69** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See March 8, 2007, roll call on **SB 69** - Appendix.)

SB 69 was passed and the title agreed to.

Representative J. Lee moved that the vote by which **SB 69** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 79, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of the House Committee Substitute to **SB 79**. Agreed.

Representative Cherry moved that **SB 79**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 90, Nays 5.** (See March 8, 2007, roll call on **SB 79** - Appendix.)

SB 79, by way of House Committee Substitute, was passed and the title agreed to.

Representative Cherry moved that the vote by which **SB 79**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 104 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved that **SB 104** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See March 8, 2007, roll call on **SB 104** - Appendix.)

SB 104 was passed and the title agreed to.

Representative Marzian moved that the vote by which **SB 104** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 140, with House Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the House Committee Substitute to **SB 140**. Agreed.

Representative Burch moved that **SB 140**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See March 8, 2007, roll call on **SB 140** - Appendix.)

SB 140, by way of House Committee Substitute, was passed.

Representative Burch moved the adoption of House Floor Amendment No. 1 Title to **SB 140**. Agreed.

Representative Burch moved that the vote by which **SB 140**, by way of House Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 29, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **SB 29** be passed.

On the roll call the vote was: **Yeas 46, Nays 47.** (See March 8, 2007, roll call on **SB 29** - Appendix.)

SB 29 was defeated.

Motions, Petitions, and Communications (Continued)

Representative Adkins moved that the rules be suspended and that **SB 30** be recommitted to the Committee on Licensing and Occupations. Agreed.

Representative Hoffman moved the adoption of the following **HR 156**:

HR 156, A RESOLUTION relating to Kentucky's youth generation and its grandparents' generation and urging collaborative community endeavors.

WHEREAS, Kentucky's heritage is one of self-reliance, and those values preserved in that self-reliant character have not only served the Commonwealth well in the past, but will help Kentuckians compete in a changing world of the future; and

WHEREAS, the state's agricultural and rural legacy has been a major part of that self-reliant character, especially in young people who grow up with serious work to do; and

WHEREAS, caring adults are essential in guiding young people to become responsible and self-reliant citizens; and

WHEREAS, Kentucky has an abundance of caring adults, such as 4H and FFA leaders, foresters, conservation leaders, local AARP members and retirees, history "buffs," and many others who, by drawing upon our Commonwealth's rural and agricultural legacy, are successfully teaching young people; and

WHEREAS, Kentucky has three public organizations that are currently especially well-positioned to provide leadership in building upon the state's legacy; and

WHEREAS, these organizations include: the Kentucky Department of Agriculture, which administers a wide range of programs that connect young people with "real life" in their communities; the Kentucky Community and Technical College System and its North American Racing Academy, which offers a variety of programs that connect students with horses and with other aspects of Kentucky's heritage; and the Kentucky Department of Education, which can build upon the many positive lessons about "learning for life" that are taught in some public schools, including small rural schools and the so-called "alternative" schools;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the Commonwealth of Kentucky urges and encourages the Kentucky Department of Agriculture, the Kentucky Community and Technical College System, and the Kentucky Department of Education to collaborate in developing a forum in which citizens and organizations can discuss and devise community endeavors and projects.

Section 2. These endeavors and projects can include, among many things, learning about horses so as to become competent guides for the many tourists that will be visiting Kentucky for the World Equestrian Games, and learning about Abraham Lincoln's early childhood in Larue County so as to interpret Lincoln to tourists who will visit during the upcoming bicentennial of Lincoln's birth.

Section 3. The Clerk of the House of Representatives shall transmit one copy of this Resolution to the Commissioner of the Kentucky Department of Agriculture, the Commissioner of the Kentucky Department of Education, and the chancellor of the Kentucky Community and Technical College System.

There being no objection, **HR 156** was adopted.

Representative Meeks moved the adoption of the following **HCR 194**:

HCR 194, A CONCURRENT RESOLUTION recognizing the 2006 amendments to the boxing and wrestling administrative regulations as the Greg Page Boxing and Safety Initiative.

WHEREAS, Louisville native, Greg Page, achieved prominence in boxing at an early age; and

WHEREAS, Greg Page took on the boxing style of his hero, Louisvillian, Muhammad Ali, and was touted as Ali's heir apparent by commentators and fans alike; and

WHEREAS, Greg Page rose steadily in the boxing world, winning the National Golden Gloves Championship in 1978 and the World Boxing Association heavyweight crown in 1984; and

WHEREAS, Greg Page suffered irreparable brain injury in his last fight at the age of 42, ending his career in 2001 with a record of 58-17-1 with 48 knockouts; and

WHEREAS, to this day, Greg Page remains paralyzed and experiences short-term memory loss as a result of the injuries he sustained in a state-sanctioned professional boxing match; and

WHEREAS, the injuries he sustained in that match have motivated Greg and his wife, Patricia, to be strong advocates for boxing safety reform; and

WHEREAS, the Kentucky Athletic Commission, the regulatory body at the time of Greg Page's injuries, was reorganized

as the Kentucky Boxing and Wrestling Authority in 2005; and

WHEREAS, the Kentucky Boxing and Wrestling Authority promulgated administrative regulations in 2006 to enhance boxer safety; and

WHEREAS, Greg Page and his wife have served as a stimulus for that change;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Kentucky General Assembly hereby honors the vigilance of Greg and Patricia Page in promoting boxing safety reform by recognizing the 2006 amendments to the boxing and wrestling administrative regulations as the Greg Page Boxing and Safety Initiative.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Greg Page, 208 W. Kenwood Way, Louisville, KY 40214; and Dr. George Ginter, chair, Kentucky Boxing and Wrestling Authority, 100 Airport Road, Frankfort, KY 40601.

There being no objection, **HCR 194** was adopted.

Representative Harmon moved the adoption of the following **HR 186**:

HR 186, A RESOLUTION adjourning the House of Representatives in loving memory and honor of James Ivo Osborne.

WHEREAS, James Ivo Osborne, a native of Fredericktown, Kentucky, and son of the late Spencer and Louise Mudd Osborne, departed this earthly life on February 27, 2007, at the age of 78 years; and

WHEREAS, Mr. Osborne was a retired business owner, and served in the Kentucky House of Representatives from 1970 to 1972. He was a lifetime member of the Knights of Columbus Council 4270, and also served as Grand Knight. Mr. Osborne was also a member of Mother of Good Counsel Catholic Church; and

WHEREAS, in addition to his parents, James Ivo Osborne was preceded in death by a grandson, Allan Whitledge, and two sisters, Bessie Medley and Rosemary McCawley Baker. He is mourned by his loving wife, Anna Geneva Thomas Osborne, and sons, James Richard Osborne and his wife, Ann, of Willisburg, Kentucky; Gary L. Osborne and his wife, Marsha, of Bardstown; Robert J. Osborne and his wife, Rhonda, and Thomas Osborne and his wife, Janice, all of Springfield; and Spencer Osborne of Las Vegas, Nevada. His passing also leaves heavy hearts of his daughters, Deborah and her husband, William Lloyd, Rose Marie and her husband, Mike Whitledge, and Mary Jeanette Michael, all of Henderson; M. Louise and her husband, Stephen Steier, and Gracie and her husband, Bill Baldwin, all of Louisville; and Angela G. and her husband, Phillip Cecil, of Alabaster, Alabama; 33 grandchildren; 26 great-grandchildren; three brothers; and seven sisters;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its profound grief upon the passing of James Ivo Osborne, and extends to his family, friends, and community its sincere sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of James Ivo Osborne.

There being no objection, **HR 186** was adopted.

Representative Moore moved the adoption of the following **HR 211**:

HR 211, A RESOLUTION unequivocally supporting the men and women of the United States Armed Forces in the Global War on Terror.

WHEREAS, the Armed Forces of the United States are currently engaged in a great global war, testing whether this nation, conceived in and dedicated to freedom and liberty, can long endure; and

WHEREAS, the Congress of the United States has opened the most extensive debate over the Global War on Terror in more than four years, causing the valiant members of those Armed Forces to question the veracity of the support they are offered from various national leaders; and

WHEREAS, previous wars have been undermined by unending streams of criticism and doubt from national leaders that demonstrate a lack of resolve to prevail against enemies of the United States; and

WHEREAS, as every Kentuckian knows, "United We Stand, Divided We Fall," and that the lessons of past wars have taught us that actions have consequences which can be harmful to the nation and our service members, causing disunity at home and leading to defeat abroad; and

WHEREAS, many in our country are playing into the hands of the enemy with their rallies and calls for immediate or "phased" redeployment and timetables for withdrawal; and

WHEREAS, public broadcasts of disunity damage the morale of the United States and coalition forces, and undermines the credibility of the United States in the eyes of the rest of the world; and

WHEREAS, national leaders, pressed by the anti-war movement, are once again, during a time of war, considering resolutions and legislation that undermine our national determination to achieve victory and the Commander-in-Chief's ability to prosecute the war; and

WHEREAS, these actions will only prolong the war and serve to provide aid and comfort to the enemy; and

WHEREAS, the intensified chaos sure to ensue in Iraq and elsewhere, subsequent to a premature disengagement, will have dire consequences for the world and our nation; and

WHEREAS, those who dissent are quick to claim that in the United States they have the right to oppose the policies and actions of their government, but it is the brave young men and women of the Armed Forces that are defending this right all the while enduring the effects of dissent and bearing the consequences; and

WHEREAS, more than 137,000 members of the Armed Forces of the United States are currently serving in Iraq and Afghanistan with the bravery and professionalism consistent with the finest traditions of the Armed Forces of the United States, and deserve the support of all Americans; and

WHEREAS, more than 8,500 Kentuckians have previously served in the Global War on Terror and currently more than 2,700 sons and daughters of the Commonwealth are serving in both Iraq and Afghanistan, and deserve the support of all Kentuckians; and

WHEREAS, the sacrifices of these brave young men and women serve to remind us that freedom is not free and that every American has the responsibility to defend that freedom;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives, in addition to respecting the sacrifices of those honored dead who gave the last full measure of devotion to the cause of freedom, hereby reaffirms its unwavering admiration of and commitment to the men and women of the Armed Forces serving in harm's way and to their ultimate victory in this noble cause.

Section 2. The House of Representatives hereby expresses in word and deed that no purported policy debate should ever be construed to undermine the ability of the Commander-in-Chief of the United States to prosecute a war against the enemies of the United States and achieve real victory and lasting peace.

Section 3. The House of Representatives hereby expresses its belief that because political dialogue can be perceived by friends and foes alike as a sign of wavering in the national will, and inevitably leads to a weakening of the necessary national unity to achieve true victory, no national political leader should undertake to engage in any so-called debate which would undermine America's determination to win the Global War on Terror.

Section 4. The House of Representatives hereby advocates that our national leaders should live up to the sentiment and spirit of President John F. Kennedy's famous words: "Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, to assure the survival and success of liberty."

Section 5. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the President of the United States, the President pro tempore of the United States Senate, the Speaker of the United States House of Representatives, and to each member of the Commonwealth of Kentucky's Congressional Delegation.

There being no objection, **HR 211** was adopted.

Representative DeCesare moved the adoption of the following **HR 199**:

HR 199, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Bettie Sue Robertson DeCesare.

WHEREAS, Bettie Sue Robertson DeCesare departed this life on June 9, 2006, at the age of 66 years; and

WHEREAS, Bettie Sue Robertson DeCesare was a native of Hopkinsville, a daughter of Flora Mae Goode and the late Clyde Headly Robertson; and

WHEREAS, Bettie Sue Robertson DeCesare worked as a licensed practical nurse, an airline stewardess, and as a real estate broker. She was a member of First Baptist Church in Hopkinsville, and a Kentucky Colonel; and

WHEREAS, Bettie Sue Robertson DeCesare leaves behind her sons, Representative James Joseph "Jim" DeCesare of Bowling Green and Matthew Todd DeCesare of Clearwater, Florida; mother Flora Mae Goode Robertson of Pembroke; brother Raymond J. Robertson of Benton; sisters Jean Ann Wilkinson of Clarksville, Tennessee; Martha Rose Robertson of Atlanta, Georgia; and Merry Louise Knight of Hopkinsville; and four grandchildren;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deepest sympathy upon the passing of Bettie Sue Robertson

DeCesare.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Bettie Sue Robertson DeCesare.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Matthew Todd DeCesare, 3816 Lafayette Road #2, Hopkinsville, Kentucky 42240.

There being no objection, **HR 199** was adopted.

Representative Dossett moved to introduce and act on a Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 213, by Representative Dossett: A RESOLUTION relating to a National Health Insurance Act.

Motions, Petitions, and Communications (Continued)

Representative Dossett moved the adoption of the following **HR 213**:

HR 213, A RESOLUTION relating to a National Health Insurance Act.

WHEREAS, United States Representative John Conyers has introduced H.R. 676, the United States National Health Insurance Act, in the United States House of Representatives for the 110th Congress, and this act would provide a universal, comprehensive, single-payer system of national health insurance; and

WHEREAS, H.R. 676 is an attempt to introduce national socialized medicine; and

WHEREAS, socialized medicine has proven ineffective in countries around the world and has resulted in long waiting lines and substandard health care; and

WHEREAS, the United States has the finest health care system in the world;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the Kentucky General Assembly respectfully urges the United States Congress not to enact H.R. 676, the United States National Health Insurance Act, sponsored by Representative John Conyers in the United States House of Representatives for the 110th Congress.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to the President of the United States and the members of the Kentucky Congressional Delegation.

There being no objection, **HR 213** was adopted.

Representative Moberly moved the adoption of the following **Legislative Citation No. 66**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the Commonwealth's newest National Board for Professional Teaching Standards Certified Teachers upon earning NBPTS Certification in the year 2006. The highest professional credential that an educator can obtain within the teaching profession, this prestigious accolade is the result of a year-long assessment process in which teachers first document their knowledge of the subject matter, then demonstrate their abilities to both manage and measure student progress after effectively conveying this knowledge to the students entrusted to their care. Inasmuch as these two hundred and nineteen esteemed Kentucky educators have exhibited a forthright commitment to acquiring the necessary skills to ably equip the youth of today with the academic tools to become the leaders of tomorrow, the members of this distinguished body are delighted to join Representative Harry Moberly, Jr. in welcoming them to the House Chamber during the 2007 Regular Session of the Kentucky General Assembly and applauding each and every one of them for the hard work and dedication each has applied toward the successful completion of this most worthy goal and in extending best wishes as they, collectively, continue to most capably shape the lives of the youth of this Commonwealth. Done in Frankfort, Kentucky, this eighth day of March, in the year two thousand and seven.

Legislative Citation No. 66 was adopted without objection.

Representative Higdon moved the adoption of the following **HR 204**:

HR 204, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Nancy Colvin.

WHEREAS, Nancy Colvin was born on September 1, 1950, in Taylor County, the daughter of the late Herbert and Nioma

Benningfield Sapp; and

WHEREAS, after a full life of raising a family and other endeavors, Mrs. Colvin faced the daunting task of returning to college and excelled, graduating from Campbellsville University as valedictorian and receiving her certification to teach English and mathematics; and

WHEREAS, Mrs. Colvin was a beloved teacher at Marion County High School for 14 years until her sudden passing. Mrs. Colvin was also the sponsor of the school's chapter of the National Honor Society and organized the group's annual canned food drive. She was known for her dedication to her students and their well-being, as well as her helpfulness and goodwill to fellow teachers, administrators, and other she encountered in her daily life; and

WHEREAS, Mrs. Colvin was a faithful member of Our Lady of the Hills Catholic Church, whose teachings lifted her during life's troubles and made sweeter life's triumphs; and

WHEREAS, Mrs. Colvin was the loving wife of Edwin Thomas "Tom" Colvin, Sr.; the adoring mother of Michael Colvin, Andrew Colvin, the late Edwin Thomas "Dusty" Thomas, Jr.; and the late Amanda Lynn Colvin; and the dedicated sister of Sondra Vick, Jerry Sapp, Roger Sapp, Freddy Sapp, the late Herbert Sapp, Jr.; the late Donald Sapp, the late Keith Sapp, the late Mickey Sapp, the late Phil Sapp, and the late Elizabeth Eileen Seger; and

WHEREAS, Mrs. Colvin departed this life on February 23, 2007, and an entire community joins her family, friends, and colleagues in mourning her loss;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deepest sympathy upon the passing of Nancy Colvin, and extends its sincere condolences to her family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Nancy Colvin.

Section 3. The Clerk of the House of Representatives is directed to transmit copies of this Resolution to Tom Colvin, 9150 Old Lebanon Road, Finley, Kentucky 42718.

There being no objection, **HR 204** was adopted.

Representative Koenig moved that the rules be suspended to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 212, by Representative Koenig: A RESOLUTION urging the United States Senate to defeat the Employee Free Choice Act.

Motions, Petitions, and Communications (Continued)

Representative Koenig moved the adoption of the following **HR 212**:

HR 212, A RESOLUTION urging the United States Senate to defeat the Employee Free Choice Act.

WHEREAS, the right of employees under the National Labor Relations Act to choose whether to be represented by a labor organization by way of secret ballot election conducted by the National Labor Relations Board is among the most important protections afforded under federal labor law; and

WHEREAS, the right of employees to choose by secret ballot their union representative is the only method that ensures a choice free of coercion and intimidation; and

WHEREAS, the recognition of a labor organization by private agreement, rather than a secret ballot election overseen by the National Labor Relations Board, threatens the freedom of employees to choose whether to be represented by a labor organization, and severely limits the ability of the National Labor Relations Board to ensure the protection of workers; and

WHEREAS, the Employee Free Choice Act, if it becomes law, would eliminate the rights of employees to vote to recognize a union by secret ballot, and replace it with the card check process, where employees are forced to make their choice in front of union supporters; and

WHEREAS, the Employee Free Choice Act would increase potential penalties against employers but not on labor organizations for certain violations of the National Labor Relations Act, and employers would be subject to paying triple back pay, and civil penalties of up to \$20,000 per violation; and

WHEREAS, the United States House of Representatives passed the Employee Free Choice Act on March 1, 2007, and the legislation is now pending before the United States Senate;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the Commonwealth of Kentucky urges the United States Senate to defeat the Employee Free Choice Act, which would destroy a system established more than 70 years ago with the enactment of the National Labor Relations Act, a system that protects the interests of both the employee and employer by ensuring that both sides have an opportunity to make their case, and by which employees are able to express their decisions in private, free from coercion and intimidation.

Section 2. The Clerk of the House of Representative shall transmit copies of this Resolution to the President Pro Tempore of the United States Senate, and to each member of the Kentucky United States Senate Delegation.

There being no objection, **HR 212** was adopted.

Pursuant to House Rule 48, a Discharge Petition on **SB 179** was signed and filed by Representatives Mobley, Dossett, Koenig, Crimm, Brinkman, B. Smith, Embry, Montell, Higdon, DeCesare, Butler, Dedman, Osborne, Upchurch, Harmon, Floyd, Moore, S. Lee, Bratcher, Fischer, Ford, Santoro, Farmer, Rudy, and Comer.

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 214, by Representative Stein: A RESOLUTION relating to university health insurance benefits.

Report of Committees

The Committee on Health and Welfare reported **SB 111**, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 111, AN ACT relating to jury service

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 29A.100 is amended to read as follows:

- (1) Upon the request of a prospective juror prior to assignment to a trial court, the Chief Circuit Judge, or after the juror's assignment to a trial court, the trial judge may excuse such juror upon a showing of undue hardship, extreme inconvenience, or public necessity. On the day on which the prospective jurors are summonsed to appear, any person not previously excused who desires to be excused shall be heard.
- (2) The Chief Circuit Judge may designate and authorize one (1) or more judges of the court, the court's clerk, a deputy clerk, the court's administrator, or a deputy court administrator to excuse a juror from service for a period not to exceed ten (10) days or to postpone jury service for a period not to exceed twelve (12) months. The reasons for excuse or postponement shall be entered in the space provided on the juror qualification form.
- (3) In his or her discretion the judge may excuse a juror from service entirely, reduce the number of days of service, or may postpone the juror's service temporarily for a period of time not to exceed, however, twenty-four (24) months. Whenever possible the judge shall favor temporary postponement of service or reduced service over permanent excuse. When excusing a juror, the judge shall record the juror's name, as provided in KRS 29A.080, and the reasons for granting the excuse.
- (4) *The judge shall excuse a mother who is breastfeeding a child or expressing breastmilk from jury service until such time as the child is old enough that the mother is no longer breastfeeding the child.*

Floor Amendments

House Floor Amendment No. 1 to **SB 196**, by Representative Pullin:

SB 196, On page 10, line 21, after "chemicals," by inserting "or" and after "electricity" by deleting ", or other useful products".

Floor Amendment No. 1 to **HB 387**, by Representative Owens:

HB 387, On page 19, after line 14, by inserting the following:

"Section 10. KRS 118.215 is amended to read as follows:

- (1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate or slate of candidates for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups, slates of candidates, or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes, with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:
 - (a) Not later than the second Monday after the filing deadline for the primary;
 - (b) Not less than twenty-five (25) days before a runoff primary;
 - (c) Not later than the second Monday after the filing deadline for the general election, except as provided in paragraph (d) of this subsection; and
 - (d) Not later than the Monday~~Thursday~~ after the Friday following the first Tuesday in September preceding a general election, for those years in which there is an election for President and Vice President of the United States.
 - (2) Except as otherwise provided in subsection (3) of this section, all independent candidates or slates of candidates whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates or slates of candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.
 - (3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.
 - (4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate or slate of candidates who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate or slate of candidates who has filed the required nomination papers.
 - (5) If the county clerk determines that the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not later than the last Tuesday in February preceding the primary or the last Tuesday in August preceding the general election. The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions, and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates or slates of candidates for an office or offices and public questions submitted for a yes or no vote. All candidates or slates of candidates for any particular office shall be placed either on the machine ballot or on the paper ballot. Supplemental paper ballots may also be used to conduct the voting, in the instance of a small precinct as provided in KRS 117.066.
 - (6) The ballot position of a candidate or slate of candidates shall not be changed after the ballot position has been designated by the county clerk.
- Section 11. KRS 118.365 is amended to read as follows:
- (1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. The certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.
 - (2) Petitions of nomination for candidates for city offices except as provided in KRS 83A.047, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of regular elections for the offices sought.

- (3) Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file the statements required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the regular election for the office sought.
- (4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but whose candidate received two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the election of the person in nomination.
- (5) Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought. The filing of petitions of nomination for independent candidates shall not be accepted by the Secretary of State or the county clerk if the candidate has not filed a statement-of-candidacy form as required by KRS 118.367.
- (6) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which there is an election for President and Vice President of the United States and not later than the Friday following the first Tuesday in September preceding the date fixed by law for the election of the electors.
- (7) Petitions for recall elections or elections on public questions shall be filed as required with the county clerk not later than the second Tuesday in August preceding the day fixed by law for holding a general election.
- (8) Petitions of any kind named in this section, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed."

House Floor Amendment No. 10 to the House Committee Substitute to **SB 159**, by Representative Owens:

SB 159, On page 73, line 20, by inserting after "Section 46." the following language:

"KRS 118.215 is amended to read as follows:

- (1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate or slate of candidates for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups, slates of candidates, or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes, with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:
 - (a) Not later than the second Monday after the filing deadline for the primary;
 - (b) Not less than twenty-five (25) days before a runoff primary;
 - (c) Not later than the second Monday after the filing deadline for the general election, except as provided in paragraph (d) of this subsection; and
 - (d) Not later than the ~~Monday~~^{Thursday} after the Friday following the first Tuesday in September preceding a general election, for those years in which there is an election for President and Vice President of the United States.
- (2) Except as otherwise provided in subsection (3) of this section, all independent candidates or slates of candidates whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates or slates of candidates shall appear on the ballot shall be determined by lot by

the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.

- (3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.
- (4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate or slate of candidates who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate or slate of candidates who has filed the required nomination papers.
- (5) If the county clerk determines that the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not later than the last Tuesday in February preceding the primary or the last Tuesday in August preceding the general election. The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions, and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates or slates of candidates for an office or offices and public questions submitted for a yes or no vote. All candidates or slates of candidates for any particular office shall be placed either on the machine ballot or on the paper ballot. Supplemental paper ballots may also be used to conduct the voting, in the instance of a small precinct as provided in KRS 117.066.
- (6) The ballot position of a candidate or slate of candidates shall not be changed after the ballot position has been designated by the county clerk.

Section 47. KRS 118.365 is amended to read as follows:

- (1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. The certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.
- (2) Petitions of nomination for candidates for city offices except as provided in KRS 83A.047, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of regular elections for the offices sought.
- (3) Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file the statements required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the regular election for the office sought.
- (4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but whose candidate received two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the election of the person in nomination.
- (5) Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought. The filing of petitions of nomination for independent candidates shall not be accepted by the Secretary of State or the county clerk if the candidate has not filed a statement-of-candidacy form as required by KRS 118.367.
- (6) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which there is an election for President and Vice President of the United States and not later than the ***Friday following the*** first Tuesday in September preceding the date fixed by law for the election of the electors.
- (7) Petitions for recall elections or elections on public questions shall be filed as required with the county clerk not later than

the second Tuesday in August preceding the day fixed by law for holding a general election.

- (8) Petitions of any kind named in this section, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

Section 48."

On page 73, line 27, by deleting "47" and inserting in lieu thereof "49".

Floor Amendment No. 17 to **HB 327**, by Representative Crimm:

HB 327, On page 107, after line 4, insert the following:

"Section 70. 2006 Kentucky Acts Chapter 252, after Part XXXVI, Sales of Motor Vehicles to Nonresidents, at page 1510, is amended to include the following:

Part XXXVII

Communications Excise Tax

Notwithstanding KRS 48.310, the following statutes are amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 136.650 is amended to read as follows:

- (1) (a) Every political subdivision, school district, and special district shall participate in the gross revenues and excise tax fund and the state baseline and local growth fund.
 - (b) On or before December 1, 2005, each political subdivision shall certify to the department on a prescribed form the amount of collections it received from the local franchise fees collected from communications service and multichannel video programming service providers and other fees collected to fund public educational and government access programming during the period between July 1, 2004, and June 30, 2005. By certifying its participation under this subsection, each political subdivision:
 1. Consents to the hearing process provided in KRS 136.658; and
 2. Agrees to relinquish its right to enforce the portion of any contract or agreement that requires the payment of a franchise fee or tax on communications services and multichannel video programming services, regardless of whether the tax or fee is imposed on the provider or its customers.
 - (c) The amount of collections received by each political subdivision, school district, special district, and sheriff's department between July 1, 2004, and June 30, 2005, from the tax imposed by KRS 136.120 attributable to the franchise portion of the operating property, as noted in KRS 136.115, shall be calculated by the department from assessment data for calendar year 2004.
- (2) The monthly portion of the gross revenues and excise tax fund that shall be distributed to political subdivisions, school districts and special districts under KRS 136.652 shall be computed as follows:
- (a) Each political subdivision, school district and special district shall be assigned a percentage based on the amount of its collections certified under subsection (1) of this section as a ratio of the total certified amount of collections of all parties participating in the fund. This percentage shall be known as the "local historical percentage." The portion of the sheriff departments' certified collections identified in subsection (1) of this section from the tax imposed under KRS 136.120 attributable to the franchise portion of the operating property, as noted in KRS 136.115, that was imposed by county governments shall be added to each county's reported collections to determine its local historical percentage;
 - (b) The sheriff departments' collections certified under subsection (1) of this section that are retained by the sheriff departments as their fee for collecting the taxes shall be the sheriff departments' fixed hold-harmless amount;
 - (c) Forty-three million two hundred thousand dollars (\$43,200,000) shall be designated as the "annual hold harmless amount". Three million six hundred~~[thirty-four]~~ thousand dollars (\$3,600,000)~~[(\$3,034,000)]~~, which represents one-twelfth (1/12) of the total "annual hold harmless amount"~~[potential collections]~~, shall be designated as the "monthly hold-harmless amount"; and
 - (d) Each political subdivision's, school district's, and special district's local historical percentage shall be multiplied by the monthly hold-harmless amount to determine its monthly distribution from the fund.
- (3) If during the period between June 30, 2005, and December 31, 2005, any political subdivision collected additional local franchise~~[had a substantial change in its base]~~ revenue from communications service and multichannel video programming service providers by enacting or modifying the rate of a local franchise fee prior to June 30, 2005, and those additional receipts were reported to the department on or before June 30, 2006,~~[the political subdivision may request]~~ the department shall include this additional local franchise revenue to determine the~~[its]~~ certified collection amount.
- (4) If any political subdivision, school district, special district, or sheriff's department believes that the data used to determine its certified amount of collections are inaccurate, the political subdivision, school district, special district, or sheriff's

department may request a redetermination by the oversight committee established by KRS 136.658. A redetermination shall be effective prospectively beginning with the next distribution cycle occurring ninety (90) days after the matter is finally settled.

Section 2. KRS 136.654 is amended to read as follows:

- (1) On or before December 1, 2005, and every January 31 thereafter, as determined necessary by the department for distribution of anticipated local growth fund receipts, each participating political subdivision shall certify to the department its total tax receipts for the prior fiscal year. This amount shall be used to calculate the percentage of each political subdivision's portion of the account labeled under its county's name within the state baseline and local growth fund as described in subsection (3)(b) of this section. "Total tax receipts" shall not include revenue from nontax sources, such as intergovernmental revenues, charges for services, tuition, interfund transfers, interest and investment income, rental income, income from asset sales, beginning balances, or revenue from licenses and permits. "Total tax receipts" shall include the following:
 - (a) Real estate and tangible personal property taxes, including delinquent tax receipts;
 - (b) Franchise fees or taxes on utilities, other than multichannel video programming service and communications service utilities;
 - (c) Occupational and business license fees or taxes, including insurance premium taxes, net profits taxes, gross receipts taxes, payroll taxes, transient room taxes, restaurant taxes, and bank deposit taxes;
 - (d) Telephone emergency surcharge fees;
 - (e) Gross revenues tax hold-harmless and growth fund receipts; and
 - (f) Payments in lieu of taxes.
- (2) On or before every January 31, as determined necessary by the department for distribution of anticipated local growth fund receipts, each participating school district and special district shall certify to the department the amount of its prior year tax assessments under KRS Chapter 132 on companies' providing of multichannel video programming service and communications service. This amount shall be used to calculate the percentage of each school district's and special district's portion of the account labeled under its county's name within the state baseline and local growth fund as described in subsection (3)(b) of this section. For tax years with no assessments under KRS Chapter 132, the local historical percentage as defined in KRS 136.650 shall be used.
- (3) Each political subdivision's, school district's, and special district's monthly portion of the state baseline and local growth fund shall be computed as follows:
 - (a) A "local growth portion" shall be determined as an amount of money that when added to the hold-harmless amount identified in KRS 136.650(2)(c) equals fifteen and six-tenths percent (15.6%) of the total amount deposited in the gross revenues and excise tax fund, minus the amount of distributions made under KRS 136.652(1) and (3).
 - (b) The local growth portion shall be accounted for by county within the state baseline and local growth fund based on the ratio of the gross revenues tax collected on multichannel video programming services and communications services provided in each county to the total statewide collections of the gross revenues tax. The county-by-county allotment of the local growth portion shall be known as the "county growth portion."
 - (c) The county growth portion shall be further segregated into the political subdivision allotment, the school district allotment, and the special district allotment based upon the ratio of each allotment category's total historical collections as calculated under KRS 136.650(2) to the total overall county historical collections as calculated from the certified collections under KRS 136.650(1).
 - (d) On or before April 25, 2006, each political subdivision's share of the political subdivision allotment shall be determined by multiplying the political subdivision allotment of the local growth portion as determined in paragraph (b) of this subsection by the percentage calculated in subsection (1) of this section.
 - (e) On or before April 25, 2006, each school district's share of the school district allotment shall be determined by multiplying the school district allotment as determined in paragraph (c) of this subsection by the percentage calculated in subsection (2) of this section.
 - (f) On or before April 25, 2006, each special district's share of the special district allotment shall be determined by multiplying the special district allotment as determined in paragraph (c) of this subsection by the percentage calculated in subsection (2) of this section.
 - (g) The respective allotment share for each participating political subdivision, school district, and special district shall be adjusted every July 1 following the year 2006, to account for any change in its percentages based on annual certifications required in subsections (1) and (2) of this section.
 - (h) Notwithstanding the annual certifications required in subsection (1) of this section, following the year 2006, political subdivisions may choose to determine their respective shares of the political subdivision allotment pursuant to an interlocal agreement as authorized under KRS 65.240. Activation or termination of an interlocal agreement shall comply with the notification requirements of subsection (1) of this section and shall become effective the following July 1. The terms of a timely interlocal agreement governing the distribution of a political

subdivision allotment shall remain in effect until its timely termination by one of the participating political subdivisions.

Section 3. Notwithstanding the provisions of KRS 136.652 establishing a different distribution formula, to support the retroactive increase of the monthly hold harmless amount established in paragraph (c) of subsection (2) of Section 1 of this Part, there is hereby appropriated from the General Fund in Fiscal Year 2006-2007 the amount of \$7,800,000. The amount so appropriated shall be deposited in the gross revenues and excise tax fund created by KRS 136.648, and shall be distributed to each political subdivision, school district and special district in accordance with the direction provided in this section and the formula established by Section 1 of this Part. To determine how the increased hold harmless amount shall be distributed among the political subdivisions, school districts and special districts, the Department of Revenue shall calculate the actual distributions received by each political subdivision, school district and special district for the period beginning January 1, 2006 and ending March 1, 2007 relating to calendar year 2006, and any other distributions made in calendar year 2007 prior to the passage of this Act. The Department of Revenue shall then calculate the distribution that would have been received by each political subdivision, school district, and special district under the revised hold harmless amount established in paragraph (c) of subsection (2) and the franchise rate provisions of subsection (3) of Section 1 of this Part. The difference between the two amounts shall be distributed to each political subdivision, school district and special district to make up for shortfalls in distributions from January 1, 2006 through March 1, 2007 relating to calendar year 2006 and any distributions made after March 1, 2007 relating to calendar year 2007 prior to the passage of this Act. Any amounts remaining after calculation of the distributions shall be returned to the General Fund.

Section 4. The provisions of Sections 1 and 3 of this Part shall be retroactive to January 1, 2006."; and

Renumber subsequent section accordingly.

Floor Amendment No. 3 to the Committee Substitute to **HB 405**, by Representative Owens:

HB 405, On page 11, after line 1, by inserting the following:

"Section 6. KRS 118.215 is amended to read as follows:

- (1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate or slate of candidates for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups, slates of candidates, or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes, with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:
 - (a) Not later than the second Monday after the filing deadline for the primary;
 - (b) Not less than twenty-five (25) days before a runoff primary;
 - (c) Not later than the second Monday after the filing deadline for the general election, except as provided in paragraph (d) of this subsection; and
 - (d) Not later than the ~~Monday~~~~Thursday~~ after the Friday following the first Tuesday in September preceding a general election, for those years in which there is an election for President and Vice President of the United States.
- (2) Except as otherwise provided in subsection (3) of this section, all independent candidates or slates of candidates whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates or slates of candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.
- (3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.
- (4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate or slate of

candidates who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate or slate of candidates who has filed the required nomination papers.

- (5) If the county clerk determines that the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not later than the last Tuesday in February preceding the primary or the last Tuesday in August preceding the general election. The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions, and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates or slates of candidates for an office or offices and public questions submitted for a yes or no vote. All candidates or slates of candidates for any particular office shall be placed either on the machine ballot or on the paper ballot. Supplemental paper ballots may also be used to conduct the voting, in the instance of a small precinct as provided in KRS 117.066.
- (6) The ballot position of a candidate or slate of candidates shall not be changed after the ballot position has been designated by the county clerk.

Section 7. KRS 118.365 is amended to read as follows:

- (1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. The certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.
- (2) Petitions of nomination for candidates for city offices except as provided in KRS 83A.047, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of regular elections for the offices sought.
- (3) Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file the statements required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the regular election for the office sought.
- (4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but whose candidate received two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the election of the person in nomination.
- (5) Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought. The filing of petitions of nomination for independent candidates shall not be accepted by the Secretary of State or the county clerk if the candidate has not filed a statement-of-candidacy form as required by KRS 118.367.
- (6) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which there is an election for President and Vice President of the United States and not later than the Friday following the first Tuesday in September preceding the date fixed by law for the election of the electors.
- (7) Petitions for recall elections or elections on public questions shall be filed as required with the county clerk not later than the second Tuesday in August preceding the day fixed by law for holding a general election.
- (8) Petitions of any kind named in this section, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed."

Floor Amendment No. 18 to the Committee Substitute to **HB 327**, by Representative Crimm:

HB 327, On page 43, after line 15, insert the following:

"

Part XXXIX

Communications Excise Tax

Notwithstanding KRS 48.310, the following statutes are amended to read as follows and shall have permanent effect, subject to future actions by the General Assembly:

Section 1. KRS 136.650 is amended to read as follows:

- (1)
 - (a) Every political subdivision, school district, and special district shall participate in the gross revenues and excise tax fund and the state baseline and local growth fund.
 - (b) On or before December 1, 2005, each political subdivision shall certify to the department on a prescribed form the amount of collections it received from the local franchise fees collected from communications service and multichannel video programming service providers and other fees collected to fund public educational and government access programming during the period between July 1, 2004, and June 30, 2005. By certifying its participation under this subsection, each political subdivision:
 1. Consents to the hearing process provided in KRS 136.658; and
 2. Agrees to relinquish its right to enforce the portion of any contract or agreement that requires the payment of a franchise fee or tax on communications services and multichannel video programming services, regardless of whether the tax or fee is imposed on the provider or its customers.
 - (c) The amount of collections received by each political subdivision, school district, special district, and sheriff's department between July 1, 2004, and June 30, 2005, from the tax imposed by KRS 136.120 attributable to the franchise portion of the operating property, as noted in KRS 136.115, shall be calculated by the department from assessment data for calendar year 2004.
- (2) The monthly portion of the gross revenues and excise tax fund that shall be distributed to political subdivisions, school districts and special districts under KRS 136.652 shall be computed as follows:
 - (a) Each political subdivision, school district and special district shall be assigned a percentage based on the amount of its collections certified under subsection (1) of this section as a ratio of the total certified amount of collections of all parties participating in the fund. This percentage shall be known as the "local historical percentage." The portion of the sheriff departments' certified collections identified in subsection (1) of this section from the tax imposed under KRS 136.120 attributable to the franchise portion of the operating property, as noted in KRS 136.115, that was imposed by county governments shall be added to each county's reported collections to determine its local historical percentage;
 - (b) The sheriff departments' collections certified under subsection (1) of this section that are retained by the sheriff departments as their fee for collecting the taxes shall be the sheriff departments' fixed hold-harmless amount;
 - (c) Forty-three million two hundred thousand dollars (\$43,200,000) shall be designated as the "annual hold harmless amount". Three million six hundred~~thirty-four~~ thousand dollars (\$3,600,000)~~(\$3,034,000)~~, which represents one-twelfth (1/12) of the total "annual hold harmless amount"~~"potential collections"~~, shall be designated as the "monthly hold-harmless amount"; and
 - (d) Each political subdivision's, school district's, and special district's local historical percentage shall be multiplied by the monthly hold-harmless amount to determine its monthly distribution from the fund.
- (3) If during the period between June 30, 2005, and December 31, 2005, any political subdivision collected additional local franchise~~had a substantial change in its base~~ revenue from communications service and multichannel video programming service providers by enacting or modifying the rate of a local franchise fee prior to June 30, 2005, and those additional receipts were reported to the department on or before June 30, 2006,~~the political subdivision may request~~ the department shall include this additional local franchise revenue to determine the~~its~~ certified collection amount.
- (4) If any political subdivision, school district, special district, or sheriff's department believes that the data used to determine its certified amount of collections are inaccurate, the political subdivision, school district, special district, or sheriff's department may request a redetermination by the oversight committee established by KRS 136.658. A redetermination shall be effective prospectively beginning with the next distribution cycle occurring ninety (90) days after the matter is finally settled.

Section 2. KRS 136.654 is amended to read as follows:

- (1) On or before December 1, 2005, and every January 31 thereafter, as determined necessary by the department for distribution of anticipated local growth fund receipts, each participating political subdivision shall certify to the department its total tax receipts for the prior fiscal year. This amount shall be used to calculate the percentage of each political subdivision's portion of the account labeled under its county's name within the state baseline and local growth fund as described in subsection (3)(b) of this section. "Total tax receipts" shall not include revenue from nontax sources, such as intergovernmental revenues, charges for services, tuition, interfund transfers, interest and investment income, rental income, income from asset sales, beginning balances, or revenue from licenses and permits. "Total tax receipts" shall include the following:
 - (a) Real estate and tangible personal property taxes, including delinquent tax receipts;
 - (b) Franchise fees or taxes on utilities, other than multichannel video programming service and communications

2007 Regular Session

service utilities;

- (c) Occupational and business license fees or taxes, including insurance premium taxes, net profits taxes, gross receipts taxes, payroll taxes, transient room taxes, restaurant taxes, and bank deposit taxes;
 - (d) Telephone emergency surcharge fees;
 - (e) Gross revenues tax hold-harmless and growth fund receipts; and
 - (f) Payments in lieu of taxes.
- (2) On or before every January 31, as determined necessary by the department for distribution of anticipated local growth fund receipts, each participating school district and special district shall certify to the department the amount of its prior year tax assessments under KRS Chapter 132 on companies' providing of multichannel video programming service and communications service. This amount shall be used to calculate the percentage of each school district's and special district's portion of the account labeled under its county's name within the state baseline and local growth fund as described in subsection (3)(b) of this section. For tax years with no assessments under KRS Chapter 132, the local historical percentage as defined in KRS 136.650 shall be used.
- (3) Each political subdivision's, school district's, and special district's monthly portion of the state baseline and local growth fund shall be computed as follows:
- (a) A "local growth portion" shall be determined as an amount of money that when added to the hold-harmless amount identified in KRS 136.650(2)(c) equals fifteen and six-tenths percent (15.6%) of the total amount deposited in the gross revenues and excise tax fund, minus the amount of distributions made under KRS 136.652(1) and (3).
 - (b) The local growth portion shall be accounted for by county within the state baseline and local growth fund based on the ratio of the gross revenues tax collected on multichannel video programming services and communications services provided in each county to the total statewide collections of the gross revenues tax. The county-by-county allotment of the local growth portion shall be known as the "county growth portion."
 - (c) The county growth portion shall be further segregated into the political subdivision allotment, the school district allotment, and the special district allotment based upon the ratio of each allotment category's total historical collections as calculated under KRS 136.650(2) to the total overall county historical collections as calculated from the certified collections under KRS 136.650(1).
 - (d) On or before April 25, 2006, each political subdivision's share of the political subdivision allotment shall be determined by multiplying the political subdivision allotment of the local growth portion as determined in paragraph (b) of this subsection by the percentage calculated in subsection (1) of this section.
 - (e) On or before April 25, 2006, each school district's share of the school district allotment shall be determined by multiplying the school district allotment as determined in paragraph (c) of this subsection by the percentage calculated in subsection (2) of this section.
 - (f) On or before April 25, 2006, each special district's share of the special district allotment shall be determined by multiplying the special district allotment as determined in paragraph (c) of this subsection by the percentage calculated in subsection (2) of this section.
 - (g) The respective allotment share for each participating political subdivision, school district, and special district shall be adjusted every July 1 following the year 2006, to account for any change in its percentages based on annual certifications required in subsections (1) and (2) of this section.
 - (h) Notwithstanding the annual certifications required in subsection (1) of this section, following the year 2006, political subdivisions may choose to determine their respective shares of the political subdivision allotment pursuant to an interlocal agreement as authorized under KRS 65.240. Activation or termination of an interlocal agreement shall comply with the notification requirements of subsection (1) of this section and shall become effective the following July 1. The terms of a timely interlocal agreement governing the distribution of a political subdivision allotment shall remain in effect until its timely termination by one of the participating political subdivisions.

Section 3. Notwithstanding the provisions of KRS 136.652 establishing a different distribution formula, to support the retroactive increase of the monthly hold harmless amount established in paragraph (c) of subsection (2) of Section 1 of this Part, there is hereby appropriated from the General Fund in Fiscal Year 2006-2007 the amount of \$7,800,000. The amount so appropriated shall be deposited in the gross revenues and excise tax fund created by KRS 136.648, and shall be distributed to each political subdivision, school district and special district in accordance with the direction provided in this section and the formula established by Section 1 of this Part. To determine how the increased hold harmless amount shall be distributed among the political subdivisions, school districts and special districts, the Department of Revenue shall calculate the actual distributions received by each political subdivision, school district and special district for the period beginning January 1, 2006 and ending March 1, 2007 relating to calendar year 2006, and any other distributions made in calendar year 2007 prior to the passage of this Act. The Department of Revenue shall then calculate the distribution that would have been received by each political subdivision,

school district, and special district under the revised hold harmless amount established in paragraph (c) of subsection (2) and the franchise rate provisions of subsection (3) of Section 1 of this Part. The difference between the two amounts shall be distributed to each political subdivision, school district and special district to make up for shortfalls in distributions from January 1, 2006 through March 1, 2007 relating to calendar year 2006 and any distributions made after March 1, 2007 relating to calendar year 2007 prior to the passage of this Act. Any amounts remaining after calculation of the distributions shall be returned to the General Fund.

Section 4. The provisions of Sections 1 and 3 of this Part shall be retroactive to January 1, 2006."

House Floor Amendment No. 1 to **SB 14**, by Representative Owens:

SB 14, On page 3, line 9, after "Section 2." by inserting the following:

"KRS 118.215 is amended to read as follows:

- (1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate or slate of candidates for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups, slates of candidates, or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes, with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:
 - (a) Not later than the second Monday after the filing deadline for the primary;
 - (b) Not less than twenty-five (25) days before a runoff primary;
 - (c) Not later than the second Monday after the filing deadline for the general election, except as provided in paragraph (d) of this subsection; and
 - (d) Not later than the ~~Monday~~~~[Thursday]~~ after the Friday following the first Tuesday in September preceding a general election, for those years in which there is an election for President and Vice President of the United States.
- (2) Except as otherwise provided in subsection (3) of this section, all independent candidates or slates of candidates whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates or slates of candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.
- (3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.
- (4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate or slate of candidates who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate or slate of candidates who has filed the required nomination papers.
- (5) If the county clerk determines that the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not later than the last Tuesday in February preceding the primary or the last Tuesday in August preceding the general election. The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions, and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates or slates of candidates for an office or offices and public questions submitted for a yes or no vote. All candidates or slates of candidates for any particular office shall be placed either on the machine ballot or on the paper ballot. Supplemental paper ballots may also be used to conduct the voting, in the instance of a small precinct as provided in KRS 117.066.
- (6) The ballot position of a candidate or slate of candidates shall not be changed after the ballot position has been designated by the county clerk.

Section 3. KRS 118.365 is amended to read as follows:

- (1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. The certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.
- (2) Petitions of nomination for candidates for city offices except as provided in KRS 83A.047, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of regular elections for the offices sought.
- (3) Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file the statements required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the second Tuesday in August preceding the regular election for the office sought.
- (4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but whose candidate received two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the election of the person in nomination.
- (5) Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State or county clerk not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the offices will appear on the ballot and not later than the second Tuesday in August preceding the day fixed by law for the holding of general elections for the offices sought. The filing of petitions of nomination for independent candidates shall not be accepted by the Secretary of State or the county clerk if the candidate has not filed a statement-of-candidacy form as required by KRS 118.367.
- (6) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which there is an election for President and Vice President of the United States and not later than the Friday following the first Tuesday in September preceding the date fixed by law for the election of the electors.
- (7) Petitions for recall elections or elections on public questions shall be filed as required with the county clerk not later than the second Tuesday in August preceding the day fixed by law for holding a general election.
- (8) Petitions of any kind named in this section, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

Section 4."

House Floor Amendment No. 8 to the House Committee Substitute to SB 159, by Representative Osborne:

SB 159, On page 73, after line 19 by adding the following:

"Section 46. KRS 6.811 is amended to read as follows:

- (1) A legislative agent or employer shall not knowingly fail to register, as required under KRS 6.807.
- (2) A legislative agent or employer shall not knowingly fail to keep a receipt or maintain a record which KRS 6.821 requires the person to keep or maintain.
- (3) A person shall not knowingly fail to file a statement that KRS 6.807, 6.821, or 6.824 requires the person to file.
- (4) A legislative agent or employer shall not knowingly offer, give, or agree to give anything of value to a legislator, his spouse, or child.
- (5) A legislative agent shall not serve as a campaign treasurer, or as a fundraiser as set forth in KRS 121.170(2) for a candidate or legislator.
- (6) A legislative agent shall not make a campaign contribution to a legislator, a candidate, or his or her campaign committee. However, a legislative agent may make a campaign contribution to a legislator, a candidate, or his or her campaign committee if such a legislator or candidate is running for statewide office.
- (7) (a) A legislative agent or agents and their employer shall not collectively spend more than one hundred dollars (\$100)

in a calendar year on the purchase of food and beverages consumed on the premises for each legislator and his immediate family, collectively.

- (b) A legislative agent shall not spend more than one hundred dollars (\$100) in a calendar year on the purchase of food and beverages consumed on the premises for each legislator and member of a legislator's immediate family, collectively. This provision shall apply regardless of the number of employers by whom the legislative agent is engaged.
- (8) An employer shall not knowingly employ, appoint, or retain a serving legislator or former legislator as a legislative agent until at least two (2) years have elapsed from the date on which he vacated his office.
- (9) No person shall engage any person to lobby in exchange for compensation that is contingent in any way upon the passage, modification, or defeat of any legislation. No person shall accept any engagement to lobby in exchange for compensation that is contingent in any way upon the passage, modification, or defeat of any legislation. Violation of this provision is a Class D felony.
- (10) A legislative agent or other lobbyist shall not go upon the floor of either house of the General Assembly while the house is in session, except upon invitation of that house. Violation of this provision is a Class B misdemeanor.
- (11) If any legislative agent or employer violates any provision in subsections (4) to (8) of this section, he shall for the first violation be guilty of ethical misconduct. For the second and each subsequent violation, he shall be guilty of a Class D felony.";

On page 73, line 20 by deleting "46" and by inserting in lieu thereof "47";

On page 73, line 27 by deleting "47" and by inserting in lieu thereof "48" and by deleting the rest of line 27 and by inserting in lieu thereof "Whereas it is necessary to update elections and campaign finance statutes in a timely manner before the primary election, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.".

House Floor Amendment No. 7 to the House Committee Substitute to **SB 159**, by Representative Osborne:

SB 159, On page 73, after line 19 by adding the following:

"Section 46. KRS 6.811 is amended to read as follows:

- (1) A legislative agent or employer shall not knowingly fail to register, as required under KRS 6.807.
- (2) A legislative agent or employer shall not knowingly fail to keep a receipt or maintain a record which KRS 6.821 requires the person to keep or maintain.
- (3) A person shall not knowingly fail to file a statement that KRS 6.807, 6.821, or 6.824 requires the person to file.
- (4) A legislative agent or employer shall not knowingly offer, give, or agree to give anything of value to a legislator, his spouse, or child.
- (5) A legislative agent shall not serve as a campaign treasurer, or as a fundraiser as set forth in KRS 121.170(2) for a candidate or legislator.
- (6) A legislative agent shall not make a campaign contribution to a legislator, a candidate for the legislature, or his or her campaign committee.
- (7)
 - (a) A legislative agent or agents and their employer shall not collectively spend more than one hundred dollars (\$100) in a calendar year on the purchase of food and beverages consumed on the premises for each legislator and his immediate family, collectively.
 - (b) A legislative agent shall not spend more than one hundred dollars (\$100) in a calendar year on the purchase of food and beverages consumed on the premises for each legislator and member of a legislator's immediate family, collectively. This provision shall apply regardless of the number of employers by whom the legislative agent is engaged.
- (8) An employer shall not knowingly employ, appoint, or retain a serving legislator or former legislator as a legislative agent until at least two (2) years have elapsed from the date on which he vacated his office.
- (9) No person shall engage any person to lobby in exchange for compensation that is contingent in any way upon the passage, modification, or defeat of any legislation. No person shall accept any engagement to lobby in exchange for compensation that is contingent in any way upon the passage, modification, or defeat of any legislation. Violation of this provision is a Class D felony.
- (10) A legislative agent or other lobbyist shall not go upon the floor of either house of the General Assembly while the house is in session, except upon invitation of that house. Violation of this provision is a Class B misdemeanor.
- (11) If any legislative agent or employer violates any provision in subsections (4) to (8) of this section, he shall for the first violation be guilty of ethical misconduct. For the second and each subsequent violation, he shall be guilty of a Class D felony.

(12) A legislative agent or other lobbyist shall not make a campaign contribution to any candidate or slate of candidates running for statewide office.;

On page 73, line 20 by deleting "46" and by inserting in lieu thereof "47";

On page 73, line 27 by deleting "47" and by inserting in lieu thereof "48" and by deleting the rest of line 27 and by inserting in lieu thereof "Whereas it is necessary to update elections and campaign finance statutes in a timely manner before the primary election, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law."

House Floor Amendment No. 9 Title to **SB 159**, by Representative Osborne:

SB 159, Amend the title to read as follows: "AN ACT relating to the regulation of campaigns and elections and declaring an emergency."

House Floor Amendment No. 4 Title to **SB 175**, by Representative Burch:

SB 175, Amend the title to read as follows: "AN ACT relating to health care data."

House Floor Amendment No. 3 to **SB 175**, by Representative Burch:

SB 175, On page 2, after line 22, by inserting the following:

"Section 2. KRS 216.2923 is amended to read as follows:

(1) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary may:

- (a) Appoint temporary volunteer advisory committees, which may include individuals and representatives of interested public or private entities or organizations;
- (b) Apply for and accept any funds, property, or services from any person or government agency;
- (c) Make agreements with a grantor of funds or services, including an agreement to make any study allowed or required under KRS 216.2920 to 216.2929; and
- (d) Contract with a qualified, independent third party for any service necessary to carry out the provisions of KRS 216.2920 to 216.2929; however, unless permission is granted specifically by the secretary a third party hired by the secretary shall not release, publish, or otherwise use any information to which the third party has access under its contract.

(2) For the purposes of carrying out the provisions of KRS 216.2920 to 216.2929, the secretary shall:

- (a) Publish and make available information that relates to the health care financing and delivery system, including but not limited to information on charges for health care services and the quality and outcomes of health care services, the cost of workers' compensation health benefits, motor vehicle health insurance benefits, and health insurance premiums and benefits that is in the public interest;
- (b) Periodically participate in or conduct analyses and studies that relate to:
 1. Health-care costs;
 2. Health-care quality and outcomes;
 3. Health-care providers and health services; and
 4. Health insurance costs;
- (c) Promulgate administrative regulations pursuant to KRS Chapter 13A that relate to its meetings, minutes, and transactions related to KRS 216.2920 to 216.2929;
- (d) Prepare annually a budget proposal that includes the estimated income and proposed expenditures for the administration and operation of KRS 216.2920 to 216.2929; and
- (e) No later than thirty (30) days after July 15, 2005, appoint and convene a permanent cabinet advisory committee. The committee shall advise the secretary on the collection, analysis, and distribution of consumer-oriented information related to the health care system, the cost of treatment and procedures, outcomes and quality indicators, and policies and regulations to implement the electronic collection and transmission of patient information (e-health) and other cost-saving patient record systems. At a minimum, the committee shall be composed of the following:
 1. Commissioner of the Department for Public Health;
 2. Commissioner of the Department for Mental Health and Mental Retardation Services;
 3. Commissioner of the Department for Medicaid Services;

4. Executive director of the Office of Insurance;
5. Physician representatives;
6. Hospital representatives;
7. Health insurer representatives;
8. Consumers; and
9. Nonphysician health care providers.

(f) The cabinet advisory committee shall utilize the Health Services Data Advisory Committee as a subcommittee, which shall include a member of the Division of Women's Physical and Mental Health, to define quality outcome measurements and to advise the cabinet on technical matters, including but not limited to a review of administrative regulations promulgated pursuant to KRS Chapter 13A, proper interpretation of the data, and the most cost-efficient manner in which it should be published and disseminated to the public, state and local leaders in health policy, health facilities, and health-care providers. The Health Services Data Advisory Committee shall review and make recommendations to the cabinet advisory committee regarding exploration of technical matters related to data from other health care providers and shall make recommendations on methods for risk-adjusting any data prepared and published by the cabinet.

(3) The cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A that impose civil fines not to exceed five hundred dollars (\$500) for each violation for knowingly failing to file a report as required under KRS 216.2920 to 216.2929. The amount of any fine imposed shall not be included in the allowed costs of a facility for Medicare or Medicaid reimbursement.

Section 3. KRS 216.2925 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall establish by promulgation of administrative regulations pursuant to KRS Chapter 13A, no later than January 1, 1995, those data elements required to be submitted to the cabinet by all licensed hospitals and ambulatory facilities, including a timetable for submission and acceptable data forms. Thereafter, every hospital and ambulatory facility shall be required to report on a quarterly basis, ~~on a periodic basis, which may include quarterly reporting,~~ information regarding the charge for and quality of the procedures and health-care services performed therein, and as stipulated by administrative regulations promulgated pursuant to KRS Chapter 13A. The cabinet shall accept data which, at the option of the provider is submitted through a third party, including, but not limited to, organizations involved in the processing of claims for payment, so long as the data elements conform to the requirements established by the cabinet. The cabinet may conduct statistical surveys of a sample of hospitals, ambulatory facilities, or other providers in lieu of requiring the submission of information by all hospitals, ambulatory facilities, or providers. On at least a biennial basis, the cabinet shall conduct a statistical survey that addresses the status of women's health, specifically including data on patient age, ethnicity, geographic region, and payor sources. The cabinet shall rely on data from readily available reports and statistics whenever possible.
- (2) The cabinet shall require for submission to the cabinet by any group of providers, except for physicians providing services or dispensaries, first aid stations, or clinics located within business or industrial establishments maintained solely for the use of their employees, including those categories within the definition of provider contained in KRS 216.2920 and any further categories determined by the cabinet, at the beginning of each fiscal year after January 1, 1995, and within the limits of the state, federal, and other funds made available to the cabinet for that year, and as provided by cabinet promulgation of administrative regulations pursuant to KRS Chapter 13A, the following:
 - (a) A list of medical conditions, health services, and procedures for which data on charge, ~~and~~ quality, and outcome ~~[data]~~ shall be collected and published ~~at specified time intervals and in a specified manner~~;
 - (b) A timetable for filing ~~[data, which may include quarterly reporting of the]~~ information provided for under paragraph (a) of this subsection on a quarterly basis;
 - (c) A list of data elements that are necessary to enable the cabinet to analyze and disseminate risk-adjusted charge, quality, and outcome information, including mortality and morbidity data;
 - (d) An acceptable format for data submission which shall include use of the uniform:
 1. Health claim form pursuant to KRS 304.14-135 or any other universal health claim form to be determined by the cabinet ~~if, and which may be in the form of magnetic computer tape, computer diskettes, or other electronic media, or through an electronic network, or~~ in the form of hard copy; or
 2. Electronic submission formats as required under the federal Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. sec. 300gg et seq., in the form of magnetic computer tape, computer diskettes, or other electronic media through an electronic network;
 - (e) Procedures to allow health-care providers at least thirty (30) days to review information generated from any data required to be submitted by them, with any reports generated by the cabinet to reflect valid corrections by the provider before the information is released to the public; and
 - (f) Procedures pertaining to the confidentiality of data collected.
- (3) The cabinet shall coordinate but not duplicate its data-gathering activities with other data-collection activities conducted

by the Office of Insurance, as well as other state and national agencies which collect health-related service, utilization, quality, outcome, financial, and health-care personnel data, and shall review all administrative regulations promulgated pursuant to KRS 216.2920 to 216.2929 to prevent duplicate filing requirements. The cabinet shall periodically review the use of all data collected under KRS 216.2920 to 216.2929 to assure its use is consistent with legislative intent.

- (4) The cabinet shall conduct outcome analyses and effectiveness studies and prepare other reports pertaining to issues involving health-care charges and quality.
- (5) The cabinet may independently audit any data required to be submitted by providers as needed to corroborate the accuracy of the submitted data. Any audit may be at the expense of the cabinet and shall, to the extent practicable, be coordinated with other audits performed by state agencies.
- (6) The cabinet may initiate activities set forth in subsection (1) or (2) of this section at any time after July 15, 1996.
- (7) The Cabinet for Health and Family Services shall collect all data elements under this section using only the uniform health insurance claim form pursuant to KRS 304.14-135, the Professional 837 (ASC X12N 837) format, the Institutional 837 (ASC X12N 837) format, or its successor as adopted by the Centers for Medicare and Medicaid Services.

Section 4. KRS 216.2927 is amended to read as follows:

- (1) The following types of data shall be deemed as relating to personal privacy and, except by court order, shall not be published or otherwise released by the cabinet or its staff and shall not be subject to inspection under KRS 61.870 to 61.884:
 - (a) Any data, summary of data, correspondence, or notes that identify or could be used to identify any individual patient or member of the general public, unless the identified individual gives written permission to release the data or correspondence;
 - (b) Any correspondence or related notes from or to any employee or employees of a provider if the correspondence or notes identify or could be used to identify any individual employee of a provider, unless the corresponding persons grant permission to release the correspondence; and
 - (c) Data considered by the cabinet to be incomplete, preliminary, substantially in error, or not representative, the release of which could produce misleading information.
- (2) Health care providers submitting required data to the cabinet shall not be required to obtain individual permission to release the data, except as specified in subsection (1) of this section, and, if submission of the data to the cabinet complies with pertinent administrative regulations promulgated pursuant to KRS Chapter 13A, shall not be deemed as having violated any statute or administrative regulation protecting individual privacy.
- (3) No less than sixty (60) days after the annual report or reports are published and except as otherwise provided, the cabinet shall make all aggregate data which does not allow disclosure of the identity of any individual patient, and which was obtained for the annual period covered by the reports, available to the public.
 - (a) Persons or organizations requesting use of the data shall agree to abide by a public-use data agreement and by HIPAA privacy rules referenced in 45 C.F.R. Part 164. The public-use data agreement shall include at a minimum a prohibition against the sale or further release of data, and guidelines for the use and analysis of the data released to the public related to provider quality, outcomes, or charges;
 - (b) ~~[The aggregate data shall be made available in both printed format and in a standard electronic format which is readable by commonly available software for personal computers.]~~ Single copies of the printed data shall be made available to individuals at no cost. The cabinet may impose a fee ~~[no greater than that necessary to cover its costs]~~ for providing electronic or multiple printed copies of the data. At least one (1) printed and one (1) electronic copy of the aggregate data shall be provided without charge to the Legislative Research Commission; and
 - (c) The Health Services Data Advisory Committee shall review at least annually current protocols related to the release of data under this subsection and shall make recommendations to the cabinet advisory committee established under KRS 216.2923.
- (4) Collection of data about individual patients shall be in a nonidentifying numeric form and shall not include a patient's name or Social Security number. Any person who receives information identifying a patient through error or any other means shall return all copies of the information immediately.
- (5) All data and information collected shall be kept in a secure location and under lock and key when specifically responsible personnel are absent.
- (6) Only designated cabinet staff shall have access to raw data and information. The designated staff shall be made aware of their responsibilities to maintain confidentiality. Staff with access to raw data and information shall sign a statement indicating that the staff person accepts responsibility to hold that data or identifying information in confidence and is aware of penalties under state or federal law for breach of confidentiality. Data which, because of small sample size, breaches the confidence of individual patients, shall not be released.
- (7) Any employee of the cabinet who violates any provision of this section shall be fined not more than five hundred dollars (\$500) for each violation or be confined in the county jail for not more than six (6) months, or both, and shall be removed

and disqualified from office or employment.

Section 5. KRS 216.2929 is amended to read as follows:

- (1) The Cabinet for Health and Family Services shall make available on its Web site information on charges for health care services at least annually~~, on or before July 1, prepare and publish,~~ in understandable language with sufficient explanation to allow consumers to draw meaningful comparisons between every~~, a report or reports on health care charges, quality, and outcomes which includes diagnosis specific or procedure specific comparisons for each~~ hospital and ambulatory facility, differentiated by payor if relevant, and for other provider groups as relevant data becomes available.
 - (a) Any charge information compiled and reported by the cabinet shall include the median charge and other percentiles to describe the typical charges for all of the patients treated by a provider and the total number of patients represented by all charges, and shall be risk-adjusted according to recommendations of the Health Services Data Advisory Committee.
 - (b) The report shall clearly identify the sources of data used in the report and explain limitations of the data and why differences between provider charges may be misleading. Every provider that is specifically identified in any report shall be given thirty (30) days to verify the accuracy of its data prior to public release and shall be afforded the opportunity to submit comments on its data that shall be included on the Web site and as part of any printed report of the data.
 - (c) The cabinet shall only provide linkages to organizations that publicly report comparative-charge data for Kentucky providers using data for all patients treated regardless of payor source, which may be adjusted for outliers, is risk-adjusted, and meets the requirements of paragraph (b) of this subsection.
- (2) The cabinet shall make information available on its Web site at least annually describing quality and outcome measures in understandable language with sufficient explanations to allow consumers to draw meaningful comparison between every hospital and ambulatory facility in the Commonwealth and other provider groups as relevant data becomes available.
 - (a) 1. The cabinet shall utilize only national quality indicators that have been endorsed and adopted by the Agency for Healthcare Research and Quality, the National Quality Forum, or the Centers for Medicare and Medicaid Services; or
 2. The cabinet shall provide linkages only to the following organizations that publicly report quality and outcome measures on Kentucky providers:
 - a. The Centers for Medicare and Medicaid Services;
 - b. The Agency for Healthcare Research and Quality;
 - c. The Joint Commission on the Accreditation of Health Care Organizations; and
 - d. Other organizations that publicly report relevant outcome data for Kentucky providers as determined by the Health Services Data Advisory Committee.
 - (b) The cabinet shall utilize or refer the general public to only those nationally endorsed quality indicators that are based upon current scientific evidence or relevant national professional consensus and have definitions and calculation methods openly available to the general public at no charge.
- (3) Any report the cabinet disseminates or refers the public to shall:
 - (a) Not include data for a provider whose caseload of patients is insufficient to make the data a reliable indicator of the provider's performance;
 - (b) Meet the requirements of paragraph (b) of subsection (1) of this section;
 - (c) Clearly identify the sources of data used in the report and explain the analytical methods used in preparing the data included in the report; and
 - (d) Explain any limitations of the data and how the data should be used by consumers.
- (4) The cabinet shall at least annually, on or before October 1, submit ~~to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor~~ a report on the operations and activities of the cabinet under KRS 216.2920 to 216.2929 during the preceding fiscal year, including a copy of each study or report required or authorized under KRS 216.2920 to 216.2929 and any recommendations relating thereto.
- ~~(5) (3)~~ The cabinet shall report at least biennially, no later than October 1 of each odd-numbered year, ~~to the Interim Joint Committees on Appropriations and Revenue and on Health and Welfare and to the Governor~~ on matters pertaining to comparative health-care charges, quality, and outcomes, the effectiveness of its activities relating to educating consumers and containing health-care costs, and any recommendations regarding its data collection and dissemination activities.
- ~~(6) (4)~~ The cabinet shall report at least biennially, no later than October 1 of each odd-numbered year, on the special health needs of the minority population in the Commonwealth as compared to the population in the Commonwealth as compared

to the population at large. The report shall ~~be transmitted to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor and shall~~ contain an overview of the health status of minority Kentuckians, shall identify the diseases and conditions experienced at disproportionate mortality and morbidity rates within the minority population, and shall make recommendations to meet the identified health needs of the minority population.

(7) The reports required under subsections (4), (5), and (6) of this section shall be submitted to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare and to the Governor."

Floor Amendment No. 6 to HB 219, by Representative DeCesare:

HB 219, On page 2, by deleting line 2 in its entirety and by inserting in lieu thereof the following:

"Section 2. KRS 336.130 is amended to read as follows:

- (1) Employees may, free from restraint or coercion by the employers or their agents, associate collectively for self-organization and designate collectively representatives of their own choosing to negotiate the terms and conditions of their employment to effectively promote their own rights and general welfare. Employees, collectively and individually, may strike, engage in peaceful picketing, and assemble collectively for peaceful purposes.
- (2) Neither employers or their agents nor employees or associations, organizations or groups of employees shall engage or be permitted to engage in unfair or illegal acts or practices or resort to violence, intimidation, threats or coercion.
- (3) **Notwithstanding subsection (1) of this section or any other provision of the Kentucky Revised Statutes to the contrary, no employee shall be required, as a condition of employment or continuation of employment, to:**
 - (a) Become or remain a member of a labor organization;**
 - (b) Pay any dues, fees, assessments, or other similar charges of any kind or amount to a labor organization; or**
 - (c) Pay to any charity or other third party, in lieu of these payments, any amount equivalent to or pro rata portion of dues, fees, assessments, or other charges required of a labor organization.**
- (4) Except in instances where violence, personal injury, or damage to property have occurred and such occurrence is supported by an affidavit setting forth the facts and circumstances surrounding such incidents, the employees and their agents shall not be restrained or enjoined from exercising the rights granted them in subsection (1) of this section without a hearing first being held, unless the employees or their agents are engaged in a strike in violation of a "no strike" clause in their labor contract.
- ~~(5)~~**(4)** Submission of a false affidavit concerning violence, personal injury, or damage to property shall constitute a violation of KRS 523.030. In the absence of any such affidavit alleging violence, personal injury, or damage injunctions shall be issued only by a Circuit Judge or other justice or judge acting as a Circuit Judge pursuant to law.

Section 3. KRS 336.180 is amended to read as follows:

As used in ~~this chapter~~**[KRS 336.190 and 336.200]**, unless the context requires otherwise, the term "labor organization" means any organization of any kind, or any agency or employee representation committee or plan, in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment or conditions of work.

Section 4. KRS 336.990 is amended to read as follows:

- (1) Upon proof that any person employed by the Department of Labor as a labor inspector has taken any part in any strike, lockout or similar labor dispute, he shall forfeit his office.
- (2) The following civil penalties shall be imposed, in accordance with the provisions in KRS 336.985, for violations of the provisions of this chapter:
 - (a) Any person who violates KRS 336.110 shall for each offense be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000).
 - (b) Any corporation, association, organization, or person that violates KRS 336.190 and 336.200 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each offense. Each act of violation, and each day during which such an agreement remains in effect, shall constitute a separate offense.
 - (c) Any employer who violates the provisions of KRS 336.220 shall be assessed a civil penalty of not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) for each violation.

(3) Any labor organization, employer, or other person who violates subsection (3) of Section 2 of this Act shall be guilty of a Class D felony.

SECTION 5. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

The provisions of subsection (3) of Section 2 of this Act shall not apply to any collective bargaining agreement or any other type of agreement between employees and a labor organization entered into before the effective date of this Act, but the provisions of subsection (3) of Section 2 of this Act shall apply to any new agreement, or a renewal or extension of any existing collective bargaining agreement, entered into after the effective date of this Act.

Section 6. KRS 67A.6904 is amended to read as follows:

- (1) Except as provided in Section 2 of this Act, urban-county governments and their representatives and agents are prohibited from:
 - (a) Interfering, restraining, or coercing police officers, firefighter personnel, firefighters, or corrections personnel in the exercise of the rights guaranteed in KRS 67A.6902;
 - (b) Dominating or interfering with the formation, existence, or administration of any labor organization;
 - (c) Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization~~[-; provided that nothing in this section, or in any other statute of this state, shall preclude an urban-county government from making an agreement with a labor organization to require as a condition of employment membership therein on or after the thirtieth day following the beginning of that employment or on the effective date of the agreement, whichever is the later];~~
 - (d) Discharging or otherwise discriminating against an employee because he or she has signed or filed any affidavit, petition, or complaint or given any information or testimony under this section; or
 - (e) Refusing to bargain collectively in good faith with a labor organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.
- (2) Labor organizations and their agents are prohibited from:
 - (a) Restraining or coercing:
 1. Police officers, firefighter personnel, firefighters, or corrections personnel in the exercise of the right guaranteed in KRS 67A.6902; and
 2. An urban-county government in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances; or
 - (b) Refusing to bargain collectively in good faith with an urban-county government, if they have been designated in accordance with the provisions of this section as the exclusive representative of police officers, firefighter personnel, firefighters, or corrections personnel in an appropriate unit.
- (3) For the purposes of this section, to bargain collectively is to carry out in good faith the mutual obligation of the parties, or their representatives; to meet together at reasonable times, including meetings in advance of the budget-making process; to negotiate in good faith with respect to wages, hours, and other conditions of employment; to negotiate an agreement; to negotiate any question arising under any agreement; and to execute a written contract incorporating any agreement reached, if requested by either party. The obligation shall not be interpreted to compel either party to agree to a proposal, or require either party to make a concession.

Section 7. KRS 67C.406 is amended to read as follows:

- (1) Except as provided in Section 2 of this Act, consolidated local governments, their representatives, or their agents are prohibited from:
 - (a) Interfering, restraining, or coercing police officers in the exercise of the rights guaranteed in KRS 67C.402;
 - (b) Dominating or interfering with the formation, existence, or administration of any labor organization;
 - (c) Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization~~[-; provided that nothing in this section, or in any other statute of this state, shall preclude a consolidated local government from making an agreement with a labor organization to require as a condition of employment membership therein on or after the thirtieth day following the beginning of that employment or on the effective date of the agreement, whichever is the later];~~
 - (d) Discharging or otherwise discriminating against an employee because he or she has signed or filed any affidavit, petition, or complaint or given any information or testimony under this section; or
 - (e) Refusing to bargain collectively in good faith with a labor organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.
- (2) Labor organizations or their agents are prohibited from:
 - (a) Restraining or coercing:
 1. Police officers in the exercise of the right guaranteed in KRS 67C.402; and
 2. A consolidated local government in the selection of a representative for the purposes of collective bargaining or the adjustment of grievances; or
 - (b) Refusing to bargain collectively in good faith with a consolidated local government, if they have been designated in accordance with the provisions of this section as the exclusive representative of police officers in an appropriate unit.
- (3) For the purposes of this section, to bargain collectively is to carry out in good faith the mutual obligation of the parties, or

their representatives; to meet together at reasonable times, including meetings in advance of the budget-making process; to negotiate in good faith with respect to wages, hours, and other conditions of employment; to negotiate an agreement; to negotiate any question arising under any agreement; and to execute a written contract incorporating any agreement reached, if requested by either party. The obligation shall not be interpreted to compel either party to agree to a proposal, or require either party to make a concession.

Section 8. KRS 70.262 is amended to read as follows:

- (1) **Except as provided in Section 2 of this Act,** in any county containing a consolidated local government or city of the first class that has adopted a merit system under KRS 70.260 to 70.273, deputies subject to the merit system may organize, form, join, or participate in organizations in order to engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid and protection, and to bargain collectively through a representative of their own free choice. Deputies shall also have the right to refrain from any or all of these activities but shall be subject to the lawful provisions of any collective bargaining agreement entered into under this section. Strikes by deputies of any collective bargaining unit shall be prohibited at any time.
- (2) **Except as provided in Section 2 of this Act,** in any county containing a consolidated local government or city of the first class that has adopted a merit system under KRS 70.260 to 70.273, the sheriff shall contract with a representative of the deputies described in subsection (1) of this section employed by the sheriff where the representative has established representation of a majority of the deputies, with respect to wages, hours, and terms and conditions of employment, including execution of a written contract incorporating any agreement reached between the sheriff and the representative. The sheriff shall not be required to bargain over matters of inherent managerial policy.

Section 9. KRS 78.470 is amended to read as follows:

Except as provided in Section 2 of this Act, in any county in the Commonwealth of Kentucky, which has a population of 300,000 or more and, which has adopted the merit system, the county employees in the classified service as police may organize, form, join or participate in organizations in order to engage in lawful concerted activities for the purpose of collective bargaining or other mutual aid and protection, and to bargain collectively through representatives of their own free choice. Such employees shall also have the right to refrain from any or all such activities. Strikes by said members of any such collective bargaining unit shall be prohibited at any time.

Section 10. KRS 78.480 is amended to read as follows:

Except as provided in Section 2 of this Act, in any county in the Commonwealth of Kentucky which has a population of 300,000 or more and which has adopted the merit system for its police force, the fiscal court may contract with representatives of the police employed by said county with respect to wages, hours, terms and conditions of employment, including execution of a written contract incorporating any agreement reached between the fiscal court and representatives of the police. The fiscal court shall not be required to bargain over matters of inherent managerial policy.

Section 11. KRS 345.050 is amended to read as follows:

- (1) **Except as provided in Section 2 of this Act,** public employers, their representatives or their agents are prohibited from:
 - (a) Interfering, restraining or coercing firefighters in the exercise of the rights guaranteed in KRS 345.030;
 - (b) Dominating or interfering with the formation, existence or administration of any labor organization;
 - (c) Discriminating in regard to hiring or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; ~~provided, that nothing in this chapter, or in any other statute of this state, shall preclude a public employer from making an agreement with a labor organization to require as a condition of employment membership therein on or after the thirtieth day following the beginning of such employment or on the effective date of such agreement, whichever is the later;~~
 - (d) Discharging or otherwise discriminating against an employee because he has signed or filed any affidavit, petition or complaint or given any information or testimony under this chapter;
 - (e) Refusing to bargain collectively in good faith with a labor organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.
- (2) Labor organizations or their agents are prohibited from:
 - (a) Restraining or coercing:
 1. Firefighters in the exercise of the right guaranteed in subsection (1) of KRS 345.030, and
 2. A public employer in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances;
 - (b) Refusing to bargain collectively in good faith with a public employer, if they have been designated in accordance with the provisions of this chapter as the exclusive representative of firefighters in an appropriate unit.
- (3) For the purposes of this chapter, to bargain collectively is to carry out in good faith the mutual obligation of the parties, or their representatives; to meet together at reasonable times, including meetings in advance of the budget-making process; to negotiate in good faith with respect to wages, hours and other conditions of employment; to negotiate an agreement; to

negotiate any question arising under any agreement; and to execute a written contract incorporating any agreement reached, if requested by either party. The obligation shall not be interpreted to compel either party to agree to a proposal, or require either party to make a concession.

Section 12. Section 1 of this Act takes effect July 1, 2008."

Floor Amendment No. 7 Title to **HB 219**, by Representative DeCesare:

HB 219, Amend title to read "AN ACT relating to employment."

House Floor Amendment No. 1 to the House Committee Substitute to **SB 88**, by Representative Webb:

SB 88, On page 10, lines 5 through 15, to delete the same; and
 On page 10, line 16, following "Section" to delete "5" and to insert "4"; and
 On page 16, line 9, following "SECTION" to delete "6" and to insert "5"; and
 On page 16, line 19, following "SECTION" to delete "7" and to insert "6"; and
 On page 16, line 27, following "SECTION" to delete "8" and to insert "7"; and
 On page 17, line 9, following "Section" to delete "9" and to insert "8"; and
 On page 22, line 22, following "Section" to delete "10" and to insert "9"; and
 On page 24, line 27, following "Section" to delete "11" and to insert "10"; and
 On page 27, line 14, following "Section" to delete "12" and to insert "11"; and
 On page 28, line 27, following "Section" to delete "13" and to insert "12"; and
 On page 32, line 19, following "Section" to delete "14" and to insert "13"; and
 On page 34, line 26, following "Section" to delete "15" and to insert "14"; and
 On page 36, line 14, following "Section" to delete "14" and to insert "13"; and
 On page 37, line 20, following "Section" to delete "16" and to insert "15"; and
 On page 38, line 18, following "Section" to delete "14" and to insert "13"; and
 On page 39, line 23, following "Section" to delete "18" and to insert "17".

House Floor Amendment No. 2 to **SB 196**, by Representative Webb:

SB 196, On page 13, line 15, after the word "approvals", by inserting a comma, followed by: "and for which an environmental assessment or environmental impact statement has been prepared in accordance with the National Environmental Policy Act".

House Floor Amendment No. 1 to the House Committee Substitute to **SB 1**, by Representative Rasche:

SB 1, On page 1, line 3, delete "4";

On page 1, line 3, delete "10" and insert "9" in lieu thereof;

On page 2, line 16, after "including", insert "but not limited to";

On page 2, between lines 18 and 19, insert the following:

"(d) The Kentucky Department of Education is authorized to use the fund to contract for services to administer the program in an amount not to exceed one percent (1%) of total available funds.";

On page 2, line 23, after "criteria", insert "1";

On page 5, delete all language and punctuation from the beginning of line 2 to the end of line 10, and insert the following in lieu thereof:

"(8) (a) Beginning in 2007, the Kentucky Department of Education shall submit an annual report by December 1 to the Kentucky Board of Education and the Legislative Research Commission regarding implementation of the provisions of Sections 2, 3, 9, and subsection (3)(c) of Section 14 of this Act.

(b) The Kentucky Department of Education shall develop a program evaluation framework regarding implementation of the provisions of Sections 2, 3, 9, and subsection (3)(c) of Section 14 of this Act. Beginning in the December two (2) years after the end of first fiscal year in which funding is provided for the science and mathematics advancement fund, a program evaluation based on the framework shall be incorporated into the annual report. The program evaluation shall include but not be limited to information regarding program

effectiveness, progress against the statewide goals set under subsection (7) of this section, and the reporting of trends over time on the indicators established to measure progress against the goals.";

Delete Section 4, from page 6, line 12 through page 10, line 19, in its entirety and renumber all subsequent sections accordingly;

On page 27, line 16, delete "prerequisite";

On page 27, lines 16-18, delete "for success in secondary, Advanced Placement, and International Baccalaureate courses" and insert "to fulfill the prerequisites for courses in advanced science and mathematics as defined in Section 1 of this Act";

On page 28, line 17, delete "8" and insert "7" in lieu thereof;

On page 28, line 18, after "have" insert "successfully completed";

On page 28, line 22, delete "8" and insert "7" in lieu thereof;

On page 28, line 25, after "Education." insert the following

"Funds appropriated to pay for the AP and International Baccalaureate examinations shall be distributed after all other funds available for this purpose have been obligated, including but not limited to state funds, federal funds, and funds available through a scholarship program administered by the Kentucky Higher Education Assistance Authority."

On page 40, line 2, delete "11" and insert "10" in lieu thereof and

On page 48, line 11, delete "18" and insert "17" in lieu thereof.

House Floor Amendment No. 11 to the House Committee Substitute to SB 159, by Representative Riner:

SB 159, On page 29, line 6 and line 7 by deleting "one thousand dollars (\$1,000)" and by inserting in lieu thereof "five hundred dollars (\$500)"; and

On page 34, line 1 and line 2 by deleting "one thousand five hundred dollars (\$1,500)" and by inserting in lieu thereof "seven hundred fifty dollars (\$750)".

House Floor Amendment No. 13 to the House Committee Substitute to SB 159, by Representative Riner:

SB 159, On page 34, line 4 by deleting "Two thousand five hundred dollars (\$2,500)" and by inserting in lieu thereof "one thousand two hundred fifty dollars (\$1,250)";

On page 34, line 6 by deleting "Two thousand five hundred dollars (\$2,500)" and by inserting in lieu thereof "one thousand two hundred fifty dollars (\$1,250)"; and

On page 34, line 8 by deleting "Two thousand five hundred dollars (\$2,500)" and by inserting in lieu thereof "one thousand two hundred fifty dollars (\$1,250)".

House Floor Amendment No. 12 to the House Committee Substitute to SB 159, by Representative Riner:

SB 159, On page 21, line 25 and line 26 by deleting "one thousand dollars (\$1,000)" and by inserting in lieu thereof "five hundred dollars (\$500)"; and

On page 33, line 19 and line 20 by deleting "one thousand dollars (\$1,000)" and by inserting in lieu thereof "five hundred dollars (\$500)".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 1, Representative Riner

HB 2, Representative Riner

HB 4, Representative Riner

HB 5, Representative Riner

HB 6, Representative Riner

HB 64, Representative Riner

HB 67, Representative Riner

HB 70, Representative Riner
HB 75, Representative Riner
HB 91, Representative Riner
HB 94, Representative Riner
HB 103, Representative Riner
HB 109, Representative Riner
HB 113, Representative Riner
HB 219, Representative Riner
HB 225, Representative Riner
HB 226, Representative Riner
HB 230, Representative Riner
HB 278, Representative Riner
HB 291, Representative Riner
HB 305, Representative Riner
HB 315, Representative Riner
HB 332, Representative Riner
HB 337, Representative Riner
HB 352, Representative Riner
HB 390, Representative Riner
HB 403, Representative Riner
HB 469, Representative Bell
HB 549, Representative Riner
HCR 88, Representative Floyd
HR 186, Representative Harmon

Announcements

Majority Caucus, upon recess, Supreme Court Chamber

Minority Caucus, upon recess, Room 316

Adjournment

Representative Adkins moved to adjourn until the hour of 9:00 a.m. on Friday, March 9, 2007.

The motion that the House adjourn until 9:00 a.m., Friday, March 9, 2007, was adopted by voice vote.

FRIDAY, MARCH 9, 2007
TWENTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Josephine Knuckles, Bethel Star Apostolic Church, Marion County, Kentucky, guest of Representative Higdon.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present except Representative Dedman.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 8, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills were filed by the following:

Representative Edmonds moved that his vote be changed from "Yea" to "Nay" on **SB 29**. Agreed.

Representative Glenn moved that his vote be changed from "Yes" to "Nay" on **SB 29**. Agreed.

Representative A. Smith moved that his vote be changed from "Yea" to "Nay" on **SB 29**. Agreed.

Representative Henderson moved that he be recorded as voting "Yea" on **SB 47**. Agreed.

Report On Enrolled Bills

HB 71, 108, 312, 316, and 321 were delivered to the Senate and signed by the President. Delivered to the Governor on March 8, 2007, at 7:26 p.m.

Introduction of Bills and Resolutions

HR 215, by Representatives Pullin, Vincent, Owens, Keene, Greer, Rudy, Thompson, Riggs, Denham, Simpson, Butler, Wuchner, Clark, Webb, Cherry, Rand, Fischer, Miller, Osborne, Rasche, Burch, McKee, Marzian, Meeks, Jenkins, Santoro, Adams, Bratcher, DeWeese, Firkins, Draud, Riner, Horlander, Watkins, Nesler, and Weston: A RESOLUTION creating a House of Representatives Ohio River Task Force to study the critical issues affecting cities and counties bordering the river.

HR 216, by Representative Pasley: A RESOLUTION adjourning the House of Representatives in memory and honor of Revelry G. Yeiser.

HR 217, by Representative Pasley: A RESOLUTION adjourning the House of Representatives in memory and honor of Maurice D. Flynn.

Calendar

SB 112, SJR 6, SB 208, SJR 125, HB 491, SB 103, 171, 1, 82, 143, and 111 taken from the Calendar and ordered read at length for the second time. Representative Adkins moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Representative Adkins moved to suspend the rules to allow the House to recess for a Committee on Rules meeting. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

The Committee on Enrollment reported that **SJR 48** and **SB 60** have been examined and found correctly enrolled. Said Bill and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 9:50 a.m.)

Report of Committees

The Committee on Rules reported that **SB 126, 145, 1, 82, 103, 111, 112, 143, 171, SJR 125, HB 258, 185, 402, and 259** have been posted for passage in the Regular Orders of the Day for March 12, 2007.

Senate Message

Announcing passage of **HB 215, 243, 390, 468, and HCR 120**.

Message received in regard to **HB 305**: The Senate has passed **HB 305** by way of Committee Substitute with Senate Committee No. 1 Title and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 355**: The Senate has passed **HB 355** by way of Committee Substitute with Senate Committee No. 1 Title and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 386**: The Senate has passed **HB 386** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HJR 84**: The Senate has passed **HJR 84** by way of Committee Substitute with Senate Committee Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body. (9:42 a.m.)

Orders of the Day

Because the House had designated the twenty-seventh day for concurrence Representative Adkins moved that the rules be suspended for the House to consider Senate Bills in the Orders of the Day. Agreed.

SB 43 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved that **SB 43** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 9, 2007, roll call on **SB 43** - Appendix.)

SB 43 was passed and the title agreed to.

Representative Westrom moved that the vote by which **SB 43** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 185 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved that **SB 185** be passed.

On the roll call the vote was: **Yeas 92, Nays 2**. (See March 9, 2007, roll call on **SB 185** - Appendix.)

SB 185 was passed and the title agreed to.

Representative Pullin moved that the vote by which **SB 185** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 187 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **SB 187** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See March 9, 2007, roll call on **SB 187** - Appendix.)

SB 187 was passed and the title agreed to.

Representative Webb moved that the vote by which **SB 187** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 91 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved that **SB 91** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See March 9, 2007, roll call on **SB 91** - Appendix.)

SB 91 was passed and the title agreed to.

Representative McKee moved that the vote by which **SB 91** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 92 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pasley moved that **SB 92** be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See March 9, 2007, roll call on **SB 92** - Appendix.)

SB 92 was passed and the title agreed to.

Representative Pasley moved that the vote by which **SB 92** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 196, with House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hall moved the adoption of House Floor Amendment No. 1 to **SB 196**. Agreed.

Representative Hall moved that **SB 196**, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See March 9, 2007, roll call on **SB 196** - Appendix.)

SB 196, as amended, was passed and the title agreed to.

Representative Hall moved that the vote by which **SB 196**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 144, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of the House Committee Substitute to **SB 144**. Agreed.

Representative Cherry moved that **SB 144**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 2.** (See March 9, 2007, roll call on **SB 144** - Appendix.)

SB 144, by way of House Committee Substitute, was passed and the title agreed to.

Representative Cherry moved that the vote by which **SB 144**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 186 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved that **SB 186** be passed.

JOURNAL OF THE HOUSE OF REPRESENTATIVES
2007 Regular Session

On the roll call the vote was: **Yeas 99, Nays 0.** (See March 9, 2007, roll call on **SB 186** - Appendix.)

SB 186 was passed and the title agreed to.

Representative Pullin moved that the vote by which **SB 186** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 134, with House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved the adoption of House Floor Amendment No. 1 to **SB 134**. Agreed.

Representative Jenkins moved that **SB 134**, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See March 9, 2007, roll call on **SB 134** - Appendix.)

SB 134, as amended, was passed and the title agreed to.

Representative Jenkins moved that the vote by which **SB 134**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 153 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **SB 153** be passed.

On the roll call the vote was: **Yeas 89, Nays 9.** (See March 9, 2007, roll call on **SB 153** - Appendix.)

SB 153 was passed and the title agreed to.

Representative Riggs moved that the vote by which **SB 153** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 98 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Greer moved that **SB 98** be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See March 9, 2007, roll call on **SB 98** - Appendix.)

SB 98 was passed and the title agreed to.

Representative Greer moved that the vote by which **SB 98** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 125 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved that **SB 125** be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See March 9, 2007, roll call on **SB 125** - Appendix.)

SB 125 was passed and the title agreed to.

Representative Gooch moved that the vote by which **SB 125** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 215, 243, 390, 468** and **HCR 120** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:15 a.m.)

Orders of the Day (Continued)

SB 56 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved that **SB 56** be passed.

On the roll call the vote was: **Yeas 96, Nays 2.** (See March 9, 2007, roll call on **SB 56** - Appendix.)

SB 56 was passed and the title agreed to.

Representative Cherry moved that the vote by which **SB 56** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 76 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved that **SB 76** be passed.

On the roll call the vote was: **Yeas 82, Nays 14.** (See March 9, 2007, roll call on **SB 76** - Appendix.)

SB 76 was passed and the title agreed to.

Representative Cherry moved that the vote by which **SB 76** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Adkins moved that the rules be suspended to allow the House to recess and to allow the Committee on Licensing and Occupations to meet. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Order of the Day (Continued)

HB 258, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 258** is as follows:

HB 258, AN ACT relating to local taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.750 is amended to read as follows:

As used in KRS 67.750 to 67.790, unless the context requires otherwise:

- (1) "Business entity" means each separate corporation, limited liability company, business development corporation, partnership, limited partnership, sole proprietorship, association, joint stock company, receivership, trust, professional service organization, or other legal entity through which business is conducted;
- (2) "Compensation" means wages, salaries, commissions, or any other form of remuneration paid or payable by an employer for services performed by an employee, which are required to be reported for federal income tax purposes and adjusted as follows:
 - (a) Include any amounts contributed by an employee to any retirement, profit sharing, or deferred compensation plan, which are deferred for federal income tax purposes under a salary reduction agreement or similar arrangement, including but not limited to salary reduction arrangements under Section 401(a), 401(k), 402(e), 403(a), 403(b), 408, 414(h), or 457 of the Internal Revenue Code; and
 - (b) Include any amounts contributed by an employee to any welfare benefit, fringe benefit, or other benefit plan made by salary reduction or other payment method which permits employees to elect to reduce federal taxable compensation under the Internal Revenue Code, including but not limited to Sections 125 and 132 of the Internal Revenue Code;
- (3) "Fiscal year" means fiscal year as defined in Section 7701(a)(24) of the Internal Revenue Code;

- (4) "Employee" means any person who renders services to another person or business entity for compensation, including an officer of a corporation and any officer, employee, or elected official of the United States, a state, or any political subdivision of a state, or any agency or instrumentality of any one (1) or more of the above. A person classified as an independent contractor under the Internal Revenue Code shall not be considered an employee;
- (5) "Employer" means employer as defined in Section 3401(d) of the Internal Revenue Code;
- (6) "Gross receipts" means all revenues or proceeds derived from the sale, lease, or rental of goods, services, or property by a business entity reduced by the following:
 - (a) Sales and excise taxes paid; and
 - (b) Returns and allowances;
- (7) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, ~~2006~~~~[2004]~~, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, ~~2006~~~~[2005]~~, that would otherwise terminate;
- (8) "Net profit" means gross income as defined in Section 61 of the Internal Revenue Code minus all the deductions from gross income allowed by Chapter 1 of the Internal Revenue Code, and adjusted as follows:
 - (a) Include any amount claimed as a deduction for state tax or local tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, local taxing authority in a state, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any foreign country or political subdivision thereof;
 - (b) Include any amount claimed as a deduction that directly or indirectly is allocable to income which is either exempt from taxation or otherwise not taxed;
 - (c) Include any amount claimed as a net operating loss carryback or carryforward allowed under Section 172 of the Internal Revenue Code;
 - (d) Include any amount of income and expenses passed through separately as required by the Internal Revenue Code to an owner of a business entity that is a pass-through entity for federal tax purposes; and
 - (e) Exclude any amount of income that is exempt from state taxation by the Kentucky Constitution, or the Constitution and statutory laws of the United States;
- (9) "Sales revenue" means receipts from the sale, lease, or rental of goods, services, or property;
- (10) "Tax district" means a city of the first to fifth class, county, urban-county, charter county, consolidated local government, school district, special taxing district, or any other statutorily created entity with the authority to levy net profits, gross receipts, or occupational license taxes;
- (11) "Taxable gross receipts" in case of a business entity having payroll or sales revenues both within and without a tax district means gross receipts as defined in subsection (6) of this section, as apportioned under KRS 67.753;
- (12) "Taxable gross receipts" in case of a business entity having payroll or sales revenue only in one (1) tax district means gross receipts as defined in subsection (6) of this section;
- (13) "Taxable net profit" in case of a business entity having payroll or sales revenue only in one (1) tax district means net profit as defined in subsection (8) of this section;
- (14) "Taxable net profit" in case of a business entity having payroll or sales revenue both within and without a tax district means net profit as defined in subsection (8) of this section, as apportioned under KRS 67.753; and
- (15) "Taxable year" means the calendar year or fiscal year ending during the calendar year, upon the basis of which net income or gross receipts is computed.

Section 2. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Commissioner" means the commissioner of the Department of Revenue;
- (2) "Department" means the Department of Revenue;
- (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, ~~2006~~~~[2004]~~, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, ~~2006~~~~[2004]~~, that would otherwise terminate, and as modified by KRS 141.0101, except that for property placed in service after September 10, 2001, only the depreciation and expense deductions allowed under Sections 168 and 179 of the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, shall be allowed, and including the provisions of the Military Family Tax Relief Act of 2003, Pub. L. No. 108-121, effective on the dates specified in that Act;
- (4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;
- (5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;
- (6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

- (7) "Individual" means a natural person;
- (8) "Modified gross income" means the greater of:
 - (a) Adjusted gross income as defined in Section 62 of the Internal Revenue Code of 1986, including any subsequent amendments in effect on December 31 of the taxable year, and adjusted as follows:
 - 1. Include interest income derived from obligations of sister states and political subdivisions thereof; and
 - 2. Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or
 - (b) Adjusted gross income as defined in subsection (10) of this section and adjusted to include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- (9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;
- (10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:
 - (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;
 - (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
 - (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;
 - (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;
 - (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;
 - (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;
 - (h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;
 - (i)
 - 1. For taxable years ending prior to December 31, 2005, exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
The "applicable amount" shall be:
 - a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars (\$6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;
 - b. Fifty percent (50%), but not more than twelve thousand five hundred dollars (\$12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;
 - c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars (\$18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and
 - d. One hundred percent (100%), but not more than thirty-five thousand dollars (\$35,000), for taxable years beginning after December 31, 1997.
 - 2. For taxable years beginning after December 31, 2005, exclude up to forty-one thousand one hundred ten dollars (\$41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
 - 3. As used in this paragraph:
 - a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;
 - b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and
 - c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust

or other entity created or organized under a written retirement plan and forming part of a stock bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

- (j) 1. a. Exclude the portion of the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and
 - b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.
- 2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;
- (k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;
- (l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;
- (m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;
- (n) Exclude any capital gains income attributable to property taken by eminent domain;
- (o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;
- (p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;
- (q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;
- (r) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;
- (s) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner; and
- (t) Exclude all income from all sources for active duty and reserve members and officers of the Armed Forces of the United States or National Guard who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred. For the purposes of this paragraph, "all income from all sources" shall include all federal and state death benefits payable to the estate or any beneficiaries;
- (11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:
 - (a) Any deduction allowed by the Internal Revenue Code for state or foreign taxes measured by gross or net income, including state and local general sales taxes allowed in lieu of state and local income taxes under the provisions of Section 164(b)(5) of the Internal Revenue Code;
 - (b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);
 - (c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and
 - (d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin,

or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

- (12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:
- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;
 - (b) Exclude all dividend income received after December 31, 1969;
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
 - (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;
 - (e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;
 - (f) Include the amount calculated under KRS 141.205;
 - (g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;
 - (h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);
 - (i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;
 - (j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;
 - (k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;
 - (l) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;
 - (m) For taxable years beginning after December 31, 2004, and before January 1, 2007, exclude the distributive share income or loss received from a corporation defined in subsection (24)(b) of this section whose income has been subject to the tax imposed by KRS 141.040. The exclusion provided in this paragraph shall also apply to a taxable year that begins prior to January 1, 2005, if the tax imposed by KRS 141.040 is paid on the distributive share income by a corporation defined in subparagraphs 2. to 8. of subsection (24)(b) of this section with a return filed for a period of less than twelve (12) months that begins on or after January 1, 2005, and ends on or before December 31, 2005. This paragraph shall not be used to delay payment of the tax imposed by KRS 141.040; and
 - (n) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;
- (13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:
- (a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;
 - (b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;
 - (c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;
 - (d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;
 - (e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);
 - (f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles

for which it is established and maintained; ~~and~~

(g) Any deduction prohibited by KRS 141.205; and

(h) Any dividends-paid deduction of any captive real estate investment trust;

- (14) (a) "Taxable net income," in the case of corporations that are taxable in this state, means "net income" as defined in subsection (13) of this section;
- (b) "Taxable net income," in the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120. A corporation is taxable in another state if, in any state other than Kentucky, the corporation is required to file a return for or pay a net income tax, franchise tax measured by net income, franchise tax for the privilege of doing business, or corporate stock tax;
- (c) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and
- (d) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code, **except that a captive real estate investment trust shall not be allowed any deduction for dividends paid;**
- (15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;
- (16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the commissioner, "taxable year" means the period for which the return is made;
- (17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;
- (18) "Nonresident" means any individual not a resident of this state;
- (19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;
- (20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;
- (21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;
- (22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;
- (23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;
- (24) (a) For taxable years beginning before January 1, 2005, and after December 31, 2006, "corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and
- (b) For taxable years beginning after December 31, 2004, and before January 1, 2007, "corporations" means:
1. "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
 2. S corporations as defined in Section 1361(a) of the Internal Revenue Code;
 3. A foreign limited liability company as defined in KRS 275.015(6);
 4. A limited liability company as defined in KRS 275.015(8);
 5. A professional limited liability company as defined in KRS 275.015(18);
 6. A foreign limited partnership as defined in KRS 362.2-102(9);
 7. A limited partnership as defined in KRS 362.2-102(14);
 8. A limited liability partnership as defined in KRS 362.155(7) or in 362.1-101(7) or(8);
 9. A real estate investment trust as defined in Section 856 of the Internal Revenue Code;
 10. A regulated investment company as defined in Section 851 of the Internal Revenue Code;
 11. A real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code;
 12. A financial asset securitization investment trust as defined in Section 860L of the Internal Revenue Code; and
 13. Other similar entities created with limited liability for their partners, members, or shareholders.

For purposes of this paragraph, "corporation" shall not include any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section

7704(c) of the Internal Revenue Code or its publicly traded partnership affiliates. As used in this paragraph, "publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership;

(25) "Doing business in this state" includes but is not limited to:

- (a) Being organized under the laws of this state;
- (b) Having a commercial domicile in this state;
- (c) Owning or leasing property in this state;
- (d) Having one (1) or more individuals performing services in this state;
- (e) Maintaining an interest in a pass-through entity doing business in this state;
- (f) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or
- (g) Directing activities at Kentucky customers for the purpose of selling them goods or services.

Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;

(26) "Pass-through entity" means any partnership, S corporation, limited liability company, limited liability partnership, limited partnership, or similar entity recognized by the laws of this state that is not taxed for federal purposes at the entity level, but instead passes to each partner, member, shareholder, or owner their proportionate share of income, deductions, gains, losses, credits, and any other similar attributes;

(27) "S corporation" means "S corporation" as defined in Section 1361(a) of the Internal Revenue Code; ~~and~~

(28) "Limited liability pass-through entity" means any pass-through entity that affords any of its partners, members, shareholders, or owners, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity; and

(29) "Captive real estate investment trust" means a real estate investment trust as defined in Section 856 of the Internal Revenue Code that meets the following requirements:

(a) 1. The shares or other ownership interests of the real estate investment trust are not regularly traded on an established securities market; or

2. The real estate investment trust does not have enough shareholders or owners to be required to register with the Securities and Exchange Commission; and

(b) 1. The maximum amount of stock or other ownership interest that is owned or constructively owned by a corporation equals or exceeds:

a. Twenty-five percent (25%) if the corporation does not occupy property owned, constructively owned, or controlled by the real estate investment trust; or

b. Ten percent (10%) if the corporation occupies property owned, constructively owned, or controlled by the real estate investment trust;

The total ownership interest of a corporation shall be determined by aggregating all interests owned or constructively owned by a corporation;

2. For the purposes of this paragraph:

a. "Corporation" means a corporation taxable under KRS 141.040, and includes an affiliated group as defined in KRS 141.200, that is required to file a consolidated return pursuant to the provisions of KRS 141.200; and

b. "Owned or constructively owned" means owning shares or having an ownership interest in the real estate investment trust, or owning an interest in an entity that owns shares or has an ownership interest in the real estate investment trust. Constructive ownership shall be determined by looking across multiple layers of a multi-layer pass-through structure; and

(c) The real estate investment trust is not owned by another real estate investment trust.

Section 3. The provisions of this Act shall apply to tax years beginning on or after January 1, 2007.

Representative C. Belcher moved that the House concur in the Senate Committee Substitute to **HB 258**. Agreed.

Representative C. Belcher moved that **HB 258**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 9, 2007, roll call on **HB 258** - Appendix.)

HB 258, by way of Senate Committee Substitute, was passed.

Representative C. Belcher moved that the House Concur in the Senate Committee Title Amendment to **HB 258**. Agreed.

The Senate Committee Amendment No. 1 Title to **HB 258** is as follows:

HB 258, Amend title to read as follows:

"AN ACT relating to taxation."

Representative C. Belcher moved that the vote by which **HB 258**, by way of Senate Committee Substitute, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 259, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 259** is as follows:

HB 259, AN ACT relating to the practice of accounting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 325 IS CREATED TO READ AS FOLLOWS:

A person that enters this state and represents himself or herself as a "certified public accountant" or a "CPA" and performs or offers to perform a regulated activity for a person in this state without first obtaining a license under this chapter or complying with the practice privilege requirement in KRS 325.280 consents to the personal, subject matter, and disciplinary jurisdiction of the board. The board may conduct investigations, hearings, and impose sanctions against the person or firm as if the person or firm held a license under this chapter.

Section 2. KRS 325.240 is amended to read as follows:

- (1) The board shall elect annually a president *and such other officers as it deems necessary* ~~[-a secretary, and a treasurer from its members. The offices of secretary and treasurer may be held by the same individual].~~
- (2) The board may promulgate, and amend from time to time, administrative regulations, in accordance with the provisions of KRS Chapter 13A, for the orderly conduct of its affairs, ~~[-and] for the administration of this chapter, and[-. The board may also promulgate, and amend from time to time, rules of professional conduct appropriate]~~ to establish and maintain a high standard of integrity and dignity in the profession of public accounting.
- (3) A majority of the board shall constitute a quorum for the transaction of business.
- (4) The board shall have a seal which shall be judicially noticed. The board shall keep records of its proceedings, and in any proceeding in court, civil or criminal, arising out of or founded upon any provision of this chapter, copies of said records certified as correct under the seal of the board shall be admissible in evidence as tending to prove the content of said records.
- (5) The board may employ an executive director and such other personnel as it deems necessary in its administration and enforcement of this chapter. It may appoint such committees or persons, to advise or assist it in the administration and enforcement, as it may see fit. It may retain its own counsel to advise and assist it, in addition to such advice and assistance as is provided by the Attorney General of this state.
- (6) *The board may join or participate in professional organizations and associations that promote improvement of the practice of accounting for the protection of the public or to facilitate the activities of the board.*
- (7) *The board may expend funds from its account created by KRS 325.250 to assist with accounting educational programs proposed or offered in the primary and secondary schools in this state. The amount of the expenditure shall not interfere with the performance of the board's other responsibilities.*
- (8) *The board may purchase professional liability insurance for its members, staff, and investigators. The purchase of or failure to purchase insurance shall not be deemed a waiver of any immunity already conferred on the board, its members, staff, and investigators.*

Section 3. KRS 325.250 is amended to read as follows:

All fees and other moneys received by the board pursuant to the provisions of this chapter shall be ~~paid to the treasurer of the board for the use of the board, and shall be~~ deposited in the State Treasury to the credit of a revolving fund for the use of the board *in carrying out the provisions of this chapter*. No part of this revolving fund shall revert to the general funds of this state. The compensation provided by this chapter and all expenses incurred under this chapter shall be paid from this revolving fund. No such compensation or expense shall be a charge against the general funds of this state. ~~[-The board shall file an annual report of its activities with the Governor, and such report shall include a statement of all receipts and disbursements.]~~

2007 Regular Session

Section 4. KRS 325.330 is amended to read as follows:

- (1) An applicant for initial issuance of a license to practice shall:
 - (a) Satisfy all the requirements of KRS 325.261 and the administrative regulations promulgated by the board;
 - (b) Pay a fee not to exceed two hundred dollars (\$200); and
 - (c) Complete the application process established in an administrative regulation promulgated by the board.~~Submit a completed application on a form issued by the board.~~
- (2) Licenses shall be initially issued and renewed for a period of two (2) years, and shall expire on the first day of July in the year of expiration.
- (3) When an initial license to practice is granted, the board shall issue a nonrenewable document that indicates that the licensee has satisfied all requirements to receive an initial license as a certified public accountant.
- (4) An applicant for renewal of a license to practice who is~~is~~ in good standing~~is~~ shall complete the renewal procedure established in administrative regulations promulgated by the board that show that~~a license renewal form provided by the board showing~~ the applicant has:
 - (a) Fulfilled the requirement of continuing professional education for professional enhancement as defined by the board by administrative regulation, but not to exceed eighty (80) hours during a two (2) year calendar period ending December 31 preceding the July 1 renewal date. Certified public accountants not employed by a firm licensed by the board shall be required to achieve continuing professional education not to exceed sixty (60) hours during the two (2) year calendar period ending December 31 preceding the July 1 renewal date. The board shall provide for lesser, prorated requirements for applicants whose initial permit was issued substantially less than two (2) years prior to the renewal date;
 - (b) Paid a fee not to exceed two hundred dollars (\$200) biennially;
 - (c) Listed a permanent mailing address; and
 - (d) Designated as part of the renewal process~~on the license renewal application~~ whether the applicant~~he~~ is employed by a firm licensed by the board.
- (5) Any license not renewed by the expiration date shall automatically expire and the holder of the expired license shall be prohibited from practicing public accounting or holding himself out as a certified public accountant.
- (6) The holder of a license that from the date of renewal has been expired for a period shorter than six (6) months, and who has not violated any other provision of this chapter, may renew the license by meeting all of the requirements of this section and paying a late penalty fee not to exceed one hundred dollars (\$100).
 - (a) If the license has expired for a period longer than six (6) months, the applicant shall apply to the board for reinstatement. The board shall determine the eligibility for license reissuance, including a late penalty fee not to exceed two hundred dollars (\$200) and additional continuing professional education hours.
 - (b) Failure to receive a renewal notice shall not constitute an adequate reason for failing to renew the license to practice in a timely manner.
- (7) The board may reduce or waive the license to practice renewal requirements upon written request of the licensee showing illness, extreme hardship, or age and complete retirement from practice as prescribed by the board by administrative regulation.
- (8) A licensee shall notify the board in writing of a change in his or her mailing address within twenty (20) days following the effective date of the change in address.

Section 5. KRS 325.340 is amended to read as follows:

- (1) After notice and hearing as provided in KRS Chapter 13B, the board may revoke, suspend, impose a fine not to exceed one thousand dollars (\$1,000) for each violation of a provision of this chapter or administrative regulations promulgated by the board under this chapter, refuse to issue or renew any license, censure, or place on probation any person or firm~~licensee~~, all with or without terms, for any one (1) or any combination of the following causes:
 - (a) Fraud or deceit in obtaining a license issued under this chapter;
 - (b) Dishonesty, fraud, or negligence while performing any regulated activity, including fiscal dishonesty or an intentional breach of fiduciary responsibility of any kind, and also including, but not limited to, the following:
 1. Knowing preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports, or information; and
 2. Embezzlement, theft, misappropriation of funds or property, or obtaining money, property, or other valuable consideration by fraudulent means or false pretenses;
 - (c) Violation of any of the provisions of this chapter or administrative regulations promulgated by the board under this chapter or violation of any order of the board;
 - (d) Violation of a rule of professional conduct promulgated by the board;
 - (e) Conviction of any felony, or of any crime in which dishonesty or fraud is an element, under the laws of any state or

of the United States. Conviction includes, but is not limited to, pleading no contest, entering an Alford plea, or entry of a court order suspending the imposition of a criminal penalty to a crime;

- (f) Cancellation, revocation, suspension, or refusal to renew the authority to practice as a certified public accountant or a public accountant in any state;
 - (g) Suspension or revocation of the right to practice before any state or federal agency or the Public Company Accounting Oversight Board or its successor;
 - (h) Conduct discreditable to the accounting profession; or
 - (i) Failure to respond to a board inquiry regarding any licensing or complaint matter.
- (2) In any proceeding in which a remedy provided by subsection (1) of this section is imposed, the board may also require the respondent~~[licensee]~~ to pay the costs of the investigation and all proceedings~~[proceeding]~~.

Section 6. KRS 325.360 is amended to read as follows:

- (1) The board may conduct investigations of suspected violations of this chapter or the administrative regulations promulgated by the board to determine whether there is probable cause to institute proceedings against any person or firm for any violation under this chapter, but an investigation under this section shall not be a prerequisite to proceedings. In aid of these investigations, the board or its designee may issue subpoenas to compel witnesses to testify and to produce evidence. Subpoenas may be served in person or by certified mail, return receipt requested.
- (2) The board may designate a member, or any other person of appropriate competence, to serve as investigating officer to conduct an investigation. Upon completion of an investigation, the investigating officer shall report to the board. The board shall then find probable cause or lack of probable cause, or it shall request that the investigating officer investigate further. Until there has been a determination of probable cause, the findings of the investigating officer, the testimony and documents gathered in the investigation, and the fact of pendency of the investigation shall be treated as confidential information and shall not be disclosed to any person except law enforcement authorities and, to the extent deemed necessary in order to conduct the investigation, the subject of the investigation, persons whose complaints are being investigated, and witnesses questioned in the course of the investigation.
- (3) Upon a finding of probable cause, ~~[if the subject of the investigation is a licensee,]~~ the board shall direct that a complaint be issued pursuant to this section setting forth appropriate charges and a date for a hearing that shall be conducted in accordance with KRS Chapter 13B, ~~and if the subject of the investigation is not a licensee, the board shall take appropriate action pursuant to this chapter].~~ Upon a finding of a lack of probable cause, the board shall dismiss~~[close]~~ the matter either with or without prejudice.
- (4) In any case where probable cause has been determined pursuant to this section, the board may request the affected party to informally resolve the matter through mediation or otherwise ~~[with respect to a violation by a licensee, or where the board has received a written complaint by any person furnishing grounds for a determination of probable cause about a violation or where the board has received notice of a decision by the board of accountancy of another state furnishing grounds, the board shall issue a complaint setting forth appropriate charges and set a date for a hearing which shall be conducted in accordance with KRS Chapter 13B].~~
- (5) A person or firm~~[licensee]~~, after having been served with the notice of hearing and complaint as provided for in subsection ~~(3)~~~~[(4)]~~ of this section, shall file a written response within twenty (20) days from the date of service~~[he was served]~~. If the respondent licensee fails to file a timely response or fails to appear at the hearing, the board may hear evidence against the respondent~~[him]~~ and may enter a final order as shall be justified by the evidence.
- (6) In a hearing under this section, the respondent~~[licensee]~~ may appear in person or, in the case of a firm, through a partner, or shareholder or other person with an ownership interest.
- (7) The evidence supporting the complaint shall be presented by the investigating officer, by a board member designated for that purpose, or by counsel. A board member who presents the evidence, or who has conducted the investigation of the matter under this section, shall not participate in the board's decision of the matter.
- (8) In a hearing under this section before the board or in acting upon the recommended order of a hearing officer, a vote of a majority of all members of the board then in office, other than a member disqualified by reason of subsection (7) of this section, shall be required to sustain any charge and to impose any penalty with respect thereto.
- (9) Any person adversely affected by any order of the board may obtain a review thereof by filing a written petition for review with the Franklin Circuit Court in accordance with KRS Chapter 13B.
- (10) On rendering a final order ~~[to revoke, suspend, refuse to renew, or censure the holder of a license to practice issued under this chapter]~~, the board shall examine its records to determine whether the respondent is authorized or licensed to practice as a certified public accountant in any other state. If the board determines that the respondent is authorized or licensed to practice in any other state, the board shall notify the board of accountancy of the other state of its action by mail within thirty (30) days of rendering the final order.
- (11) The board may exchange information relating to proceedings resulting in disciplinary action against licensees with the boards of accountancy of other states and with other public authorities or private organizations having an interest in the information.

Representative C. Belcher moved that the House concur in the Senate Committee Substitute to **HB 259**. Agreed.

Representative C. Belcher moved that **HB 259**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 9, 2007, roll call on **HB 259** - Appendix.)

HB 259, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative C. Belcher moved that the vote by which **HB 259**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications (Continued)

Representative Adkins moved that **SB 30** be placed in the Orders of the Day. Agreed.

Representative Floyd moved that the House reconsider the vote on **SB 29**.

On the roll call to reconsider the vote on **SB 29** the vote was: Yeas 63, Nays 30. (See March 9, 2007, roll call on **HB 259** - Appendix.)

The motion to reconsider the vote on **SB 29** passed. Agreed.

Representative Collins moved to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 220, by Representative Collins: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Clyde E. Blevins.

Motions, Petitions, and Communications (Continued)

Representative Collins moved the adoption of the following **HR 220**:

HR 220, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Clyde E. Blevins.

WHEREAS, Clyde E. Blevins was born March 21, 1918, in Paintsville, Kentucky to the late Lewis "Judge" and Ola Murray Blevins, and departed this life January 3, 2007, at age 88; and

WHEREAS, Mr. Blevins was a salesman for General Foods and Big Sandy Wholesale in Pikeville for many years, and was the owner and operator of Clyde's Shopping Center. He was also the developer of Northgate Subdivision and the Paintsville Shopping Plaza, and was instrumental in the naming of U.S. Route 23 the "Country Music Highway." Mr. Blevins was a former member of the Paintsville City Council; former director of the Paintsville-Johnson County Chamber of Commerce; a member of the board of the First Christian Church; and a charter member of the Paintsville High School Alumni Association; and

WHEREAS, Clyde E. Blevins is survived by his loving wife, Ruth Anne Dixon Blevins; two daughters, Kay Dixon Isfort and Lynne Murray Crow; a son, James Clyde (J.C.) Blevins; two grandchildren; and seven great-grandchildren;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deep sense of sorrow upon the passing of Clyde E. Blevins, and extends to his family, friends, and community its sincere condolences.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Clyde E. Blevins.

Section 3. The Clerk of the House of Representatives is directed to transmit copies of this Resolution to James Blevins, 2212 Samantha Circle, Paintsville, Kentucky 41240; Kay Dixon Isfort, 317 Logan Avenue, Richmond, Kentucky 40475; and Lynne Murray Crow, 2721 South Adams Street, Arlington, Virginia 22206.

There being no objection, **HR 220** was adopted.

Representative Graham moved the adoption of the following **HR 60**:

HR 60, A RESOLUTION adjourning the House of Representatives in loving memory and honor of the late Reverend Kidd Leon Moore, Jr.

WHEREAS, from time to time, the world is blessed with individuals who, through love for their fellow travelers on this earth and their devotion to service, touch our lives in special ways, leaving footprints on our hearts; and

WHEREAS, Reverend K.L. Moore epitomized a life well lived in service to his God, his country, and his community. Born on November 7, 1923, in Chicago, Illinois, to the late Kidd L. Moore, Sr. and Emma Mane Moore, Reverend Moore left this earthly life behind on October 16, 2006, at the age of 82 years. He graduated high school in 1941, and was drafted into the United States Army in 1943, receiving three Bronze Stars for bravery while fighting in France and Germany. Before being discharged in 1946, he spent two months studying at the University of Vienna, and after the war, he returned to attend the University of Illinois and graduated from Roosevelt University of Chicago. Reverend Moore became a licensed minister in 1950, and earned a Master of Divinity degree in 1957, from Virginia Union University, and received an Honorary Doctorate from Simmons Bible College; and

WHEREAS, in 1958, he married his wife, Sara, who shared many years of happiness with him, and the young couple moved to Frankfort, where he served his church and community until his passing. For 46 years, Reverend Moore pastored the First Baptist Church in Frankfort. In the pulpit, Reverend Moore was well known for his dramatic style of preaching and presenting the holy scriptures, using his quick wit, humor, and animated style to share the Gospel. Under his leadership, five men followed in his footsteps to become ministers, and he touched the hearts and lives of countless others; and

WHEREAS, on March 1, 1976, during an Extraordinary Session of the General Assembly, Reverend Moore offered his first invocation in the House of Representatives chamber, and he would continue to offer words of encouragement and inspiration in both the House of Representatives and the House of Representatives for 30 years. With his soft voice and gentle spirit, he brought a special presence into our legislative halls each time he served, and encouraged all members to approach their work with compassion and civility; and

WHEREAS, Reverend Moore was a leader in the civil rights movement, marching with Dr. Martin Luther King, Jr. He served as Chaplain of the NAACP, and in 2002, was honored by the Frankfort-Franklin County NAACP for 40 years of dedicated service and leadership. He served as president of the Franklin County Ministerial Association, was chairman of the General Association of the Kentucky Baptist Pastors Conference, and was a member of the board of trustees for Simmons Bible College. He was also chairman of the Mission Board of the General Association of Baptists in Kentucky. He was dean of the New Pastors in the Congress of Progressive National Baptist Convention, and a board member of the Kentucky Student Loan Department and the Ethics Board of Franklin County; and

WHEREAS, Reverend K.L. Moore is survived by his loving wife, Sara; a son, Kidd Leon Moore, Jr.; a daughter, Karen Marie Moore; a sister, Cannie Middleton; and countless friends in his church, his community, and his Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deepest sorrow upon the passing of Reverend K.L. Moore, and extends to his family, friends, and community its sincere sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of the late Reverend K.L. Moore, and is mindful of these words: "Death is not extinguishing the light; it is putting out the lamp because dawn has come."

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the gentleman from Franklin 57 for presentation to the Moore family.

There being no objection, **HR 60** was adopted.

Representative Farmer moved that the House consider the discharge petition on **HB 88**.

The Chair ruled that it would take a suspension of the rules for the House to consider the discharge petition on **HB 88**.

On the roll call on the vote to suspend the rules to consider the discharge petition on **HB 88** the vote was: Yeas 37, Nays 20. (See March 9, 2007, roll call on **HB 88** - Appendix.)

A suspension of the rules to consider the discharge petition on **HB 88** was rejected.

Representative C. Belcher moved the adoption of the following **Legislative Citation No. 68**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Paul Morgan Goodpaster and joins with Representative Carolyn Belcher and Representative Richard Henderson in expressing deepest sympathy to the Goodpaster Family and all who mourn the tragic and untimely loss of this esteemed citizen on February 9,

2007. The son of Espy Chiles Goodpaster and Nora Ellen Duff Goodpaster, he was blessed with a loving wife, Linda Gayle Goodpaster; three beloved children, Paul Chiles Goodpaster, Tamela Goodpaster Porter and Justin Morgan Goodpaster; and is also survived by a brother, Philip Chiles Goodpaster; sister, Laura Goodpaster Johnson; five cherished grandchildren; and, a host of other family members, friends and loved ones. This highly-regarded gentleman served as the Bath County Property Valuation Administrator for the past twenty-nine years and was a Certified and Senior Kentucky Assessor. A true and loyal democrat, he served as the former Bath County Democratic Chairperson and local chair of the Wallace Wilkinson and Ben Chandler election campaigns. This devoted father, grandfather, husband and good citizen is remembered on this day and honored for the many and generous contributions he made to his family, friends and the community. Paul Morgan Goodpaster will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this eighth day of March, in the year two thousand and seven.

Legislative Citation No. 68 was adopted without objection.

Representative Simpson moved the adoption of the following **HR 197**:

HR 197, A RESOLUTION urging the city of Covington to rename 12th Street in honor and memory of Dr. Martin Luther King, Jr.

We pause to honor the memory of one of the greatest
humanitarians of this century, Dr. Martin Luther King, Jr.

WHEREAS, born on Tuesday, January 15, 1929, at his family's home in Atlanta, Georgia, Martin Luther King, Jr., was the second child and first son born to the Reverend Martin Luther King, Sr., and Alberta Williams King; and

WHEREAS, a brilliant child, Dr. Martin Luther King, Jr., skipped both the ninth and twelfth grades, and due to his high scores on college entrance examinations, he entered Morehouse College at the age of fifteen without formally graduating from high school; and

WHEREAS, graduating from Morehouse College in 1948 with a Bachelor of Arts degree in Sociology, Dr. Martin Luther King, Jr., earned a Bachelor of Divinity degree from Crozer Theological Seminary in Pennsylvania in 1951, while also taking classes at the University of Pennsylvania; and

WHEREAS, in the fall of 1951 Dr. Martin Luther King, Jr., began doctoral studies in Systematic Theology at Boston University and he was awarded his Ph.D. degree in 1955, all the while studying at Harvard University; and

WHEREAS, on June 18, 1953, Dr. Martin Luther King, Jr., married his soul mate Coretta Scott; and

WHEREAS, between November 17, 1955, and March 28, 1963, Dr. and Mrs. Martin Luther King, Jr., became the proud parents of four children, Yolanda Denise, Martin Luther III, Dexter Scott, and Bernice Albertine; and

WHEREAS, Dr. Martin Luther King, Jr., actually entered the ministry and was ordained in February 1948 at the age of nineteen at the Ebenezer Baptist Church in his hometown of Atlanta, Georgia; and

WHEREAS, upon graduation from Boston University, Dr. Martin Luther King, Jr., was called to be the Pastor of the Dexter Avenue Baptist Church in Montgomery, Alabama; and

WHEREAS, while shepherding the flock of Dexter Avenue Baptist Church, Dr. Martin Luther King, Jr., was thrust into the firestorm of hatred that existed throughout America, and which was especially violent in the southern states, by being one of the pivotal figures who started what became known throughout the world as the "Civil Rights Movement" when he was elected President of the Montgomery, Alabama, Improvement Association; and

WHEREAS, Dr. Martin Luther King, Jr., spearheaded the Montgomery Improvement Association's famous boycott of the city's bus system, a boycott that lasted 381 days at great personal sacrifice, hardship, and persecution to the many citizens who stood behind Dr. King's dream of equality for all men and women, regardless of the color of their skin or their station in life; and

WHEREAS, the Montgomery bus boycott resulted in judicial systems across the nation beginning to strike down segregationist legislation as unconstitutional, and it also vaulted the civil rights movement, and Dr. Martin Luther King, Jr., into the forefront of American politics and social debate; and

WHEREAS, in 1959 Dr. Martin Luther King, Jr., resigned as pastor of Dexter Avenue Baptist Church to return to Atlanta to spearhead the civil rights work of the Southern Christian Leadership Conference; and

WHEREAS, on December 10, 1964, Dr. Martin Luther King, Jr., received the most prestigious award bestowed by the international community when at the age of 35 he was awarded the Nobel Peace Prize; and

WHEREAS, Dr. Martin Luther King, Jr., was the youngest man, second American, and only the third black man to be awarded the Nobel Peace Prize; and

WHEREAS, a cowardly assassin's bullet ended Dr. Martin Luther King, Jr.'s life on April 4, 1968, while he was in Memphis, Tennessee, to help lead sanitation workers in a protest against low wages and intolerable working conditions; however, the bullet that robbed Dr. King of his life could never silence his message of love, faith, truth, peace, and brotherhood for all the people of the earth; and

WHEREAS, Dr. Martin Luther King, Jr., remains one of the most recognized individuals of this century, and during his

brief life, in addition to the 1964 Nobel Peace Prize, he received the following awards: in 1957 he was selected as one of the ten most outstanding personalities of the year by Time Magazine, was listed in Who's Who in America, received the National Association for the Advancement of Colored People's Spingarn Medal, and received the Russwurm Award from the National Newspaper Publishers; in 1958 he received the Second Annual Achievement Award from the Guardian Association of the New York Police Department; in 1959 he was selected as one of the sixteen world leaders who contributed most to the advancement of freedom during 1959 by Ling Magazine of New Delhi, India; in 1963 Dr. King was named Time Magazine's "Man of the Year," and was named "American of the Decade," by the Laundry, Dry Cleaning, and Die Workers International Union; in 1964 in addition to the Nobel Peace Prize, Dr. King received the John Dewey Award from the United Federation of Teachers and the John F. Kennedy Award from the Catholic Interracial Council of Chicago; in 1968 he was presented posthumously the Marcus Garvey Prize for Human Rights by the Jamaican Government and the Rosa L. Parks award by the Southern Christian Leadership Conference; and he received the Aims Field-Wolf Award for his book *Stride Toward Freedom*; and

WHEREAS, recognized for his work throughout the world, Dr. Martin Luther King, Jr., was bestowed the following honorary degrees: Doctor of Humane Letters, Morehouse College; Doctor of Laws, Howard University; Doctor of Divinity, Chicago Theological Seminary; Doctor of Laws, Morgan State University; Doctor of Humanities, Central State University; Doctor of Divinity, Boston University; Doctor of Laws, Lincoln University; Doctor of Laws, University of Bridgeport; Doctor of Civil Laws, Bard College; Doctor of Letters, Keuka College; Doctor of Divinity, Wesleyan College; Doctor of Laws, Jewish Theological Seminary; Doctor of Laws, Yale University; Doctor of Divinity, Springfield College; Doctor of Laws, Hofstra University; Doctor of Humane Letters, Oberlin College; Doctor of Social Science, Amsterdam Free University; Doctor of Divinity, St. Peter's College; Doctor of Civil Law, University of Newcastle Upon Tyne; and Doctor of Laws, Grinnell College; and

WHEREAS, in addition to raising his family, ministering to his church family, working with the Southern Christian Leadership Conference, and his many national and international activities for peace and justice, Dr. Martin Luther King, Jr., wrote six books and numerous articles; and

WHEREAS, Dr. Martin Luther King Jr.'s skills as an orator helped raise the consciousness of not only this nation, but the entire world, during several of his most famous speeches including his "I Have A Dream" speech in 1963 during the civil rights movement March on Washington, his 1964 acceptance speech of the Nobel Peace Prize, and his final sermon "I Have Been To The Mountaintop" given the day before his death in Memphis; and

WHEREAS, Dr. Martin Luther King, Jr., is entombed on Freedom Plaza in Atlanta, Georgia -- a 23-acre site that was listed as a National Historic Landmark on May 5, 1977, and made a National Historic Site on October 10, 1980; and

WHEREAS, on January 18, 1986, following passage of Public Law 98-144, America paid final homage to this great American by proclaiming the third Monday in January of each year a public holiday in honor of the birthday of Dr. Martin Luther King, Jr.;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the House of Representatives, both individually and collectively, hail Dr. Martin Luther King, Jr., for his sacrifices and devotion to equality and justice for every citizen of every nation.

Section 2. The House of Representatives urges the city of Covington to rename 12th Street in honor and memory of Dr. Martin Luther King, Jr.

Section 3. The Clerk of the House of Representatives shall forward a copy of this Resolution to Representative Arnold Simpson and Covington Mayor Irvin T. "Butch" Callery, at his office on 638 Madison Avenue, Covington, Kentucky 41011.

There being no objection, **HR 197** was adopted.

Representative Simpson moved to introduce and adopt a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 218, by Representative Simpson: A RESOLUTION honoring the Ninth Street Baptist Church for it's service and contributions to Covington's spiritual and social welfare, on the occasion of its 138th year of operation.

Motions, Petitions, and Resolutions (Continued)

Representative Simpson moved the adoption of the following **HR 218**:

HR 218, A RESOLUTION honoring the Ninth Street Baptist Church for it's service and contributions to Covington's spiritual and social welfare, on the occasion of its 138th year of operation.

WHEREAS, since 1869, the Ninth Street Baptist Church has a history of service to the people of Covington, Kentucky; and

WHEREAS, the Ninth Street Baptist Church has been led in 138 years by only ten pastors; and

WHEREAS, the Ninth Street Baptist Church has become a leader for social change and improvement in the lot of African-Americans; and

WHEREAS, the Ninth Street Baptist Church has proven its determination to maintain a presence in the community by purchasing the property at 231 East Ninth Street from the Saint James A.M.E. Church in 1907; and

WHEREAS, the success of the Ninth Street Baptist Church can be seen in its mission, social, and educational work; and

WHEREAS, the Ninth Street Baptist Church has grown through the property acquisitions of three pastors, the Reverends G.M. Lacey, Henry Poyntz, and Richard Fowler; and

WHEREAS, the Ninth Street Baptist Church has undertaken improvements during the pastoral ministrations of the Reverend William McCoullough and Reverend Richard Fowler; and

WHEREAS, the Ninth Street Baptist Church has expanded its reach into the community through the release of a choir album entitled, "A Decade of Anointed Praise"; and

WHEREAS, the Ninth Street Baptist Church has further enhanced the community through the formation of the nonprofit agency "Offering Assistance, Subsistence, Information, and Support (O.A.S.I.S.)," with the goal of reaching the people of the community with comprehensive programs to foster self-sufficiency and long-term advancement; and

WHEREAS, the Ninth Street Baptist Church is dedicated to the social and religious growth of the Northern Kentucky region, keeping the Word of God as its focus and guide;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives salutes the Ninth Street Baptist Church's 138 years of service to God and the people of Covington, and extends to the members of the congregation its heartfelt congratulations.

Section 2. When the House of Representatives adjourns this day, it does so in honor the Ninth Street Baptist Church.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Ninth Street Baptist Church, 231 East Ninth Street, Covington, Kentucky 41011.

There being no objection, **HR 218** was adopted.

Representative Gooch moved that House Floor Amendment No. 1 to **SB 175** be withdrawn. Agreed.

Representative DeCesare moved the adoption of the following **HR 200**:

HR 200, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Eldridge Monroe Joyner.

WHEREAS, Eldridge Monroe Joyner was born in Nansemond County, Virginia, the son of the late Constantine Sebraska Joyner and Fannie Lena Cones Joyner; and

WHEREAS, Mr. Joyner served his nation with distinction as a member of the United States Army, with tours of duty in Korea and Vietnam, as well as at the United States Embassy in Nepal. For his courageous and honorable service, he was awarded the Vietnam Service Medal, the Bronze Star, the Army Commendation Medal with Oak Leaf Cluster, and the Vietnam Campaign Medal. Mr. Joyner retired from the military after 20 years at the rank of Sergeant First Class; and

WHEREAS, Mr. Joyner retired after a fruitful career as an electrician in wheel weight manufacturing for BADA, allowing more time for his volunteer activities. He was actively involved with Helping Others Through Extending Love In the Name of Christ, a program developed to help the socioeconomically disadvantaged, as well as the Angel Food Program; and

WHEREAS, Mr. Joyner was a devoted member and deacon of Calvary Baptist Church in Bowling Green, giving his most honest effort to all those who endeavored to worship and glorify our Creator; and

WHEREAS, Mr. Joyner was the dedicated husband of Betty Joyce Drake Joyner; the loving father of Monroe Joyner and Michelle Joyner Thornton; the adoring grandfather of Joshua James, Kasey McCrary, Whitney Thornton, Lucas Joyner, Patrick Drake Thornton, and Hallie Thornton; and

WHEREAS, Mr. Joyner departed this life on March 3, 2007, and an entire community joins his family and friends in mourning his loss;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deepest sympathy upon the passing of Eldridge Monroe Joyner, and extends its sincere condolences to his family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Eldridge

Monroe Joyner.

Section 3. The Clerk of the House of Representatives is directed to transmit copies of this Resolution to Betty Joyce Drake Joyner, 1047 Lois Lane, Bowling Green, Kentucky 42101.

There being no objection, **HR 200** was adopted.

Representative Meeks moved the adoption of the following **HR 187**:

HR 187, A RESOLUTION honoring Azia Iman Meeks upon receiving the first annual Ann Braden Humanitarian Award.

WHEREAS, the Ann Braden Humanitarian Award was established after the passing of Ann Braden, who dedicated her life to the civil rights movement, the struggle for human rights, the movement toward peace and justice, and the liberation of our society from racial discrimination, oppression, and segregation; and

WHEREAS, the Ann Braden Humanitarian Award is presented to a deserving individual who displays moral strength, generosity, and the utmost respect for cultural diversity; and

WHEREAS, Azia Iman Meeks is well known for the way she treats others, for her strong sense of compassion, and for being neither afraid to speak up for what is right nor influenced by her peers; and

WHEREAS, Azia Iman Meeks has distinguished herself by her service on an award-winning committee to develop and clarify the environmental conservation policy for the J. Graham Brown School, the Jefferson County Public School System, the University of Louisville, and Louisville Metro Government; and

WHEREAS, Azia Iman Meeks, a fifth grade student at J. Graham Brown School and a member of the school's volleyball and basketball team, is passionate about attending college where she intends to study law; and

WHEREAS, Azia Iman Meeks has been recognized for her outstanding vocal talents as evidenced by her selection to the J. Graham Brown School Voices of Harmony, the Jefferson County Public Schools All County Chorus, and the Evangel World Prayer Center Children's Chorus; and

WHEREAS, Azia Iman Meeks, who has been characterized as a "powerhouse" and a "future force to be reckoned with," became the first recipient of the Ann Braden Humanitarian Award at the J. Graham Brown School in Louisville Metro, Kentucky; and

WHEREAS, Azia Iman Meeks was selected to receive the first annual Ann Braden Humanitarian Award by the administration, faculty, and staff of the J. Graham Brown School and was presented the award by Ms. Diane White, kindergarten through eighth grade counselor, at a ceremony held on February 27, 2007, in recognition of Black History Month in the Commonwealth of Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the House of Representatives, both individually and collectively, do hereby applaud the accomplishments of Azia Iman Meeks, congratulate her on the honor of receiving the first annual Ann Braden Humanitarian Award at the J. Graham Brown School, and declare her to be a shining example for all citizens of the Commonwealth and an outstanding role model for all young Kentuckians.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Azia Iman Meeks.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Azia Iman Meeks, 6203 Cutter Drive, Louisville, Kentucky 40218-2307.

There being no objection, **HR 187** was adopted.

Representative Stein moved that House Floor Amendment No. 1 to **SB 79** be withdrawn. Agreed.

Representative Osborne moved the adoption of the following **Legislative Citation No. 69**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this day in honor of the legendary American Thoroughbred Horse Racing Jockey Jean Cruguet as the thoroughbred industry celebrates both this esteemed gentleman's 68th Birthday and the 30th Anniversary of Seattle Slew's Triple Crown victory. Born on March 8, 1939, in Agen, Lot-et-Garonne, France, Jean Cruguet competed as a jockey in France before emigrating to the United States where his successful races included a 1969 win of a major Grade 1 race when he replaced jockey Braulio Baeza for Arts and Letters and rode the future Hall of Famer to victory in the Metropolitan Handicap at Belmont Park; a 1970 Eclipse win with the 2-year-old colt, Hoist The Flag, ridden by Jean in all his starts and undefeated until injured while preparing for the Wood Memorial in his three-year-old season, thereby ending his chances at a Triple Crown attempt that many believed could have been a win; and his 1976 ride on Seattle Slew to victory in the Champagne Stakes, followed by their wins of the Wood Memorial Stakes and the Flamingo Stakes as they progressed toward

their winning the Kentucky Derby, Preakness Stakes and Belmont Stakes, capturing the prestigious Triple Crown with unforgettable style. Now retired and lending his support to such organizations as Old Friends, a retirement and rescue facility for pensioned thoroughbreds in Midway, Kentucky, Jean Cruguet's last major Grade 1 Stakes victory was won riding Hodges Bay in the International Stakes at Woodbine Racetrack in 1989. The members of this honorable body are delighted to join with Representative David Osborne in paying well-deserved tribute to this remarkable gentleman and legendary rider and in extending warmest birthday wishes on this auspicious occasion. Done in Frankfort, Kentucky, this ninth day of March, in the year two thousand and seven.

Legislative Citation No. 69 was adopted without objection.

Representative Pasley moved the adoption of the following **HR 216**:

HR 216, A RESOLUTION adjourning the House of Representatives in memory and honor of Beverly G. Yeiser.

WHEREAS, Beverly G. Yeiser passed beyond at the age of 90; and

WHEREAS, Beverly G. Yeiser was born in Daviess County, Kentucky, the devoted son of Kirtley Newton and Sudie Brown Yeiser; and

WHEREAS, Beverly G. Yeiser was a man that valued education in himself and others, graduating from Utica High School, Western Kentucky University, and attending the University of Kentucky for graduate work; Mr. Yeiser instilled his love of agriculture and learning in others, teaching vocational agriculture from 1938 to 1944 in Daviess, Hardin, and Clark Counties; and

WHEREAS, Beverly G. Yeiser was also a man of great ability in the world of commerce, in 1944 first working for the Rickard Seed Company; and then working for himself in 1948, in the feed, farm supply, and hatchery business in three states, Kentucky, Tennessee, and Alabama; and

WHEREAS, Beverly G. Yeiser's endeavors grew and prospered to include farm operations in all states east of the Rocky Mountains; and

WHEREAS, Beverly G. Yeiser also created and owned the Yeiser Industrial Park, in Winchester, Kentucky; and

WHEREAS, Beverly G. Yeiser's talents were recognized by many, serving as a member and past president of the Southeastern Poultry and Egg Association, and serving as a member of the New York Mercantile Exchange, and as past director of the National Poultry Institute; and

WHEREAS, Beverly G. Yeiser never forgot the value of education, serving as a member of the Board of Regents of Eastern Kentucky University, and also being a Fellow of the University of Kentucky; and

WHEREAS, Beverly G. Yeiser served his community and Commonwealth as a member of the Clark County Chamber of Commerce, and the Winchester Rotary Club; and

WHEREAS, Beverly G. Yeiser served the Commonwealth under four Governors, Ned Breathitt, Wendell Ford, Julian M. Carroll, and John Y. Brown, Jr.; and

WHEREAS, Beverly G. Yeiser was not simply a man who worshipped money, but was also the loving and kind husband of Winifred Gayle Boyd Yeiser, the loving father of Gerald and Beverly "Buddy" Yeiser, and the doting grandfather of five grandchildren; and

WHEREAS, Beverly G. Yeiser was not simply a man of this world, but a devout man, an active member of the Central Baptist Church, where he taught Sunday School for 16 years and where he served on the Board of Trustees; and

WHEREAS, Beverly G. Yeiser's passing has created a void in the lives of many and the entire community joins his family in mourning his loss;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its sympathy upon the passing of Beverly G. Yeiser and extends its sincere condolences to his family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Beverly G. Yeiser.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the member from Clark 73, for transmission to the family of Beverly G. Yeiser.

There being no objection, **HR 216** was adopted.

Representative Pullin moved the adoption of the following **HR 215**:

HR 215, A RESOLUTION creating a House of Representatives Ohio River Task Force to study the critical issues affecting cities and counties bordering the river.

WHEREAS, the Ohio River forms a distinct and recognizable northernmost boundary for the Commonwealth of Kentucky; and

WHEREAS, the river figured prominently in Kentucky's history, serving as a major transportation route during the westward expansion of the United States; and

WHEREAS, a number of important cities took formation and grew along the river, including Ashland, Greenup, Maysville, Newport, Covington, Louisville, Owensboro, Henderson, and Paducah, as well as many other cities and communities; and

WHEREAS, the river continues to play a significant role for the Commonwealth as a regional focal point for commerce, waterborne traffic, economic development, industrial expansion, power generation, potable drinking water, and recreation; and

WHEREAS, the river has many lock and dam structures that affect navigation, and that must continue to be modernized; and

WHEREAS, while the river flows peacefully most of the time, it can overflow its banks and wreak havoc, shown most notably with the Ohio River flood of 1937, which occurred 70 years ago; and

WHEREAS, the cleanliness of the river is a concern to all elected state representatives serving constituents who use the river or live near the river;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives shall create the Ohio River Task Force to study the critical issues affecting cities and counties bordering the Ohio River. Membership on the Ohio River Task Force shall consist of all state representatives who represent counties that border the Ohio River. The task force may receive information as a group, and identify, discuss, and obtain testimony on the relevant issues and concerns affecting communities located along the waterway. The task force shall not be required to issue a report to the House of Representatives.

Section 2. The Ohio River Task Force shall meet at least two times per year commencing on June 1, 2007. The Ohio River Task Force shall cease to exist on December 31, 2010.

There being no objection, **HR 215** was adopted.

Representative Graham moved the adoption of the following **HR 59**:

HR 59, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Harold B. Travis.

WHEREAS, Harold B. Travis was born in Eddyville, Kentucky on March 13, 1913, to the late Dr. F.M. and Mae Houston Travis, and departed this life on January 26, 2007, at the age of 93 years. He was a retired U.S. Army Colonel and a veteran of World War II; and

WHEREAS, Mr. Travis served the citizens of Franklin County for many years as Property Valuation Administrator and was active in many community organizations, including the Hiram Lodge #4 F&AM, the Capital City Shrine Club, VFW Post #4075, and American Legion Post #7. He was also a member of the First Baptist Church of Melbourne, Florida; and

WHEREAS, the loss of this fine Kentuckian is mourned by his wife, Georgia Eagle Travis; his son and daughter-in-law, David and Vickie Travis; and two granddaughters, Kelley Sullivan and Amy Pankey. Mr. Travis was preceded in death by a son, Daniel M. Travis; and

WHEREAS, it is fitting that the members of this august body pause to pay tribute to this dedicated public servant and honorable Kentuckian who was blessed with joy of living and length of years;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deep sense of sorrow upon the passing of Harold B. Travis, and extends its sincere condolences to his family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Harold B. Travis.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Georgia Travis, 1063 Tamworth Lane, Frankfort, Kentucky 40601.

There being no objection, **HR 59** was adopted.

Representative Montell moved the adoption of the following **Legislative Citation No. 70**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in honor of Steve Landers as this indispensable member of LRC's renowned and occasionally notorious Computer Staff--a consummate professional and an astute practitioner of civility, humor and kindness--celebrates his 40th Birthday, the past ten of which have mostly been

spent working in the basement of the Annex, waiting for the Record to run. Scotty Rowe designed and wrote the Billbook System and Steve Landers enhanced it by adding more remote control tools for each of the legislators' chamber PCs; adding new features allowing review of the Budget Memorandum; and contributing the feature, "This Day in Legislative History." He also developed the Orders of the Day software for the Plasma Screens in the House Chamber, thereby banishing the overhead projector, screen and grease pencils. This system runs in synchronized unison with the Bill Book system and requires only a click by the clerk to bring up the bills and amendments on the members' screens, at the same time highlighting them on the Orders of the Day screens. Further, he is the in-house expert on the International Roll-Call Voting, Request to Speak and Page systems and their back-up systems and has put forth great effort training other staff to provide support in the House and Senate Chambers. For his outstanding work on behalf of the members of the Kentucky General Assembly, and in honor of the time, skill and expertise he has shared with the Legislative Research Commission, all the while sustaining and enriching the lives of his family--his wife, Kathy, and their children, Nathan, Chuck and Katie; enjoying the company of his friends; and contributing to his community through his service as a deacon at Waddy Christian Church and as a volunteer firefighter with the Waddy Volunteer Fire Department, the members of this august body are delighted to join with Representative Brad Montell in extending warmest wishes as he celebrates this birthday with his loving family and friends. Done in Frankfort, Kentucky, this ninth day of March, in the year two thousand and seven.

Legislative Citation No. 70 was adopted without objection.

Representative Webb moved to introduce and act on a resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 221, by Representatives Webb and Westrom: A RESOLUTION recognizing the achievements of Bruce K. Davis, Esq. as Executive Director of the Kentucky Bar Association and adjourning the House of Representatives in honor of his retirement.

Motions, Petitions, and Communications (Continued)

Representative Webb moved the adoption of the following **HR 221**:

HR 221, A RESOLUTION recognizing the achievements of Bruce K. Davis, Esq. as Executive Director of the Kentucky Bar Association and adjourning the House of Representatives in honor of his retirement.

WHEREAS, Bruce K. Davis, Esq. was born in Lexington, Kentucky on October 3, 1944. After attending Lancaster Grade School and thereafter graduating from University High School in Lexington, he received a Bachelor of Arts degree from Transylvania University in 1966. As a member of the United States Army from 1966 to 1968, he served his country in Vietnam, and upon his return received a Juris Doctor degree from the University of Kentucky College of Law in 1971; and

WHEREAS, Bruce K. Davis was admitted to the Kentucky Bar Association in September 1971, and began his professional career in private law practice in Lancaster. He served as counsel for the Kentucky Bureau of Corrections from 1972 to 1974, as Director of the Division of Hearings in the Department of Transportation from 1974 to 1978, as Assistant Commissioner of the Bureau of Vehicle Regulation from 1978 to 1980, and as Assistant Director for Continuing Legal Education at the Kentucky Bar Association from 1980 to 1983, before being appointed Executive Director, Treasurer, and Registrar of the Kentucky Bar Association in 1983; and

WHEREAS, over his 24 years of service as Executive Director of the Kentucky Bar Association, Bruce K. Davis has seen membership grow from approximately 8,000 licensed attorneys to more than 15,000. He worked tirelessly to oversee the construction of the new Bar Center and is proud of numerous programs created under his supervision to benefit the bar and the public, including Dispute Resolution Programs; the on-line Casemaker Legal Research program; the Client Assistance Program to mediate disputes between attorneys and clients; the Kentucky Lawyer Assistance Program; the development of mandatory continuing legal education; and Kentucky Law Update, which may be the most comprehensive bar-sponsored continuing legal education program in the country that is available at no cost to members; and

WHEREAS, Bruce K. Davis served as member and chair of the Paul Sawyer Public Library in Frankfort from 1984 to 1988, and served on the University of Kentucky Alumni Board and as President of the University of Kentucky National Alumni Association from 1989 to 1990. He was admitted to practice law before the Kentucky Court of Appeals, now Kentucky Supreme Court, in 1971, and was admitted to practice before the United States District Court for the Eastern and Western Districts of Kentucky and the United States Court of Appeals for the Sixth Circuit. In 1998, Bruce K. Davis received the Kentucky Bar Association's Outstanding Lawyer Award; and

WHEREAS, shortly after assuming the highest position within the Kentucky Bar Association, Bruce K. Davis wrote that the position of Director was the best job in Kentucky because "the Director has the opportunity to work with outstanding lawyers from all over Kentucky who give unselfishly of their valuable time to the Association, and he has the responsibility of supervising a dedicated staff that performs the behind-the-scenes work that makes the Association move forward." Bruce K. Davis himself was an outstanding lawyer who gave unselfishly of his time, and his support of a dedicated staff truly made the Kentucky Bar

Association the most respected bar community in the nation;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives recognizes the commitment to public service of Bruce K. Davis and honors him upon the occasion of his retirement from the Kentucky Bar Association.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Bruce K. Davis, Esq.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Bruce K. Davis, Esq., 2208 Mangrove Drive, Lexington, Kentucky 40513.

There being no objection, **HR 221** was adopted.

Representative Rader moved the adoption of the following **HR 196**:

HR 196, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Sergeant First Class Lance S. Cornett.

With deepest respect and admiration, we pay homage and tribute to Sergeant First Class Lance S. Cornett, and we pause in silent reverence for his soul.

WHEREAS, Lance S. Cornett was born July 11, 1972, in San Francisco, California, and he traversed these earthly bounds February 3, 2006; and

WHEREAS, Lance S. Cornett was the loving son of Rhudell Cornett and Karen McMullen; he was the devoted husband of Sandra Cornett; he was the loving father of Brandy Rudy, Christopher Hart, and Brianna Cornett; he was the doting brother and brother-in-law of Cristal and Jimmy Chestnut; he was the loving uncle of Jesse Chestnut; he was the caring grandfather of Logan Scott Rudy and Taylor Nicole Rudy; and he leaves behind a grandmother, Mary Lou Egan, and many other family members; and

WHEREAS, Lance S. Cornett graduated from Laurel County High School in 1991; and

WHEREAS, Sergeant First Class Lance S. Cornett enlisted in the United States Army in August, 1991 as an infantryman; he was assigned to the U.S. Army Special Operations Command, Fort Bragg, North Carolina; and he deployed in support of Operation Iraqi Freedom; and

WHEREAS, the life of Sergeant First Class Lance S. Cornett ended prematurely from injuries sustained while engaging enemy forces in the vicinity of Ramadi, Iraq; and

WHEREAS, Sergeant First Class Lance S. Cornett valiantly served his country with honor and distinction; he was remembered as "a loving husband, father, son and dedicated soldier . . . and was always unwavering in his patriotism" by his family and friends; he was laid to rest with full military honors; and his awards and decorations include two Bronze Star Medals with Valor Device, the Joint Service Commendation Medal, three Army Commendation Medals, nine Army Achievement Medals, the Joint Meritorious Medal, four Army Good Conduct Medals, the National Defense Service Ribbon with Bronze Service Star, the Armed Forces Expeditionary Medal with Bronze Service Star, the Iraqi Campaign Medal, Global War on Terrorism Expeditionary Medal, Global War on Terrorism Service Medal, Army Service Ribbon, the Noncommissioned Officer Professional Development Ribbon with numeral three, the Ranger Tab, the Combat Infantryman's Badge, the Expert Infantryman's Badge, the Pathfinder Badge, the Military Freefall Jumpmaster Badge, the Master Parachutist Badge, the Air Assault Badge, and the Service Operations Diver Badge; and

WHEREAS, the Commonwealth of Kentucky has the highest respect for Sergeant First Class Lance S. Cornett and is deeply grateful for the sacrifice he made for the freedom of all Americans and to ensure the freedom of the Iraqi people; and

WHEREAS, the passing of Sergeant First Class Lance S. Cornett has left a void that cannot be filled, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its profound sense of sorrow upon the passing of Sergeant First Class Lance S. Cornett and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Sergeant First Class Lance S. Cornett.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to: the wife of Sergeant First Class Lance S. Cornett, Mrs. Sandra Cornett, C/O 4948 Slate Lick Road, London, Kentucky 40741-6068; the father of Sergeant First Class Lance S. Cornett, Mr. Rhudell Cornett, 4948 Slate Lick Road, London, Kentucky 40741-6068; and the mother of Sergeant First Class Lance S. Cornett, Ms. Karen McMullen, 1100 Lancelot Court, Pulaski, Wisconsin 54162.

There being no objection, **HR 196** was adopted.

Representative Adkins moved the adoption of the following **HR 203**:

HR 203, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Clarice Elaine Greene Conley.

WHEREAS, Clarice Elaine Greene Conley was born on December 14, 1917, in Louisville, Kentucky, the daughter of the late Dr. William Cody Greene and the late Amanda Susan White Greene; and

WHEREAS, Mrs. Conley was the owner of Conley Electric for more than 50 years, and was a revered figure in the Sandy Hook and Elliott County community; and

WHEREAS, Mrs. Conley was the loving wife of Joseph Woodrow "Blackie" Conley and supported him in all his life's endeavors, including his service as mayor of Sandy Hook. Together, the couple raised and nurtured five children, Dr. Galen Conley, Brent Conley, Carol Binion, Janie Mustari, and the late Dr. Joe Conley; ten grandchildren, Cheri Reed, Sean Kelly, Trina Jo Conley, Joe Greene, Cody Conley, Carson Conley, Cooper Conley, Kristen Howard, Lori Bunk, and Alexandra Conley; and eleven great-grandchildren, Amanda Beckett, Ben Beckett, Amesia Conley, Isaac Conley, Ashligh Flanery, Kara Flanery Givens, Alyssa Bailee Howard, Sarah Beth Kelly, Jasmine Bunk, Jace Bunk, and Jaren Bunk. She was also the beloved sister of Delamine Greene and Ruth Jeannine Green Howard, half-sister of Bobby Jan Greene, and aunt to many others; and

WHEREAS, Mrs. Conley departed this life on February 27, 2007, and the entire community joins her friends and family in mourning her loss;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its sympathy upon the passing of Clarice Elaine Greene Conley, and extends its sincere condolences to her family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Clarice Elaine Greene Conley.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Galen Conley, Post Office Box 730, Sandy Hook, Kentucky 41171; Brent Conley, Post Office Box 125, Sandy Hook, Kentucky 41171; Carol Binion, Route 7, Box 685, Olive Hill, Kentucky 41164; and Janie Mustari, 2049 Pinehurst Street, Sarasota, Florida 34231.

There being no objection, **HR 203** was adopted.

Representative Adkins moved the adoption of the following **HR 183**:

HR 183, A RESOLUTION adjourning the House of Representatives in loving memory and honor of William C. "Bill" Lane.

WHEREAS, William C. "Bill" Lane was born August 16, 1920, in Nicholas County, to the late William C. and Mary Dean Hall Lane, and passed from this life February 19, 2007, at the age of 86 years. Mr. Lane moved to Morehead in 1939, intending to pursue a degree in agriculture from Morehead Teachers College, but became interested in the funeral business while working for his uncle, Clark B. Lane, at the Lane Funeral Home during college. Aspiring to a career in the funeral business, he graduated from the Cincinnati College of Embalming and became a licensed funeral director and embalmer in 1942; and

WHEREAS, Mr. Lane served his country during World War II as a corporal in the United States Army, working as a surgical technician at Fitzsimmons General Hospital in Denver, Colorado. Returning to Morehead in 1946, he owned and operated the Lane Funeral Home for many years, and also provided ambulance services to the community. He and Betty Stucky were partners in the Lane-Stucky Funeral Home until selling their interest to Mike Gray in 1987. Mr. Lane was also the founder and owner of the Globe Funeral Chapel in Olive Hill. He was also one of the founders of the Daniel Boone Convalescent Home, which is now the Life Care Center; and

WHEREAS, Bill Lane was a member of the Morehead Lions Club; the Morehead Masonic Lodge No. 654; the National Funeral Directors Association; and the Kentucky Funeral Directors Association. He attended the Morehead First Baptist Church, and enjoyed farming, cattle, horses, gardening and landscaping, and woodworking; and

WHEREAS, Mr. Lane was preceded in death by one brother, James Wall, and two sisters, Lyda Lou Darnell and Edith Chapman. He is survived by his loving wife, Ezelle Flannery Lane; two sons, William C. Lane III and his wife, Gail of Polkville, North Carolina, and Drew Evans Lane and his wife, Jane, of Somerset. Also surviving are one sister, Kathleen Richardson; five grandchildren, William C. Lane IV; Marsha Blaney and her husband, John; Andrew Lane; Evans Lane and his wife, Tiffany; and Sarah Cash and her husband, Jim. He was also the proud great-grandfather of Justin Lane, Taylor Blaney, and Brian Blaney, and left behind many nieces, nephews, and other relatives;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deep sense of sorrow upon the passing of William C. "Bill" Lane, and extends to his family, friends, and community its sincere condolences.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of William C.

"Bill" Lane.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Ezelle Flannery Lane, 105 Little Lane, Morehead, Kentucky 40351.

There being no objection, **HR 183** was adopted.

Representative Adkins moved that the House recess until 1:00 p.m. Agreed.

Representative Adkins moved that no other business be conducted on the House Floor on this day except receiving Senate Messages, Committee Reports, and Senate communications; appointments of Conference Committees; reviewing Conference Committee Reports; adopting simple Resolutions; and enrollment of Bills and Resolutions. Agreed.

Representative Adkins moved that when the House does adjourn it does so until Monday March 12, 2007 at 10:00 a.m. and it does so by voice vote. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

HB 215, 243, 390, 468, and HCR 120 were delivered to the Senate and signed by the President. Delivered to the Governor on March 9, 2007, at 11:27 a.m.

Motions, Petitions, and Communications (Continued)

Representative Adkins moved that with permission of the sponsor, **HR 214** be withdrawn. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 43, 56, 76, 91, 92, 98, 125, 153, 185, 186, 187, 23, 26, 47, 65, 69, and 104** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -1:20 p.m.)

Motions, Petitions, and Communications (Continued)

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 219, by Representatives Jenkins, Stein, Rader, Westrom, Webb, Wuchner, Pullin, Palumbo, C. Belcher, Combs, Collins, Marzian, and Sims: A RESOLUTION honoring the Girl Scouts of Kentuckiana on the 95th anniversary of the Girl Scouts of America.

Report of Committees

The Committee on Licensing and Occupations reported **SB 30**, with Committee Substitutes and Committee Amendment attached thereto with the expression of opinion that the same should pass. Referred to the Committee on Rules.

The House Committee Substitute No. 2 to **SB 30** is as follows:

SB 30, AN ACT relating to prosthetics, orthotics, and pedorthics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 319B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

- (1) "Board" means the Kentucky Board of Prosthetics, Orthotics, and Pedorthics;
- (2) "Certified orthotic fitter" means a person who is certified under this chapter to fit the following non-custom orthotic devices:
- (a) Cervical orthoses not requiring more than minor modification;
 - (b) Pressure gradient hose;
 - (c) Trusses;
 - (d) Prefabricated spinal orthoses, except those used in the treatment of scoliosis, rigid body jackets made of thermoformable materials, and "halo" devices; and
 - (e) Prefabricated orthoses of upper and lower extremities, except those used in the treatment of bone fractures;
- (3) "Custom fabricated and fitted device" means an orthosis, prosthesis, or pedorthic device that is fabricated to original measurements, or to a mold for use by a patient in accordance with a prescription from a health care practitioner or provider authorized by law to write such prescriptions, and that requires substantial clinical and technical judgment in its design and fitting;
- (4) "Custom fitted device" means a prefabricated orthosis, prosthesis, or pedorthic device sized or modified for use by the patient in accordance with a prescription from a health care practitioner or provider authorized by law to write such prescriptions that requires substantial clinical judgment and substantive alteration for appropriate use;
- (5) "Facility" means the business location where orthotic, prosthetic, or pedorthic care is provided. In the case of an orthotic/prosthetic facility, the orthotic/prosthetic facility has the appropriate clinical and laboratory space and equipment to provide comprehensive orthotic or prosthetic care; and, in the case of a pedorthic facility, the pedorthic facility has the appropriate clinical space and equipment to provide pedorthic care. Licensed orthotists, prosthetists, and pedorthists must be available to either provide care or to supervise the provision of care by nonlicensed staff;
- (6) "Licensed orthotist" means a person who is licensed under this chapter to practice orthotics and who represents the person to the public by title or description of services that includes the term "orthotic," "orthotist," "brace," or a similar title or description of services;
- (7) "Licensed pedorthist" means a person who is licensed under this chapter to practice pedorthics and who represents the person to the public by the title or description of services that includes the term "pedorthic," "pedorthist," or a similar title or description of services;
- (8) "Licensed prosthetist" means a person who is licensed under this chapter to practice prosthetics and who represents the person to the public by title or description of services that includes the term "prosthetic," "prosthetist," "artificial limb," or a similar title or description of services;
- (9) "Orthosis" means a custom-designed, fabricated, fitted, or modified device to correct, support, or compensate for a neuro-musculoskeletal disorder or acquired condition. "Orthosis" does not include fabric or elastic supports, corsets, arch supports, low-temperature plastic splints, trusses, elastic hoses, canes, crutches, soft cervical collars, dental appliances, or other similar devices that are carried in stock and sold without modification as "over-the-counter" items by a drug store, department store, corset shop, or surgical supply facility;
- (10) "Orthotic and prosthetic education program" means a course of instruction accredited by the Commission on Accreditation of Allied Health Education Programs, consisting of:
- (a) An adequate curriculum of college level training and instruction in math, physics, biology, chemistry, and psychology; and
 - (b) A specific curriculum in orthotic or prosthetic courses, including:
 - 1. Lectures covering pertinent anatomy, biomechanics, pathomechanics, prosthetic-orthotic components and materials, training and functional capabilities, prosthetic or orthotic performance evaluation, prescription considerations, etiology of amputations and disease processes necessitating prosthetic or orthotic use, and medical management;
 - 2. Subject matter related to pediatric and geriatric problems;
 - 3. Instruction in acute care techniques, such as immediate and early postsurgical prosthetics and fracture bracing techniques; and
 - 4. Lectures, demonstrations, and laboratory experiences related to the entire process of measuring, casting, fitting, fabricating, aligning, and completing prostheses or orthoses;
- (11) "Orthotics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing an orthosis, under an order from a licensed health care practitioner or provider authorized by law to issue such an order, for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity;
- (12) "Orthotist" means a person who is specifically trained and educated to provide or manage the provision of a custom-designed, fabricated, modified and fitted external orthosis to an orthotic patient, based on a clinical assessment and a prescription from a health care practitioner or provider authorized by law to write such prescriptions, to restore physiological function or cosmesis;

- (13) "Over-the-counter device" means a prefabricated, mass-produced device that is prepackaged and requires no professional advice or judgment in either size selection or use, including fabric or elastic supports, corsets, generic arch supports, and elastic hoses;
- (14) "Pedorthic device" means therapeutic footwear, foot orthoses for use at the ankle or below, and modified footwear made for therapeutic purposes, as prescribed by a licensed health care practitioner or provider authorized by law to issue such prescription. "Pedorthic device" does not include nontherapeutic accommodative inlays or nontherapeutic accommodative footwear, regardless of method of manufacture, shoe modifications made for nontherapeutic purposes, unmodified, over-the-counter shoes, or prefabricated foot care products;
- (15) "Pedorthic education program" means a course of instruction accredited by the Board for Certification in Pedorthics, consisting of:
- (a) A basic curriculum of instruction in foot-related pathology of diseases, anatomy, and biomechanics;
 - (b) A specific curriculum in pedorthic courses, including lectures covering shoes, foot orthoses, and shoe modifications, pedorthic components and materials, training and functional capabilities, pedorthic performance evaluation, prescription considerations, etiology of disease processes necessitating use of pedorthic devices, medical management, and subject matter related to pediatric and geriatric problems; and
 - (c) Lectures, demonstrations, and laboratory experiences related to the entire process of measuring and casting, fitting, fabricating, aligning, and completing pedorthic devices;
- (16) "Pedorthics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a pedorthic device, under an order from a licensed health care practitioner or provider authorized by law to issue such order for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity;
- (17) "Pedorthist" means a person who measures, designs, fabricates, fits, or services pedorthic devices and assists in the formulation of the order of pedorthic devices, as ordered by a licensed health care practitioner or provider authorized by law to issue such order for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities;
- (18) "Person" means a natural person;
- (19) "Prosthesis" means a custom designed, fabricated, fitted, or modified device to replace an absent external limb, for the purpose of restoring physiological function or cosmesis. "Prosthesis" does not include artificial eyes, ears, or dental appliances, cosmetic devices such as artificial breasts, eyelashes, or wigs, or other devices that do not have a significant impact on the musculoskeletal functions of the body;
- (20) "Prosthetics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a prosthesis, under an order from a licensed health care practitioner or provider authorized by law to issue such order;
- (21) "Prosthetist" means a person who is specifically trained and educated to provide or manage the provision of a custom designed, fabricated, modified, and fitted external limb prosthesis to a prosthetic patient, based on a clinical assessment and a prescription from a health care practitioner or provider authorized to write such prescriptions, to restore physiological function or cosmesis;
- (22) "Prosthetist/Orthotist" means a person who practices both disciplines of prosthetics and orthotics and who represents the person to the public by title or by description of services; and
- (23) "Resident" means a person who has completed an education program in either orthotics or prosthetics and is continuing such person's clinical education in a residency program approved by the board.

SECTION 2. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

There is hereby established the Kentucky Board of Prosthetics, Orthotics, and Pedorthics, which shall consist of five (5) members who shall be appointed by the Governor.

- (1) One (1) member shall be a citizen at large who is not affiliated with and does not have more than five percent (5%) financial interest in any one (1) health care profession or business.
- (2) Four (4) members shall be appointed and vacancies shall be filled from four (4) separate lists of three (3) names each submitted by the Kentucky Orthotics and Prosthetics Association. Each person on this list shall be a licensed orthotist, prosthetist, or pedorthist licensed under this chapter. All shall be residents of Kentucky and shall have engaged in the unrestricted practice of orthotics, prosthetics, or pedorthics within this state for at least two (2) years without disciplinary action. At least one (1) board member appointed under this subsection shall be a licensed pedorthist.
- (3) All appointments to the board after the effective date of this Act shall be for a term of four (4) years and until their successors are appointed and qualify. No member shall serve for more than two (2) successive terms, or for more than ten (10) consecutive years. The Governor may remove any member of the board for misconduct, incompetence, or neglect of duty.
- (4) The board shall meet at least annually and may meet at such other times as necessary to complete the business required. A majority of the members of the board shall constitute a quorum for the transaction of business. Annually

the board shall elect from its membership a chair, a secretary, and a chair-elect.

- (5) There shall be no liability on the part of, and no action for damages against, any current or former board member, representative, agent, or employee of the board, when the person is functioning within the scope of board duties, acting without malice, and with the reasonable belief that the actions taken by him or her are warranted by law.
- (6) Each board member shall receive, in addition to travel, lodging, and other actual and necessary expenses, a per diem not to exceed one hundred twenty dollars (\$120) for each day the member is actually engaged in the discharge of official duties approved by the board. The board shall, by promulgation of administrative regulations, set the amount of the per diem.

SECTION 3. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

The board shall:

(1) Promulgate administrative regulations to:

- (a) Establish licensure and certification categories and issue licenses for orthotists, prosthetists, and pedorthists, and certificates for certified orthotic fitters;
- (b) Establish the qualifications, educational courses, curriculum, hours, and standards that are prerequisite to issuance of all levels and types of licensure or certification established pursuant to paragraph (a) of this subsection. Any qualifications established by the board shall include the following:
 - 1. To qualify for a license to practice orthotics or prosthetics, a person shall:
 - a. Possess a baccalaureate degree or semester hours equivalent to four (4) years of study at a four-year college or university;
 - b. Complete the amount of formal training including but not limited to any necessary hours of classroom education and clinical practice required by the board;
 - c. Complete a clinical residency in the professional area for which a license is sought, in accordance with standards, guidelines, or procedures for residencies inside or outside this state established and approved by the board. The majority of training shall be devoted to services performed under the supervision of a licensed practitioner or provider of orthotics or prosthetics or a person who has obtained certification from the American Board for Certification in Orthotics and Prosthetics, Inc. or the Board for Orthotist/Prosthetist Certification;
 - d. Pass all written, practical, and oral examinations that are required and approved by the board; and
 - e. Be qualified to practice in accordance with commonly accepted standards of orthotic and prosthetic care acceptable to the board;
 - 2. To qualify for a license to practice pedorthics, a person shall:
 - a. Possess a high school diploma or comparable credential approved by the board;
 - b. Complete the amount of formal training including but not limited to any necessary hours of classroom education and clinical practice required by the board;
 - c. Pass all examinations that are required and approved by the board;
 - d. Complete a qualified work experience program or internship in pedorthics, in accordance with standards and procedures established by the board; and
 - e. Be qualified to practice in accordance with commonly accepted standards of pedorthic care acceptable to the board;
 - 3. To qualify for a license to practice as a certified orthotic fitter, a person shall:
 - a. Possess a high school diploma or comparable credential approved by the board;
 - b. Complete the amount of formal training including but not limited to any necessary hours of classroom education and clinical practice required by the board;
 - c. Pass all examinations that are required and approved by the board;
 - d. Complete a qualified work experience program or internship, in accordance with standards and procedures established by the board; and
 - e. Be qualified to practice in accordance with commonly accepted standards of care acceptable to the board; and
 - 4. A person may be licensed or certified in more than one discipline;
- (c) Establish the circumstances or conditions, if any, under which persons shall be entitled to exemption from licensure or certification after completion of training, while waiting to take or receive the results of any required examination, or upon meeting specified minimum educational and clinical qualifications;
- (d) Select the examination or examinations to be utilized as the board's licensure or certification examination or examinations and the prerequisites for admission to the examination or examinations. The board is authorized

to enter into a contract or agreement with the chosen examination service or services, or select an intermediary between the board and the examination service or services, to process applicants for the examination or examinations;

(e) Establish any other criteria for issuance of licensure or certification that are reasonably related to the safe and competent performance of prosthetics, orthotics, and pedorthics;

(f) Accredit continuing education courses;

(g) 1. Establish the fees to be paid for each of the following:

a. Application for licensure or certification;

b. Renewal or reinstatement of licensure or certification;

c. Late renewal of licensure or certification;

d. Application for continuing education course accreditation; and

e. Duplicate or replacement license or certificate;

2. The fees shall be set at a level that is adequate to pay all of the expenses of implementing and administering licensure or certification under this chapter;

(h) Establish the continuing education requirements for license or certificate holders, which shall include the frequency of reporting, number of hours, types of courses, approval of courses, methods of proving compliance, penalties for violation, and all fees necessary for implementation of the continuing education process; and

(i) Delineate the standards of practice for persons licensed or certified under this chapter relative to therapeutic footwear and medical devices for the foot and ankle; and

(2) Administer and enforce the provisions of this chapter and evaluate the qualifications of license and certificate applicants.

SECTION 4. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

The board may:

(1) Employ needed personnel and contract with the Division of Occupations and Professions within the Finance and Administration Cabinet for the provision of administrative services;

(2) Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of this chapter;

(3) Seek injunctive relief in the Circuit Court of the county where the violation occurred to stop the unlawful practice of prosthetics, orthotics, and pedorthics by unlicensed persons;

(4) Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the functions of this chapter;

(5) Suspend or revoke licenses or certificates or impose supervisory or probationary conditions upon licensees or certificate holders, or impose administrative disciplinary fines, issue written reprimands or admonishments, or any combination thereof;

(6) Grant retired or inactive licensure or certification status under conditions set forth by the board by the promulgation of administrative regulations; and

(7) Issue advisory private letter rulings to any affected licensee or certificate holder who makes such a request regarding any matters within the board's primary jurisdiction. Any private letter ruling shall affect only the person making the inquiry and shall have no precedential value for any other inquiry or future contested case that might come before the board. Any dispute regarding a private letter ruling may, if the board chooses to do so, be resolved pursuant to KRS Chapter 13B.

SECTION 5. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

(1) Any license or certificate issued by the board shall contain the name of the person to whom it is issued, the address of the person, the date and number of the license or certificate, and other information the board deems necessary. The address contained on the license or certificate shall be the address where all correspondence and renewal forms from the board shall be sent. Any person whose address changes shall, within thirty (30) days after the address change, notify the board of the address change. The most recent address contained in the board's records for each license or certificate holder shall be the address deemed sufficient for purposes of service of process.

(2) Every licensee or certificate holder shall either keep his or her license or certificate prominently displayed in the office or place in which the licensee or certificate holder practices or have it stored in a place from which it can be immediately produced upon request of a patient or a representative of the board.

(3) Any person whose license or certificate has been lost or destroyed may make application to the board for a replacement. This application shall be accompanied by an affidavit setting out the facts concerning the loss or destruction of the original license or certificate and the payment of a reasonable replacement fee as established by the board in subsection (1)(g) of Section 3 of this Act.

- (4) Any person whose name is changed by marriage or court order may surrender the person's license or certificate and apply to the board for a replacement license or certificate.

SECTION 6. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) On and after July 1, 2009, no person shall practice any profession governed by this chapter, or hold out as being able to practice any such profession, or dispense an orthosis, prosthesis, or pedorthic device, unless such person is licensed or certified by the board.
- (2) Until July 1, 2009, a person certified by the American Board for Certification in Orthotics and Prosthetics, Inc., with the title of Certified Orthotist (CO), Certified Prosthetist (CP), or Certified Orthotist-Prosthetist (CPO), or by the Board for Orthotist/Prosthetist Certification with the title of Board of Orthotic Certification -- Orthotist (BOCO) or Board of Certification -- Prosthetist (BOCP), or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards, may apply for and may be granted orthotic or prosthetic licensure by the board, upon payment of the required fee. After July 1, 2009, any applicant for initial licensure as an orthotist or a prosthetist shall meet the requirements of this chapter regarding the applicable license.
- (3) Until July 1, 2009, a person certified as a Certified Pedorthist (CPED) by the Board of Certification in Pedorthics, Inc., or a person certified as a CO, CP or CPO by the American Board for Certification in Orthotics and Prosthetics, Inc., or certified as a BOCO or BOCP by the Board for Orthotist/Prosthetist Certification, or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards, may apply for and may be granted pedorthic licensure under this chapter, upon payment of the required fee. After that date, any applicant for initial licensure as a pedorthist shall meet the requirements of the board regarding licensure.
- (4) Notwithstanding any other provision of this chapter to the contrary, a person who has practiced full time for a minimum of the past five (5) years in a prosthetic/orthotic facility as an orthotist or prosthetist, or in a pedorthic facility as a pedorthist, may file an application with the board before July 1, 2008, in order to continue to practice orthotics, prosthetics, or pedorthics, and may be issued a license to practice orthotics, prosthetics, or pedorthics by the board without examination, upon the board's receipt of payment of the required licensing fee and after the board has completed an investigation of the applicant's work history. The investigation may include but is not limited to completion by the applicant of a questionnaire regarding the applicant's work history and scope of practice.

SECTION 7. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

A licensee or certificate holder may provide care or services only if the care or services are provided pursuant to an order from:

- (1) A licensed health care practitioner authorized to issue such an order; or
- (2) A licensed physician, if the care or services are eligible for reimbursement from Medicare, Medicaid, or health insurance.

SECTION 8. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) The scope of practice of a licensee or certificate holder shall not include the right to diagnose a medical problem or condition, or the right to give medical advice as to the nature, cause, or treatment for the problem or condition for which the orthotic, prosthetic, or pedorthic device is being dispensed. However, the scope of practice of a licensee or certificate holder does include the right to provide information or demonstration regarding the proper use and care of the device and to make adjustments to the device as needed.
- (2) No person shall dispense or sell an over-the-counter device, based upon an image of the customer's limb captured by the person through a mold, cast, scanning device, digital appliance, or pressure sensitive device, unless the customer has first presented to that person a written prescription for that device from a health care practitioner or provider authorized by law to write such a prescription.

SECTION 9. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

Nothing in this chapter or in the administrative regulations promulgated by the board pursuant to this chapter shall be interpreted to limit or restrict:

- (1) A licensed health care practitioner or provider from engaging in the full scope of practice authorized by the license for that person's profession, training, or services;
- (2) A person licensed as a physical therapist under KRS Chapter 327 or as an occupational therapist under KRS Chapter 319A from engaging in that person's profession pursuant to his or her education and training;
- (3) A person certified as an athletic trainer under KRS Chapter 311 from engaging in that person's profession pursuant to his or her education and training;
- (4) A person licensed as a physician under KRS Chapter 311 from engaging in that person's profession pursuant to his or her education and training;
- (5) A person licensed as a chiropractor under KRS Chapter 312 from engaging in that person's profession pursuant to his or her education and training;
- (6) A person licensed as a pharmacist under KRS Chapter 315 from engaging in that person's profession pursuant to his or her education and training;

- (7) Individuals acting under the supervision and control of a licensed pharmacist or pharmacy from measuring, fitting or adjusting any non-custom fabricated and fitted device including but not limited to over-the-counter devices, so long as such individual does not create a cast, mold, or scan of a part of the human body for the purpose of constructing a medical device to treat a patient's medical condition, and so long as such individual meets one (1) of the following criteria for the device:
- (a) Documented training from a manufacturer or training from a licensed or certified orthotist, prosthetist, or pedorthist;
 - (b) Certification or registration as a fitter of orthotic, prosthetic, or pedorthic devices from a nationally recognized board or association such as the Board for Orthotist/Prosthetist Certification (BOC), the Board of Certification for Pedorthists, the National Community Pharmacists Association (NCPA), or the American Board for Certification in Orthotics and Prosthetics (ABC); or
 - (c) Direct supervision by a trained and experienced, or certified, or registered, fitter of orthotic, prosthetic, or pedorthic devices; or
- (8) Individuals acting under the supervision and control of a licensed pharmacist or pharmacy from measuring, fitting or adjusting any non-custom fabricated and fitted pedorthic devices including but not limited to diabetic shoes, so long as such individual meets the criteria of either subsection (7)(a) or (7)(b) of this section, and so long as the individual does not create a cast, mold, or scan of a part of the human body for the purpose of constructing a medical device to treat a patient's medical problem.

SECTION 10. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

This chapter shall not apply to:

- (1) The practice of orthotics, prosthetics, or pedorthics by a person who is employed by the federal government or any bureau, division, or agency of the federal government while in the discharge of the employee's official duties;
- (2) The practice of orthotics, prosthetics, or pedorthics by:
 - (a) A student enrolled in a school of orthotics, prosthetics, or pedorthics;
 - (b) A resident continuing his or her clinical education in a residency accredited by the National Commission on Orthotic and Prosthetic Education;
 - (c) A student in a qualified work experience program or internship in pedorthics; or
 - (d) A physician licensed under KRS Chapter 311; or
- (3) The measuring, fitting, or adjusting of an orthotic device by an employee or authorized representative of an orthosis manufacturer registered with the federal food and drug administration, when the employee or representative is supervised by a licensed health care professional authorized by law to prescribe, measure, or fit the device, and the measuring, fitting, or adjusting of the device occurs in the office of the licensed health care professional or in a health care facility.

SECTION 11. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

No person shall profess to be a licensee or certificate holder, or practice or assume the duties incident to a license issued under this chapter, or use the title "orthotist," "prosthetist," "pedorthist," "certified orthotic fitter," or any words or letters which designate or tend to designate to the public that the person is an orthotist, prosthetist, pedorthist, or certified orthotic fitter, unless he or she holds a valid, current license or certificate from the board.

SECTION 12. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) Every license or certificate issued under this chapter shall expire on June 30 following the date of issuance unless sooner revoked and canceled.
- (2) On or before June 1 of each year, the board shall send notices to all licensee or certificate holders, at their last known addresses, advising them that the annual renewal fee is due on July 1 of each year. Every licensee or certificate holder shall renew his or her license or certificate on or before July 1 of each year by the payment to the board of an annual renewal fee which shall be a reasonable fee set by regulation of the board and upon submission of a statement of compliance with the continuing education regulations of the board. If this renewal fee is not paid or such statement of compliance is not submitted on or before July 1, the board shall notify the delinquent licensee or certificate holder by mail at his or her last known address that the fee and statement are past due and that a delinquent penalty fee is assessed, in addition to the renewal fee, and that the renewal fee and penalty must be paid and the statement of compliance submitted on or before January 1. If such fees, penalties, and statement are not submitted by January 1, it shall be the duty of the board to suspend or revoke the license or certificate for nonpayment of the annual renewal and delinquent fees or for failure to submit the statement of compliance for the current year.
- (3) All fees collected under the provisions of this chapter, or the rules and regulations adopted pursuant thereto, shall be paid into the State Treasury, and credited to a trust and agency fund to be used in defraying the costs and expenses in the administration of this chapter, including but not limited to salaries and necessary travel expenses. No part of this fund shall revert to the general funds of this Commonwealth.

SECTION 13. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

The board is authorized in its sound discretion to:

- (1) Enter into reciprocal agreements with corresponding boards of other states having qualifications and standards at least as high as those of this state, providing for reciprocal licensure or certification without further examination of persons who have been duly licensed or certified upon written examination. Approval of such agreements by the Governor, or any other officer or agency of this state, shall not be required; and
- (2) Issue licenses or certificates by reciprocity or endorsement, and without further examination, to persons who have been duly licensed or certified upon written examination in another state having qualifications and standards at least as high as those of this state, or who have successfully passed the appropriate national examination.

SECTION 14. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) The board may deny or refuse to renew a license or certificate, may suspend or revoke a license or certificate, or may impose probationary conditions where the licensee, certificate holder, or applicant for licensure or certification has engaged in unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include:
 - (a) Obtaining a license or certificate by means of fraud, misrepresentation, or concealment of material facts;
 - (b) Unprofessional conduct as defined by administrative regulations promulgated by the board or violating the code of ethics promulgated by the board;
 - (c) Being convicted of a felony in any court if the act or acts for which the applicant, licensee, or certificate holder was convicted are found by the board to have a direct bearing on whether he or she should be entrusted to serve the public in the capacity of the licensed or certified profession;
 - (d) Violating any lawful order or administrative regulation rendered or promulgated by the board; or
 - (e) Violating any provision of this chapter.
- (2) A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license or certificate may be ordered by the board in a decision made after an administrative hearing conducted in accordance with KRS Chapter 13B and administrative regulations promulgated by the board. The board shall have discretion to accept or reject an application for reinstatement following an administrative hearing conducted in accordance with KRS Chapter 13B.
- (3) The surrender of a license or certificate shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions under this chapter.

SECTION 15. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

Fees shall be collected and determined by the board for the following:

- (1) Licensed orthotist, prosthetist, or pedorthist:
 - (a) Initial license fee, not to exceed three hundred dollars (\$300);
 - (b) License renewal fee, not to exceed three hundred dollars (\$300);
 - (c) Late renewal fees, not to exceed one hundred dollars (\$100);
 - (d) Reinstatement fee, not to exceed three hundred dollars (\$300);
 - (e) Duplicate license fee, not to exceed twenty-five dollars (\$25); and
 - (f) Continuing education course accreditation fee, not to exceed fifty dollars (\$50); and
- (2) Certified orthotic fitter:
 - (a) Initial certificate fee, not to exceed one hundred fifty dollars (\$150);
 - (b) Certificate renewal fee, not to exceed one hundred fifty dollars (\$150);
 - (c) Late renewal fees, not to exceed fifty dollars (\$50);
 - (d) Reinstatement fee, not to exceed one hundred fifty dollars (\$150);
 - (e) Duplicate certificate fee, not to exceed ten dollars (\$10); and
 - (f) Continuing education course accreditation fee, not to exceed twenty-five dollars (\$25).

SECTION 16. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) Until July 1, 2009, any person who practices as a certified orthotic fitter, orthotist, prosthetist, or pedorthist in violation of this chapter shall be subject to only a warning for the first offense. The person shall be granted thirty (30) days to comply with the provisions of this chapter. Any subsequent offenses committed at any time shall be subject to the relevant penalties in subsection (2) of this section.
- (2) Except as otherwise indicated in subsection (1) of this section, any person violating any provision of this chapter shall be fined not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or imprisoned for not more than six (6) months, or both.

Section 17. KRS 139.536 is amended to read as follows:

- (1) (a) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision

of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851.

- (b) The approved company shall have no obligation to refund or otherwise return any amount of this sales tax refund to the persons from whom the sales tax was collected.
 - (c) For all tourism attraction projects except those identified in paragraph (d) of this subsection, the term of the agreement granting the sales tax refund shall be ten (10) years, plus any extension granted under Section 18 of this Act.
 - (d) The term of the agreement granting the sales tax refund shall be twenty (20) years for a tourism attraction project that includes a facility, including but not limited to a lodging facility or shrine that is:
 - 1. a. Located on property owned by the Commonwealth, or leased by the Commonwealth from the federal government; and
 - b. Acquired for use in the state park system pursuant to the provisions of KRS 148.028, and operated by the Kentucky Department of Parks pursuant to the provisions of KRS 148.021 or the Kentucky Horse Park Commission pursuant to the provisions of KRS 148.258 to 148.320; or
 - 2. Located on property owned or leased by the federal government and identified as a national park.
 - (e) This time period shall commence on the later of:
 - 1. The final approval for purposes of the inducements; or
 - 2. The completion date specified in the agreement.
- (2) Any sales tax collected by an approved company as defined in KRS 148.851 on sales transacted after final approval but prior to the commencement of the term of the agreement, including any approved company that has received final approval prior to July 15, 2000, shall be refundable as if collected after the commencement of the term and applied to the approved company's first fiscal year's refund after activation of the term and without changing the term.
- (3) (a) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1)(c) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or twenty-five percent (25%) of the approved costs.
- 1. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost.
 - 2. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire twenty-five percent (25%) of the approved costs have been received through sales tax refunds.
- (b) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1)(d) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or fifty percent (50%) of the approved costs.
- 1. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost.
 - 2. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire fifty percent (50%) of the approved costs have been received through sales tax refunds.
- (4) Notwithstanding subsection (3) of this section, to the extent that the tourism attraction defined in KRS 148.851 includes a lodging facility located on recreational property owned or leased by the Commonwealth or federal government and the facilities have received prior approval from the appropriate state or federal agency, the total sales tax refund allowed to the approved company over the term of the agreement shall be the lesser of the total amount of sales tax liability or fifty percent (50%) of the approved costs. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to five percent (5%) of the approved cost. Notwithstanding the foregoing five percent (5%) limitation, any unused inducements as set forth in KRS 148.851(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire fifty percent (50%) of the approved costs have been received through the sales tax refunds.
- (5) By October 1 of each year the Department of Revenue shall certify to the authority and the secretary of the Commerce Cabinet for the preceding fiscal year for all approved companies for which sales tax returns were filed with respect to a tourism attraction project, the sales tax liability of the approved companies receiving inducements under this section and KRS 148.851 to 148.860, and their lessees, and the amount of the sales tax refunds issued pursuant to subsections (1) and (4) of this section.
- (6) Interest shall not be allowed or paid on any refund made under the provisions of this section.

- (7) The Department of Revenue may promulgate administrative regulations and require the filing of forms designed by the Department of Revenue to reflect the intent of this section and KRS 148.851 to 148.860.

Section 18. KRS 148.859 is amended to read as follows:

- (1) The authority, upon adoption of its final approval, may enter into with any approved company an agreement with respect to its tourism attraction project. The terms and provisions of each agreement shall include, but not be limited to:
- (a) The amount of approved costs, which shall be determined by negotiations between the authority and the approved company. Any increase in approved costs incurred by the approved company and agreed to by the authority shall apply retroactively for purposes of calculating the carry forward for unused inducements as set forth in KRS 139.536(3) and (4) for tax years commencing on or after July 1, 2004;
 - (b) A date certain by which the approved company shall have completed the tourism attraction project. Upon request from any approved company that has received final approval prior to or after July 15, 2000, the authority shall grant an extension or change, which in no event shall exceed three (3) years from the date of final approval, to the completion date as specified in the agreement of an approved company. Within three (3) months of the completion date, the approved company shall document the actual cost of the project through a certification of the costs to be provided by an independent certified public accountant acceptable to the authority;
 - (c) The following provisions:
 - 1. For all tourism attraction projects except a tourism attraction project identified in subparagraph 2. of this paragraph, the term shall be ten (10) years from the later of:
 - a. The date of the final approval of the project; or
 - b. The original completion date specified in the agreement, if this completion date is within three (3) years of the date of the final approval of the project. An extension of the original completion date shall not alter the commencement date of the term;
 - 2. For a tourism attraction project that includes a facility, including but not limited to a lodging facility or shrine:
 - a.
 - i. Located on property owned by the Commonwealth, or leased by the Commonwealth from the federal government; and
 - ii. Acquired for use in the state park system pursuant to the provisions of KRS 148.028, and operated by the Kentucky Department of Parks pursuant to the provisions of KRS 148.021; or the Kentucky Horse Park Commission pursuant to the provision of KRS 148.258 to 148.320; or
 - b. Located on property owned or leased by the federal government and identified as a national park; the term shall be twenty (20) years from the later of the date of the final approval of the project, or the original completion date specified in the agreement, if this completion date is within three (3) years of the date of the final approval of the project. An extension of the original completion date shall not alter the commencement date of the term;
 - 3. Within forty-five (45) days after the end of each fiscal year of the approved company, during the term of the agreement, the approved company shall supply the authority with such reports and certifications as the authority may request demonstrating to the satisfaction of the authority that the approved company is in compliance with the provisions of KRS 139.536 and KRS 148.851 to 148.860. Based upon a review of these materials and other documents that may be made available, the authority shall then certify to the Department of Revenue that the approved company is in compliance with this section; and
 - 4. The approved company shall not receive a sales tax refund as prescribed by KRS 139.536 with respect to any fiscal year if:
 - a. In any year following the fourth year of the agreement, the tourism attraction project fails to attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth, except for a theme restaurant destination attraction, which shall attract a minimum of fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth; or
 - b. In any year following the first year of the agreement, the tourism attraction project is not operating and open to the public for at least one hundred (100) days; and
 - (d) Upon request from an approved company that has completed at least fifty percent (50%) of an entertainment destination center, the authority shall grant an extension of up to three (3) years to the completion date specified in the agreement of the approved company, in addition to the extension provided for in paragraph (b) of this subsection. In no event shall the completion date be more than six (6) years from the date of final approval. The extension provided for in this paragraph shall be subject to the following conditions:
 - 1. The approved company shall have spent or have contractually obligated to spend an amount equal to or greater than the amount of approved costs set forth in the initial agreement;

2. The term of the agreement shall not be extended; and
 3. The scope of the entertainment destination center, as set forth in the initial agreement, shall not be altered to include new or additional entertainment and leisure options.
- (2) The agreement shall not be transferable or assignable by the approved company without the written consent of the authority.
- (3) In consideration of the execution of the agreement as defined in KRS 148.851 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 148.851 excluding its lessees, may be granted a sales tax refund under KRS 139.536 from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 148.851.
- (4) An approved tourist attraction that has been in operation for a minimum of three (3) years, and that has approved costs of at least seventy million dollars (\$70,000,000), may apply to the authority for a one (1) time extension of the term of the agreement, to recover approved costs authorized under the original agreement and any existing amendments. The authority shall grant the extension for a maximum of six (6) years, provided that the approved company demonstrates to the satisfaction of the authority that:**
- (a) The tourist attraction historically attracts at least fifty percent (50%) of its visitors from among persons who are not residents of the Commonwealth of Kentucky and is operating and open to the public for at least three hundred (300) days annually; and**
 - (b) The approved company will make additional capital expenditures, as defined in Section 263 of the Internal Revenue Code, with respect to the approved project in an amount equal to or greater than ten percent (10%) of the approved costs set forth in the original agreement and any existing amendments. These additional expenditures shall be incurred no later than the expiration date of the original agreement without regard to any extension and shall be actually paid no later than twelve (12) months following that same date. If the expenditures are not incurred or made within the specified timeframe, the authority shall revoke the extension.**
- (5) In granting an extension under subsection (4) of this section, the authority shall not increase the amount of approved costs as set forth in the original agreement and any existing amendments. The approved company may recover its approved costs with sales tax generated from the additional capital expenditures required under paragraph (b) of subsection (4) of this section, but only if the additional capital expenditures are not subject to a separate agreement under this section, and provided the total amount of sales tax eligible for refund shall not exceed the amount eligible under the original agreement and any existing amendments.**
- (6) The authority shall notify the Department of Revenue when an approved company has been granted an extension under subsection (4) of this section and when the approved company has met the requirements for the extension. The Department of Revenue shall not grant a refund for the extension period until the requirements have been met.**

The House Committee Amendment No. 1 Title to SB 30 is as follows:

SB 30, Amend the title to read as follows: "AN ACT relating to business regulation."

Representative Adkins moved to suspend the rules to allow the House to recess until 4:00 p.m. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Announcing passage of HB 32, 46, 66, 107, 115, 130, 144, 273, 370, and 509.

Message received in regard to HB 131: The Senate has passed HB 131 with the following Senate Floor Amendment Nos. 1, 2, 3, and 4 and respectfully requests concurrence of this Honorable Body.

Message received in regard to HB 514: The Senate has passed HB 514 by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (1:19 p.m.)

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 32, 46, 66, 107, 115, 130, 144, 258, 259, 273, 370, and 509** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:27 p.m.)

Representative Adkins moved to suspend the rules to allow the House to recess until 5:00 p.m. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved to suspend the rules to allow the House to recess until 7:30 p.m. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

HB 32, 46, 66, 107, 115, 130, 144, 258, 259, 273, 370, and 509 were delivered to the Senate and signed by the President. Delivered to the Governor on March 9, 2007, at 6:30 p.m.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 68, 74, 79, and 83** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -7:48 p.m.)

Senate Message

Announcing passage of **HB 69**.

Message received in regard to **HB 125**: The Senate has passed **HB 125** with Senate Floor Amendments No. 1, 2, and 3 Title and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 138**: The Senate has passed **HB 138** by way of Senate Committee Substitute and Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 156**: The Senate has passed **HB 156** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 287**: The Senate has passed **HB 287** with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 362**: The Senate has passed **HB 362** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 380**: The Senate has passed **HB 380** by way of Senate Committee Substitute and with Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 490**: The Senate has passed **HB 490** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 536**: The Senate has passed **HB 536** with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. (6:33 p.m.)

Senate Message

Announcing passage of **HCR 28, 30, 33, 141, and 154**. (7:24 p.m.)

Senate Message

Announcing passage of **HB 78, 83, 94, 102, 137, 192, 378, and 383.**

Message received in regard to **HB 225**: The Senate has passed **HB 225** with Senate Committee Amendments No. 2 and No. 1 Title and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 280**: The Senate has passed **HB 280** by way of Senate Committee Substitute with Senate Committee Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 394**: The Senate has passed **HB 394** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (7:25 p.m.)

Senate Message

Announcing passage of **HB 82, 462, and 540.**

Message received in regard to **HB 50**: The Senate has passed **HB 50** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 128**: The Senate has passed **HB 128** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 296**: The Senate has passed **HB 296** by way of Senate Committee Substitute with Senate Committee Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body. (7:45 p.m.)

Floor Amendments

House Floor Amendment No. 1 to the House Committee Substitute to SB 155, by Representative Riggs:

SB 155, On page 3, line 12, after "area" delete "seven hundred fifty (750)" and insert in lieu thereof "three hundred (300)"; and

On page 3, line 16, after "area" delete "seven hundred fifty (750)" and insert in lieu thereof "three hundred (300)"; and

On page 3, line 17, after "and" delete "three hundred seventy-five (375)" and insert in lieu thereof "one hundred fifty (150)".

House Floor Amendment No. 3 to the House Committee Substitute to SB 88, by Representative Stein:

SB 88, On page 3, line 18, after "11.550" insert "This subsection shall not be applicable to hospice providers licensed pursuant to KRS Chapter 216B.".

House Floor Amendment No. 1 to the House Committee Substitute to SB 79, by Representative Stein:

SB 79, On page 7, line 25, by deleting "Department for Aging and Independent Living" the first time it appears and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care"; and

On page 7, lines 25 and 26, by deleting "Department for Aging and Independent Living" the second time it appears in line 25 and continues on line 26, and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care"; and

On page 15, line 24, after "(i)" by deleting "Department for Aging and Independent Living" and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care"; and

On page 21, line 15, by deleting "Department for Aging and Independent Living" and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care"; and

On page 26, line 21, by deleting "Department for Aging and Independent Living" and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care"; and

On page 29, lines 23 and 24, by deleting "Department for Aging and Independent Living" and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care"; and

On page 35, lines 4 and 5, by deleting "Department for Aging and Independent Living" and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care"; and

On page 38, lines 20 and 21, by deleting "Department for Aging and Independent Living" and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care"; and

On page 39, lines 1 and 2, by deleting "Department for Aging and Independent Living" and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care"; and

On page 41, line 11, by deleting "Department for Aging and Independent Living" and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care"; and

On page 42, lines 15 and 16, by deleting "Department for Aging and Independent Living" and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care"; and

On page 43, lines 18 and 19 by deleting "Department for Aging and Independent Living" and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care"; and

On page 45, lines 14 and 15, by deleting "Department for Aging and Independent Living" and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care"; and

On page 47, line 15, by deleting "Department for Aging and Independent Living" and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care"; and

On page 47, line 27, by deleting "Department for Aging and Independent Living" and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care"; and

On page 48, line 6, by deleting "Department for Aging and Independent Living" and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care"; and

On page 48, line 24, by deleting "Department for Aging and Independent Living" and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care"; and

On page 50, line 6, by deleting "Department for Aging and Independent Living" and inserting in lieu thereof "Department for Aging, Independent Living, and Long-Term Care".

House Floor Amendment No. 2 to SB 88, by Representative Vincent:

SB 88, On page 3, line 12, before "means" by inserting "as used in KRS Chapter 218A and for criminal prosecution only";

On page 5, line 5, before "means" by inserting "as used in KRS Chapter 218A and for criminal prosecution only";

On page 5, line 8, before "means" by inserting "as used in KRS Chapter 218A and for criminal prosecution only";

On page 5, line 11, before "means" by inserting "as used in KRS Chapter 218A and for criminal prosecution only";

On page 7, line 8, before "means" by inserting "as used in KRS Chapter 218A and for criminal prosecution only";

On page 22, line 15, after "(11)" by deleting "\"Good faith prior examination\" means the same as defined in KRS 218A.010;

On page 22, line 16, by deleting "(12)";

On page 22, line 20, by inserting "(12)" and by bracketing and striking through "(13)";

On page 22, line 27, by inserting "(13)" and bracketing and striking through "(14)" and by deleting "\"Medical history\" means the same as defined in KRS 218A.010;

On page 23, line 1, by deleting "(15)";

On page 23, line 4, by deleting "(16)" and inserting "(14)" in lieu thereof and by deleting "\"Medical record\" means the same as defined in KRS 218A.010;

On page 23, line 5, by deleting "(17)";

On page 23, line 9, by deleting "(18)" and inserting "(15)" in lieu thereof;

On page 23, line 11, by deleting "(19)" and inserting "(16)" in lieu thereof;

On page 23, line 24, by deleting "(20)" and inserting "(17)" in lieu thereof;

On page 24, by deleting lines 4 through 7;

On page 24, line 8, by deleting "(22)" and inserting "(18)" in lieu thereof;

On page 24, line 12, by deleting "(23)" and inserting "(19)" in lieu thereof;

On page 24, line 23, by deleting "(24)" and inserting "(20)" in lieu thereof;

On page 24, line 24, by deleting "(25)" and inserting "(21)" in lieu thereof and by deleting "\"Practitioner-patient relationship\" means the same as defined in KRS";

On page 24, line 25, by deleting "218A.010;";

On page 24, line 26, by deleting "(26)" in lieu thereof;

On page 25, line 10, by deleting "(27)" and inserting "(22)" in lieu thereof;

On page 25, by removing the brackets and strikethroughs on lines 15 through 18 and then at the beginning of line 15, by

inserting "(23)" and bracketing and striking through "(24)";

On page 25, line 19, by deleting "(28)" and inserting "(24)" in lieu thereof;

On page 25, line 20, by deleting "(29)" and inserting "(25)" in lieu thereof; and

On page 25, line 23, by deleting "(30)" and inserting "(26)" in lieu thereof.

House Floor Amendment No. 2 to SB 22, by Representative Pullin:

SB 22, On page 1, after the title, insert:

"WHEREAS, the United States Congress has enacted 10 U.S.C. sec. 1097c; and

WHEREAS, the federal government has not yet promulgated administrative regulations to implement this legislation; and
WHEREAS, when this legislation is implemented, to some extent it may preempt state action with regard to contracting to offer TRICARE supplement insurance to public employees; and

WHEREAS, to the extent that 10 U.S.C. sec. 1097c does not preempt state action, the Commonwealth should contract to offer TRICARE supplement insurance to public employees;

NOW, THEREFORE,; and

On page 1, between lines 2 and 3, insert:

"(1) The provisions of this section shall take effect to the extent that they are not preempted by 10 U.S.C. sec. 1097c, other federal law, or federal regulation."; and

On page 1, line 3, delete "(1)" and insert "(2)" in lieu thereof; and

On page 1, line 3, after "section" delete ";" and insert in lieu thereof: ";

(a)"; and

On page 1, line 5, after "families" delete ";" and insert "; and" in lieu thereof; and

On page 1, between lines 5 and 6, insert:

"(b) "Employee" has the same meaning as in KRS 18A.225."; and

On page 1, line 6, delete "(2)" and insert "(3)" in lieu thereof; and

On page 1, line 10, delete "(3)" and insert "(4)" in lieu thereof; and

On page 1, line 14, delete "(4)" and insert "(5)" in lieu thereof; and

On page 1, line 21, delete "(5)" and insert "(6)" in lieu thereof.

House Floor Amendment No. 4 to the House Committee Substitute to SB 88, by Representative Vincent:

SB 88, On page 3, line 12, before "means" by inserting "as used in KRS Chapter 218A and for criminal prosecution only";

On page 5, line 5, before "means" by inserting "as used in KRS Chapter 218A and for criminal prosecution only";

On page 5, line 8, before "means" by inserting "as used in KRS Chapter 218A and for criminal prosecution only";

On page 5, line 11, before "means" by inserting "as used in KRS Chapter 218A and for criminal prosecution only";

On page 7, line 8, before "means" by inserting "as used in KRS Chapter 218A and for criminal prosecution only";

On page 19, line 12, after "(11)" by deleting ""Good faith prior examination" means the same as defined in KRS 218A.010;

On page 19, line 13, by deleting "(12)";

On page 19, line 17, by inserting "(12)" and by bracketing and striking through "(13)";

On page 19, line 24, by inserting "(13)" and bracketing and striking through "(14)" and by deleting ""Medical history" means the same as defined in KRS 218A.010;

On page 19, line 25, by deleting "(15)";

On page 20, line 1, by deleting "(16)" and inserting "(14)" in lieu thereof and by deleting ""Medical record" means the same as defined in KRS 218A.010;

On page 20, line 2, by deleting "(17)";

On page 20, line 6, by deleting "(18)" and inserting "(15)" in lieu thereof;

On page 20, line 8, by deleting "(19)" and inserting "(16)" in lieu thereof;

On page 20, line 21, by deleting "(20)" and inserting "(17)" in lieu thereof;

On page 21, by deleting lines 1 through 4;

2007 Regular Session

On page 21, line 5, by deleting "(22)" and inserting "(18)" in lieu thereof;

On page 21, line 9, by deleting "(23)" and inserting "(19)" in lieu thereof;

On page 21, line 20, by deleting "(24)" and inserting "(20)" in lieu thereof;

On page 21, line 21, by deleting "(25)" and inserting "(21)" in lieu thereof and by deleting "Practitioner-patient relationship" means the same as defined in KRS";

On page 21, line 22, by deleting "218A.010.";

On page 21, line 23, by deleting "(26)" in lieu thereof;

On page 22, line 7, by deleting "(27)" and inserting "(22)" in lieu thereof;

On page 22, by removing the brackets and strikethroughs on lines 12 through 15 and then at the beginning of line 12, by inserting "(23)" and bracketing and striking through "(24)";

On page 22, line 16, by deleting "(28)" and inserting "(24)" in lieu thereof;

On page 22, line 17, by deleting "(29)" and inserting "(25)" in lieu thereof; and

On page 22, line 20, by deleting "(30)" and inserting "(26)" in lieu thereof.

House Floor Amendment No. 14 to the House Committee Substitute to SB 159, by Representative Riner:

SB 159, On page 73, after line 19, insert the following:

"SECTION 46. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions in Sections 1 through 43 of this Act, no member of the General Assembly shall solicit or accept any contribution, or a promise or pledge to make a contribution, from an individual or permanent committee, nor shall a member of the General Assembly participate in a caucus campaign committee fundraiser, from the first day of a legislative session until sine die adjournment pursuant to Sections 36 and 80 of the Constitution of Kentucky."

Renumber remaining sections accordingly.

House Floor Amendment No. 15 to the House Committee Substitute to SB 159, by Representative Riner:

SB 159, On page 21, line 25 and line 26 by deleting "one thousand dollars (\$1,000)" and by inserting in lieu thereof "nine hundred fifty dollars (\$950)";

On page 29, line 6 and line 7 by deleting "one thousand dollars (\$1,000)" and by inserting in lieu thereof "nine hundred fifty dollars (\$950)"; and

On page 33, line 19 and line 20 by deleting "one thousand dollars (\$1,000)" and by inserting in lieu thereof "nine hundred fifty dollars (\$950)".

House Floor Amendment No. 16 to the House Committee Substitute to SB 159, by Representative Riner:

SB 159, On page 21, line 25 and line 26 by deleting "one thousand dollars (\$1,000)" and by inserting in lieu thereof "nine hundred fifty dollars (\$950)";

On page 29, line 6 and line 7 by deleting "one thousand dollars (\$1,000)" and by inserting in lieu thereof "nine hundred fifty dollars (\$950)";

On page 33, line 19 and line 20 by deleting "one thousand dollars (\$1,000)" and by inserting in lieu thereof "nine hundred fifty dollars (\$950)";

On page 34, line 4 by deleting "Two thousand five hundred dollars (\$2,500)" and by inserting in lieu thereof "Two thousand four hundred fifty dollars (\$2,450)";

On page 34, line 6 by deleting "Two thousand five hundred dollars (\$2,500)" and by inserting in lieu thereof "Two thousand four hundred fifty dollars (\$2,450)"; and

On page 34, line 8 by deleting "Two thousand five hundred dollars (\$2,500)" and by inserting in lieu thereof "Two thousand four hundred fifty dollars (\$2,450)".

JOURNAL OF THE HOUSE OF REPRESENTATIVES
2007 Regular Session

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills:

HB 63, Representative Dossett

HB 119, Representative Richards

HB 352, Representative Collins

Adjournment

Representative Adkins moved to adjourn until the hour of 10:00 a.m. on Monday, March 12, 2007.

The motion that the House adjourn until 10:00 a.m., Monday, March 12, 2007, was adopted by voice vote.

MONDAY, MARCH 12, 2007
TWENTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Reverend Scott Storie, Highland Christian Disciples of Christ Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present.

Representative Ballard moved that the reading of the Journal of March 9, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills were filed by the following:

Representative Combs moved that she be recorded as voting "Nay" on **SB 29**. Agreed.

Representative Edmonds moved that his vote be changed from "Nay" to "Abstain" on **HB 88**. Agreed.

Representative Hall moved that his vote be changed from "Nay" to "Yea" on **SB 153**. Agreed.

Representative Rollins moved that his vote be changed from "Yea" to "Nay" on **SB 196**. Agreed.

Representative Hoover moved that he be recorded as voting "Yea" on **SB 196, 92, 43, 185, 187, and 91**. Agreed.

Representative Henderson moved that he be recorded as voting "Yea" on **SB 153**. Agreed.

Representative Crenshaw moved that he be recorded as voting "Yea" on **SB 65, 23, 26, 47, 68, 69, 79, 104, 140, and 29**. Agreed.

Representative Edmonds moved that he be recorded as voting "Yea" on **SB 92**. Agreed.

Representative Ford moved that he be recorded as voting "Nay" on **SB 29**. Agreed.

Representative Ford moved that he be recorded as voting "Yea" on **SB 65, 23, 26, 47, 68, 69, 79, 104, and 140**. Agreed.

Representative Rollins moved that the rules be suspended to act on a Resolution. Agreed.

Representative Rollins moved the adoption of the following **HR 134**:

HR 134, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Edith Perlman.

WHEREAS, Edith Gettleman Perlman was born in O'Dessa, Russia, and immigrated with her family to the United States in 1914, and departed this life on January 29, 2007; and

WHEREAS, Mrs. Perlman attended Cornell University and graduated from the University of Pennsylvania. She married Dr. Robert Perlman in 1938, and was a volunteer for many years at Jewish Hospital and at the library at North Avondale School, where her daughters were enrolled. An avid reader, gardener, and cook, Mrs. Perlman chaired the Girlstown Weeklong Event in 1955; was a life member of Hadassah, Brandeis, Council of Jewish Women; a Friend of Cedar Village; and belonged to Isaac M. Wise Temple; and

WHEREAS, in addition to her parents, Edith Perlman was preceded in death by her beloved husband, Dr. Robert Perlman; two sisters, Frances Rosenzweig and Charlotte Gettleman; and a brother, Charles Gettleman. She is survived by her children, Legislative Research Commission employee, Emily Fryer, of Midway, and Vicky Zwelling, of Middletown, Connecticut; a sister, Sarah Silberman, of Silver Springs, Maryland; her grandchildren, Robert Fryer, V, of Hidden Lake, California, Martha Gay, of Versailles, Daniel Dwelling, of Natick, Massachusetts, and Elan Zwelling, of Philadelphia, Pennsylvania; and great-grandchildren, Robert and William Gay, of Versailles, and Naomi Quinn Zwelling, of Natick, Massachusetts;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deep sense of sorrow upon the passing of Edith Perlman, and extends to her family, friends, and community its sincere condolences.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Edith Perlman.

There being no objection, **HR 134** was adopted.

Representative Hoover moved the adoption of the following **Legislative Citation No. 74**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory and honor of Algean Rearden Miller and joins with Representative Jeffrey Hoover in expressing deepest sympathy to the Miller, Rearden and Cheek Families and all who share in the profound loss on the passing of this esteemed citizen on March 8, 2007. The daughter of Albert and Hazel Rearden, she is also survived by her beloved husband, Charles R. Miller; daughter and son-in-law, Ann and William Cheek; grandson, Jason Cheek; great-grandchildren, Logan and Bailey Cheek; step-children, Teresa Baker, Dale Miller and Jessica Camic; brother, Norman Earl Rearden; and, a host of other family members, friends and loved ones. This beloved and highly-respected citizen, a graduate of Bridgeport High School; a retired office supervisor from the Kentucky Cabinet for Human Resources; a faithful member of the Forks of Elkhorn Baptist Church; and, a loving daughter, wife, mother, grandmother and friend, is remembered on this day for the many and generous contributions she made to her family, friends and community. Algean Rearden Miller will be profoundly missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this twelfth day of March, in the year two thousand and seven.

Legislative Citation No. 74 was adopted without objection.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 69, 78, 82, 83, 94, 102, 137, 192, 378, 383, 462, 540, HCR 28, 30, 33, 141, and 154** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:33 a.m.)

Introduction of Bills and Resolutions

HR 222, by Representative Montell: A RESOLUTION urging the Kentucky Department of Agriculture and the Interim Joint Committee on Agriculture and Natural Resources to organize and coordinate a working group to review issues concerning mandatory pre-adoption spaying and neutering of cats and dogs in Kentucky.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bill and Resolutions:

Labor and Industry: **SB 89**

House Floor: **HR 210, 211, 212, 213, 217, 219** (HR 210, 211, 212, and 213 were adopted on March 8)

Representative Adkins moved that the rules be suspended to allow the House to take action on Senate Bills in the Orders of the Day. Agreed.

Representative Adkins moved that **SJR 6, HB 50, 128, 138, 156, 225, 280, 287, 296, 305, 355, 362, 386, 394, 490, 514, 536, and HJR 84** be taken from the Committee on Rules and placed in the Orders of the Day. Agreed.

Orders of the Day

SB 130, with House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved the adoption of House Floor Amendment No. 1 to **SB 130**. Agreed.

Representative Pullin moved that **SB 130**, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 12, 2007, roll call on **SB 130** - Appendix.)

SB 130, as amended, was passed and the title agreed to.

Representative Pullin moved that the vote by which **SB 130**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 10, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved that **SB 10** be passed.

On the roll call the vote was: **Yeas 61, Nays 37**. (See March 12, 2007, roll call on **SB 10** - Appendix.)

SB 10 was passed and the title agreed to.

Representative Gray moved that the vote by which **SB 10** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 105 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Greer moved that **SB 105** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 12, 2007, roll call on **SB 105** - Appendix.)

SB 105 was passed and the title agreed to.

Representative Greer moved that the vote by which **SB 105** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 88, with House Committee Substitute and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved the adoption of the House Committee Substitute to **SB 88**. Agreed.

Representative Webb moved the adoption of House Floor Amendment No. 1 to the House Committee Substitute to **SB 88**. Agreed.

Representative Stein moved the adoption of House Floor Amendment No. 3 to the House Committee Substitute to **SB 88**. Agreed.

Representative Vincent moved the adoption of House Floor Amendment No. 4 to the House Committee Substitute to **SB 88**. Agreed.

Representative Webb moved that **SB 88**, by way of House Committee Substitute, as amended, be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 12, 2007, roll call on **SB 88** - Appendix.)

SB 88, by way of House Committee Substitute, as amended, was passed and the title agreed to.

Representative Webb moved that the vote by which **SB 88**, by way of House Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 82 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved that **SB 82** be passed.

On the roll call the vote was: **Yeas 97, Nays 1**. (See March 12, 2007, roll call on **SB 82** - Appendix.)

SB 82 was passed and the title agreed to.

Representative Gooch moved that the vote by which **SB 82** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 1, with House Committee Substitute and House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved the adoption of the House Committee Substitute to **SB 1**. Agreed.

Representative Rasche moved the adoption of House Floor Amendment No. 1 to the House Committee Substitute to SB 1. Agreed.

Representative Rasche moved that SB 1, by way of House Committee Substitute, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 12, 2007, roll call on SB 1 - Appendix.)

SB 1, by way of House Committee Substitute, as amended, was passed and the title agreed to.

Representative Rasche moved that the vote by which SB 1, by way of House Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

HB 69, 78, 82, 83, 94, 102, 137, 192, 378, 383, 462, 540, HCR 28, 30, 33, 141, and 154 were delivered to the Senate and signed by the President. Delivered to the Governor on March 12, 2007, at 11:25 a.m.

Orders of the Day (Continued)

SB 111 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved that SB 111 be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 12, 2007, roll call on SB 111 - Appendix.)

SB 111 was passed and the title agreed to.

Representative Westrom moved that the vote by which SB 111 was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that SB 134, 144, and 196 have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:40 a.m.)

Order of the Day (Continued)

HB 490, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendment. Agreed.

The Senate Committee Amendment to HB 490 is as follows:

HB 490, On page 1, line 11, by deleting "trustee, agent, or spouse", and by inserting "trustee or agent" in lieu thereof; and

On page 3, line 7, by deleting "settle", and by inserting "resolve" in lieu thereof; and

On page 3, line 17, after "(30)", by inserting "business"; and

On page 4, line 14, after "any", by inserting "undisputed"; and

On page 4, line 19, after "subcontractor", by inserting "any undisputed amounts due"; and

On page 5, line 2, after "completed", by inserting "in accordance with the contract"; and

On page 5, by deleting line 13 in its entirety, and by inserting "contractor, and any subcontractor with work yet to be completed shall mutually agree with the schedule for"; and

On page 6, by deleting lines 17 through 20 in their entirety; and

On page 6, line 21, by deleting "(3)", and inserting "(2)" in lieu thereof; and

On page 7, between lines 10 and 11, by inserting the following new subsection:

"(4) Sections 1 to 6 of this Act shall not apply to any contract for construction of or relating to any facility as defined in KRS Chapter 278."

Representative Yonts moved that the House refuse to concur in the Senate Committee Amendment No. 1 to HB 490. Agreed.

HB 362, with Senate Committee Substitute and attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendment. Agreed.

The Senate Committee Substitute to HB 362 is as follows:

HB 362, AN ACT relating to safety for state social workers, declaring an emergency, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

In honor of Boni Frederick who lost her life in the performance of her official duties, Sections 1, 3, 4, 5, and 6 of this Act, and the amendments made to KRS 194A.065 in this Act shall be known as the "Boni Frederick Bill."

Section 2. KRS 194A.065 is amended to read as follows:

For the purposes of this section, "front-line staff" means an employee of the Division of Service Regions of the Department for Community Based Services or the immediate supervisor of an employee whose professional duties include ongoing adult or child protective services, protective services investigations or assessments, or regularly conducting interviews, visits, contacts, or providing transportation services or other services in the homes of family members involved in adult or child protective services.

- (1) The Cabinet for Health and Family Services, the Department of Juvenile Justice, the Department of Corrections, the Administrative Office of the Courts, and the Kentucky State Police shall be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system.
- (2) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440.
- (3) The Cabinet for Health and Family Services shall provide access to the Kentucky State Police, the Department of Corrections, the Department of Juvenile Justice, and the Administrative Office of the Courts to its database.
- (4) *The cabinet secretary and the secretary of the Justice Cabinet shall establish communications, policies, and procedures to enable designated cabinet staff of the Department for Community Based Services who are working on a protective services investigation or an ongoing protective services case to request a state criminal background check, and within a reasonable time frame, but no later than one (1) hour after receipt of a request, to have the state criminal background check sent to designated cabinet staff. Designated cabinet staff may request a state criminal background check at any time for a protective services investigation and may use the state criminal background check to assess staff safety concerns.*
- (5) *The Cabinet for Health and Family Services shall prioritize the safety needs of the front-line staff of the Department for Community Based Services and provide improvements in accordance with this section and Sections 4 and 6 of this Act.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 605 IS CREATED TO READ AS FOLLOWS:

- (1) *Each staff member of the department shall report to his or her supervisor any physical or verbal conduct of a client or an individual associated with a client that appears to be threatening or menacing, and any incident of assault, attempted assault, or physical contact that appears to be threatening to any staff member. Any use or threat of use of any type of weapon shall be reported. The supervisor shall report threat or incident information to the commissioner of the department or his or her designee. An employee who reports under this subsection shall be protected from reprisals pursuant to KRS 61.102.*
- (2) *The department shall establish and maintain an information system and track all reports of threats or incidents involving violence against department staff as required by subsection (1) of this section. The department shall provide, upon request, the number and type of reports received and any information available regarding civil or criminal action or changes to policies and procedures resulting from threats or incidence of violence upon staff.*
- (3) *The department shall designate or establish a safety liaison position within its central office and in each regional office. The regional administrator may designate or establish a safety liaison position in each county office. The duties of the central office safety liaison shall include but not be limited to:*
 - (a) *Development and implementation of policies and procedures related to the prevention of violence in the office and in community settings;*
 - (b) *Screening and assessment of the level of threat for professional-client interactions;*
 - (c) *Facilitation of safety training and safety and first alert protocols with all law enforcement agencies that work with each county office. Existing multidisciplinary teams may be utilized in the development of local safety protocols; and*
 - (d) *Administration of a Web-based social worker safety site and a threat and violence incident database.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The cabinet shall conduct risk assessments on all local offices of the Division of Service Regions of the Department for Community Based Services and remediate the office environments that do not provide adequate safety and protection for cabinet staff to the extent possible with consideration of office space lease arrangements and availability of funding for office

renovations.

SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The cabinet secretary shall designate a study group composed of personnel within the Department for Community Based Services and any other persons deemed necessary to make recommendations regarding personnel classifications for state agency social workers. The study group shall include in its deliberations, but is not limited to, special personnel designations that would permit or require specialized personal safety training and other requirements that reflect the sometimes dangerous nature of official job duties of state agency social workers.

SECTION 6. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

Front-line staff may request a risk or safety assessment prior to an investigation or delivery of services in a community setting. The direct supervisor of the requesting front-line staff and the safety liaison officer if a safety liaison officer position is designated for the county shall conduct the safety or risk assessment. If the situation warrants the accompaniment of front-line staff by a local law enforcement officer, the supervisor shall make the request to the local law enforcement agency.

Section 7. The Secretary of the Cabinet for Health and Human Services shall have the authority to declare a state of extraordinary circumstances upon a finding that safety of social workers in the Commonwealth is in serious jeopardy. The secretary shall submit the declaration to the Governor for certification. Upon certification and notwithstanding 2006 Ky. Acts Chapter 252, Part III, General Provisions, 5. Appropriations Expenditure Purpose and Transfer Restrictions, the secretary shall be authorized to transfer general fund moneys, restricted funds, or federal funds, with the approval of the State Budget Director, to the extent funds are available and not otherwise obligated to carry out the provisions of KRS Chapters 194A, 200, 202A, 202B, 205, 209, 209A, 210, 211, 212, 213, 214, 215, 216A, 216B, 217, 217A, 217B, and 217C, in the 2006-2008 fiscal biennium from other budget units within the cabinet to the Department for Community Based Services, Division of Service Regions, to address immediate safety needs of front line staff. The transfer of any funds pursuant to this section shall be subject to the provisions and notification requirements of KRS 48.630. Moneys transferred pursuant to this paragraph shall be placed in a trust and agency account to be used for the purpose set forth in this paragraph.

If, after transferring funds within the cabinet, the secretary finds that extraordinary needs relating to safety and security still exist, the secretary may then request approval from the Governor for any amount of expenditures not covered by funds transferred from other agencies within the cabinet, not to exceed \$1,000,000, to request that expenditures be deemed a necessary governmental expense. Upon approval by the Governor, funds not to exceed \$1,000,000 shall be transferred from the General Fund Surplus (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705). These funds shall be transferred only upon certification of need by the Secretary of the Cabinet for Health and Family Services to the Secretary of the Finance and Administration Cabinet and upon approval by the Governor. Moneys appropriated pursuant to this paragraph shall be placed in a trust and agency account to be used for the purpose set forth in this paragraph.

The cabinet shall submit monthly updates to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare on expenditures made pursuant to these paragraphs.

Section 8. Whereas the social workers employed by the Commonwealth of Kentucky are subject to dangerous circumstances, and children and citizens of the Commonwealth deserve an adequate response to allegations of adult or child abuse, neglect, or exploitation, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Representative Burch moved that the House refuse to concur in the Senate Committee Substitute to **HB 362**. Agreed.

HB 185, with Senate Committee Substitute and attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 185** is as follows:

HB 185, AN ACT relating to health care, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that:

- (1) Cardiovascular disease is the leading cause of death of Kentuckians and is the leading cause of death in every county in Kentucky;
- (2) Early identification and early treatment of cardiovascular disease is effective and can save lives;
- (3) An initiative on cardiovascular disease consisting of, but not limited to, research, outreach, prevention, early identification, education, and follow up for persons affected by cardiovascular disease is needed throughout the entire state; and
- (4) The involvement of the Department of Commercialization and Innovation and its centers, the Council on Postsecondary Education, and Kentucky's universities in a cardiovascular initiative provides excellent opportunities to

utilize Kentucky's unique niche in cardiovascular disease to create new intellectual property, translational research, and new knowledge-based businesses.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) The Kentucky Cardiovascular Disease Initiative (KCDI) is hereby created with the program goals that include, but are not limited to:
 - (a) Preventing and reducing the prevalence of cardiovascular disease in Kentucky through early detection and education;
 - (b) Reducing the incidence of deaths from cardiovascular disease in Kentucky;
 - (c) Measurably reducing health care costs associated with cardiovascular disease in Kentucky;
 - (d) Conducting research and developing new intellectual property and ancillary health businesses that create new knowledge-based businesses in Kentucky;
 - (e) Improving access to best practices and protocols for cardiovascular disease for all Kentuckians through an e-health network; and
 - (f) Assisting in securing state, federal, and private funding to stimulate health information capacities.
- (2) The KCDI shall be governed by a board that shall be appointed by the Secretary of the Cabinet for Health and Family Services, except as provided in paragraphs (a) through (s) of this subsection, no later than August 1, 2007, and composed of:
 - (a) One (1) member shall be appointed by the Secretary of the Cabinet for Health and Family Services who shall serve as chair of the KCDI during the first year, and this individual shall remain as a board member for two (2) additional years. The board shall elect its chair after the first year and may reelect the current chair;
 - (b) The president of the University of Louisville, or a designee;
 - (c) The president of the University of Kentucky, or a designee;
 - (d) The secretary or designee of the Cabinet for Health and Family Services;
 - (e) The commissioner or designee of the Department of Commercialization and Innovation;
 - (f) The commissioner or designee of the Department for Public Health;
 - (g) The executive director or designee of the Department of Insurance;
 - (h) The chair of the Kentucky e-Health Network Board, or a designee;
 - (i) One (1) representative of a Kentucky comprehensive university and one (1) representative of the Kentucky Community and Technical College System;
 - (j) Two (2) physicians with experience in research and treatment of cardiovascular disease, one (1) recommended by the dean of the medical school at the University of Louisville and one (1) recommended by the dean of the medical school at the University of Kentucky;
 - (k) The executive director of the Kentucky Primary Care Association;
 - (l) The president of the Kentucky Academy of Family Physicians;
 - (m) One (1) member of a Kentucky chapter of the American Heart Association;
 - (n) Four (4) members representing the business community, from a list of eight (8) persons recommended by the Kentucky Chamber of Commerce;
 - (o) Four (4) members representing private sector hospitals that treat the greatest number of cardiology patients as measured by the number of MDC 5 discharges and as reported by COMPdata or its successor;
 - (p) One (1) representative from a freestanding pediatric teaching hospital;
 - (q) One (1) at-large member appointed by the Governor;
 - (r) Two (2) members of the Senate, one (1) representing each major political party, appointed by the President of the Senate; and
 - (s) Two (2) members of the House of Representatives, one (1) representing each major political party appointed by the Speaker of the House.
- (3)
 - (a) Members serving under paragraphs (b) to (i), (k) and (l) of subsection (2) of this section shall serve by virtue of their positions and shall not be subject to term limits.
 - (b) Members appointed under paragraphs (i) and (j) of subsection (2) of this section shall serve three (3) year terms and may be reappointed to no more than two (2) consecutive terms. Members shall continue to serve until a successor is appointed.
 - (c) Members appointed under paragraphs (n) to (p) of subsection (2) of this section shall serve staggered terms that shall not exceed three (3) year terms. Members shall continue to serve until a successor is appointed.
 - (d) Members appointed under paragraph (q) and (s) of subsection (2) of this section shall serve three (3) year terms.

- (4) The KCDI board shall meet at least quarterly or upon the call of the chair. All members may receive reimbursement for expenses related to attendance at meetings and official functions of the board in accordance with state administrative regulations relating to travel reimbursement, but shall not be otherwise compensated for duties associated with the board.
- (5) The KCDI board may appoint committees, subcommittees, advisory councils or other groups to assist in the furtherance of the goals of the KCDI. Members appointed under this subsection need not be members of the KCDI board and may receive reimbursement for expenses related to attendance at meetings and official functions of the board in accordance with state administrative regulations relating to travel reimbursement, but shall not be otherwise compensated for duties associated with the board.
- (6) No member of the board shall be subject to personal liability for a loss sustained or damage suffered as a result of board action or inaction.
- (7) The KCDI board shall be attached to the Cabinet for Health and Family Services for administrative purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) The KCDI board shall establish goals and business plans for one (1), three (3), five (5), and ten (10) year time periods that include, but are not limited to, benchmark measures on:
 - (a) Outreach, including identification of Kentuckians who are at high risk for cardiovascular disease utilizing allied health programs in postsecondary institutions, the resources of community-based physicians, and local health departments;
 - (b) Education on lifestyle modifications to prevent cardiovascular disease;
 - (c) Early identification, including identification of target populations for hypertension, cholesterol, diabetes, and other at-risk histories utilizing a statewide data repository;
 - (d) Education, including the development and implementation of educational curricula and public awareness materials that address different target populations, such as age groups, gender, and identified occupational groups, and include distinctions for rural and urban populations;
 - (e) Follow up strategies for identified at-risk Kentuckians, including disease management protocols utilizing a statewide data repository and the allied health programs in postsecondary institutions, the resources of community-based physicians, and local health departments;
 - (f) Improving access to health care for at-risk and identified patient population and improving access to best practices for health care providers, including utilization of an Internet-based e-health system;
 - (g) Basic, clinical, and translational research on cardiovascular disease and its treatment;
 - (h) Commercialization of intellectual property to create profitable new businesses, including the development of an Internet-based data repository and e-health program established at Kentucky Innovation and Commercialization Centers affiliated with regional and comprehensive universities, in accordance with KRS 154.12-300 to 154.12-315, on cardiovascular and other diseases that can be accessed by health care providers working with patients; and
 - (i) Patient privacy protection as required by federal and state law.
- (2) The board shall present business plans that include specific budget items developed pursuant to subsection (1) of this section to the Interim Joint Committee on Appropriations and Revenue and the Interim Joint Committee on Health and Welfare of the General Assembly prior to initial expenditure of any funds relating to implementation of the business plans, and shall provide updates annually or upon request of the General Assembly. The board shall make business plans available to any interested party upon request.
- (3) The board may create a public or nonprofit corporation to facilitate public-private collaboration in development and implementation of the KCDI:
 - (a) A public or nonprofit organization may receive and expend funds appropriated by the General Assembly and may solicit, apply for, and receive any funds, grants, contracts, contributions, property, or services from any person, governmental agency, or other organization to carry out the responsibilities given to it by the KCDI Board;
 - (b) Funds appropriated to a public or nonprofit corporation shall not lapse at the end of a state fiscal year and shall be used solely for the purposes for which the funds were appropriated; and
 - (c) A public or nonprofit corporation created under this subsection shall:
 - 1. Follow standard accounting practices;
 - 2. Conduct an annual financial audit by an independent auditor;
 - 3. Submit a quarterly report of receipts and expenditures to the secretary of the Cabinet for Health and Family Services and the KCDI Board no later than sixty (60) days after the end of a quarter; and
 - 4. Submit an annual financial and progress report to the Governor, the secretary of the Finance and Administration Cabinet, and the Interim Joint Committees on Appropriations and Revenue and Health

and Welfare by September 30 following the end of each state fiscal year. The annual report shall include a report of receipts and expenditures, the financial audit, and a report on the status and progress of the corporation's initiatives.

SECTION 4. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

- (1) The Kentucky Cardiovascular Disease Initiative (KCDI) fund is created as a separate revolving fund. The KCDI fund shall consist of funds appropriated by the General Assembly and any other proceeds from grants, contributions, or other moneys made available for the purposes of the fund.
- (2) The KCDI fund amounts not expended at the close of a fiscal year shall not lapse, but shall be carried forward to the next fiscal year.
- (3) Any interest earnings of the KCDI fund shall become a part of the fund and shall not lapse.
- (4) KCDI fund moneys shall be used to support the Kentucky Cardiovascular Disease Initiative established under Section 2 of this Act. Funds shall be expended in accordance with Sections 1 to 4 of this Act, distributed as directed by the board established by Section 2 of this Act.
- (5) The Cabinet for Health and Family Services may expend available funds on the KCDI.

Section 5. KRS 216.267 is amended to read as follows:

- (1) The duties and responsibilities of the board shall be to implement and oversee the operation of an electronic health network in this Commonwealth, to be known as the Ke-HN.
- (2) The board shall:
 - (a) Exercise all of the administrative functions of the board;
 - (b) Appoint an advisory group that shall meet at least quarterly for the purpose of collaborating with health-care providers and payors, computer technology companies, telecommunication companies, and other affected entities to ensure input into the implementation of the Ke-HN;
 - (c) Review models for an electronic health network;
 - (d) Oversee the development of comparative business cases for the models reviewed and choose a model to be implemented in this Commonwealth. In selecting a model for implementation, the board shall consider the following elements:
 1. Various models and configurations for Ke-HN, either as developed from the board's research or as recommended by public and private experts. Each model or configuration shall be capable of supporting administrative and clinical functions listed in subsection (4) of this section, including the capability to integrate with an electronic Medicaid management information system, provide immediate health alerts to health-care providers across the state, support health-care provider education related to the identification and treatment of rare and unusual diseases, serve as a registry of the existence and location of advance directives related to health care or mental health treatment, and serve as a registry of organ donations. The model chosen may be implemented in phases, as determined by the board;
 2. Projected costs of the network, indicating those which would be allocated to state government, health-care providers, insurers, or others;
 3. Options for financing the start-up, administrative, and maintenance costs, projected returns on investments, a timetable for realizing those returns, and any proposed subscription or transaction fees associated with the Ke-HN;
 4. Procedures intended to secure protected health information in accordance with HIPAA;
 5. Timetables for implementation of the Ke-HN, whether as a fully established network, in phases, or through the use of a pilot project or regional approach to the Ke-HN;
 6. Suggested incentives to promote the use of Ke-HN by health care providers and payors, and the Medicaid program; and
 7. Incentives, including but not limited to tax credits, low-interest loans, and grants, under Subchapters 22, 23, 24, 26, and 28 of KRS Chapter 154 for a company that develops or manufactures software necessary for the development of the Ke-HN, if the company meets all the eligibility requirements under the respective subchapter in KRS Chapter 154;
 - (e) Receive comments from the advisory group created in paragraph (b) of this subsection;
 - (f) Submit a description of the model chosen for implementation to the Legislative Research Commission for the opportunity for any comments;
 - (g) If state funds are required for implementation of the model chosen, seek funding through the appropriations process;
 - (h) Oversee the implementation of the model chosen subject to the appropriation of funds. Oversight shall include the following:

1. Developing any central interchange, including any central server and software;
 2. Developing the Ke-HN of providers and payors who participate in the network, which shall be on a voluntary basis;
 3. Making recommendations regarding the features and functions which shall be included in the distributed components of the network; and
 4. Performing an outcomes assessment of the benefits achieved by the network;
- (i) Identify and adopt standards for all computer systems communicating with the Ke-HN, including but not limited to:
1. The HIPAA standards for electronic transactions as the federal regulations become final, or more stringent standards for content and networking as determined by the board;
 2. Medical lexicon for administrative billing and clinical purposes;
 3. Procedure and billing codes; and
 4. Prevalent health care industry standards for software and networking that ensure that applications work on all types of computer systems and equipment;
- (j) Establish procedures to ensure that Ke-HN transactions are in compliance with HIPAA guidelines;
- (k) Facilitate the implementation of the federal HIPAA guidelines, and identify any additional variables specific to Kentucky that are required to be in transactions within the HIPAA guidelines;
- (l) Oversee the operations of the Ke-HN, including but not limited to making recommendations for financing the central interchange for the network and making recommendations to organizations about implementing the network in their respective organizations;
- (m) Oversee the development of the central interchange that supports communication between components of the Medicaid management information system;
- (n) Implement educational efforts about the Ke-HN;
- (o) Develop incentives for providers and payors to use the Ke-HN;
- (p) Identify options for, adopt, and implement approaches to various aspects of the Ke-HN necessary for its creation and operation, including but not limited to technology architecture, governance and oversight, development and implementation plans, and other areas identified by the board relating to its charge;
- (q) Facilitate the development of private and public partnerships to build the Ke-HN;
- (r) Assign priority in phasing in the network to geographical locations that are critical to homeland security and protection of the Commonwealth's energy production;
- (s) Collaborate with federal agencies in the development and implementation of the Ke-HN as a demonstration model for the nation;
- (t) Collaborate with the Kentucky Health Care Infrastructure Authority created under KRS 216.261;
- (u) Assist with the securing of state, federal, or private funding for the Kentucky Health Care Infrastructure Authority created under KRS 216.261;
- (v) Stimulate the development of state and local population health information capacities;
- (w) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary to carry out the responsibilities of the board;
- (x) Receive and dispense funds appropriated for its use by the General Assembly or may solicit, apply for, and receive any funds, property, or services from any person, governmental agency, or organization to carry out its statutory responsibilities;
- (y) Report to the Governor, secretary of the Cabinet for Health and Family Services, commissioner of the Department of Commercialization and Innovation, Legislative Research Commission, Interim Joint Committee on Health and Welfare, and Interim Joint Committee on Banking and Insurance annually on the development of the Ke-HN and the impact on quality and cost of health care; and
- (z) Collaborate with the Telehealth Board to link functions of the telehealth network to the Ke-HN, as determined by the Telehealth Board.
- (3) The board may:
- (a) Use any software program or expand any Medicaid management information system or electronic provider and payor network developed by the Medicaid program to support electronic health transactions between payors, insurers, health-care providers, and patients that are not Medicaid-related, unless prohibited by federal law or regulation;
 - (b) Contract, in accordance with KRS Chapter 45A, with an independent third party or a public or nonprofit e-Health corporation for any service necessary to carry out the responsibilities of the board subject to the appropriation of funds;

- (c) Award grants to health-care providers and payors to implement projects related to health informatics, with highest priority given to health-care providers and payors that serve rural and inner-city areas of this Commonwealth; ~~and~~
- (d) Enter into an agreement with the University of Kentucky or the University of Louisville to develop comparative business models or implement any phase of the Ke-HN, using private or federal funds received by the university for the purpose designated in the agreement; and

(e) Create a public or nonprofit e-Health corporation to facilitate public-private collaboration in development and implementation of the Ke-HN:

- 1. A public or nonprofit e-Health organization may receive and expend funds appropriated by the General Assembly and may solicit, apply for, and receive any funds, grants, contracts, contributions, property, or services from any person, governmental agency, or other organization to carry out the responsibilities given to it by the Ke-HN Board;**
- 2. Funds appropriated to a public or nonprofit e-Health corporation shall not lapse at the end of a state fiscal year and shall be used solely for the purposes for which the funds were appropriated; and**
- 3. A public or nonprofit e-Health corporation created under this paragraph shall:**
 - a. Follow standard accounting practices;**
 - b. Conduct an annual financial audit by an independent auditor;**
 - c. Submit a quarterly report of receipts and expenditures to the secretary of the Cabinet for Health and Family Services and the Ke-HN Board no later than sixty (60) days after the end of a quarter; and**
 - d. Submit an annual financial and progress report to the Governor, the secretary of the Finance and Administration Cabinet, and the Interim Joint Committees on Appropriations and Revenue and Health and Welfare by September 30 following the end of each state fiscal year. The annual report shall include a report of receipts and expenditures, the financial audit, and a report on the status and progress of the corporation's initiatives.**

(f) Promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provisions of paragraph (e) of this subsection.

- (4) In its fully implemented form, the Kentucky e-Health Network is envisioned to support or encourage the following types of electronic transactions or activities that would be phased in over time:
- (a) Automatic drug-drug interaction and allergy alerts;
 - (b) Automatic preventive medicine alerts;
 - (c) Electronic access to the results of laboratory, X-ray, or other diagnostic examinations;
 - (d) Disease management;
 - (e) Disease surveillance and reporting;
 - (f) Educational offerings for health-care providers;
 - (g) Health alert system and other applications related to homeland security;
 - (h) Links to drug formularies and cost information;
 - (i) Links to evidence-based medical practice;
 - (j) Links to patient educational materials;
 - (k) Medical record information transfer to other providers with the patient's consent;
 - (l) Physician order entry;
 - (m) Prescription drug tracking;
 - (n) Registries for vital statistics, cancer, case management, immunizations, and other public health registries;
 - (o) Registry of the existence and location of advance directives related to health care and mental health treatment;
 - (p) Registry of organ donations executed under KRS 311.165 to 311.235;
 - (q) Secured electronic consultations between providers and patients;
 - (r) A single-source insurance credentialing system for health care providers; and
 - (s) The following transactions covered by HIPAA:
 1. Electronic health-care claims submission;
 2. Electronic payment;
 3. Coordination of benefits;
 4. Health-care claim status;
 5. Enrollment and disenrollment in a health plan;

6. Eligibility for a health plan;
7. Health plan premium payments;
8. Referral certification and authorization;
9. First report of injury; and
10. Health claims attachments.

Section 6. There is included in the appropriation for the Cabinet for Health and Family Services for state fiscal year 2007-2008 federal grant funds from the Centers for Medicare and Medicaid Services \$4,987,583 for the Kentucky Health Information Partnership program in the Department for Medicaid Services.

Representative Moberly moved that the House refuse to concur in the Senate Committee Substitute to **HB 185**. Agreed.

HB 402, with Senate Floor Amendments and attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Floor Amendment No. 2 to **HB 402** is as follows:

HB 402, On page 1, line 6, place brackets around and strike through "in the amount of";

On page 1, lines 11 and 12, place brackets around and strike through "an amount equal to";

On page 3, line 20, delete "and" and insert in lieu thereof "or";

On page 3, line 20, after "subsection" insert ", the money";

On page 3, line 21, place brackets around and strike through "it";

On page 3, line 23, put brackets around and strike through "or" and insert in lieu thereof ". The money shall be deposited in";

On page 4, line 1, delete "it" and insert in lieu thereof "the money";

On page 5, between lines 2 and 3 insert the following:

"Section 2. KRS 230.240 is amended to read as follows:

- (1) (a) In addition to the employees referred to in KRS 230.230, the executive director of the authority may employ, dismiss, or take other personnel action and determine the reasonable compensation of stewards, supervisors of mutuels, veterinarians, inspectors, accountants, security officers, and other employees deemed by the executive director to be essential at or in connection with any horse race meeting and in the best interest of racing.
- (b) The security officers shall be peace officers and conservators of the peace on authority property and at all race tracks and grounds in the Commonwealth and shall possess all the common law and statutory powers and privileges now available or hereafter made available to sheriffs, constables, and police officers for the purpose of enforcing all laws relating directly or indirectly to the conduct of horse racing and pari-mutuel wagering thereon, or the enforcement of laws relating to the protection of persons or property on premises licensed by the authority.
- (c) The authority, for the purpose of maintaining integrity and honesty in racing, shall prescribe by administrative regulation the powers and duties of the persons employed under this section and qualifications necessary to competently perform their duties. In addition, the authority shall be responsible for seeing that racing officials employed under the provisions of this section have adequate training to perform their duties in a competent manner.
- (2) The authority shall promulgate administrative regulations for effectively preventing the use of improper devices, and restricting or prohibiting the use and administration of drugs or stimulants or other improper acts to horses prior to the horse participating in a race. The authority may acquire, operate, and maintain, or contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urine, or other tests, and to purchase supplies and equipment for and in connection with the laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under this chapter in the manner and in proportions as the authority shall by administrative regulation provide.
- (3) ~~[The compensation of the employees referred to in this section shall be paid by the licensee conducting the horse race meeting in connection with which the employees are utilized or employed.]~~ The salary of the executive director to the authority shall be paid by the authority and not ~~{prorated among and paid}~~ by the various associations licensed under this chapter ~~[in the manner as the authority shall, by administrative regulation, provide]~~. The employees referred to in this section shall be deemed employees of the authority, and the compensation of the employees shall be paid by the authority and not ~~{are paid}~~ by the licensee or association ~~{for convenience only}~~.
- (4) Except as otherwise authorized by statute, the authority shall not impose any fee or assessment on associations licensed

under this chapter. ~~[Each person, as a condition precedent to the privilege of receiving a license under this chapter to conduct a horse race meeting, shall be deemed to have agreed to pay expenses and compensation as provided in this section and as may be actually and reasonably incurred.] ;~~

On page 5, line 3, after "Section" delete "2" and insert in lieu thereof "3";

On page 5, line 8, after "Section" delete "3. This Act takes effect July 1, 2007" and insert in lieu thereof "4. The provisions of Sections 1 to 4 of this Act take effect July 1, 2007";

On page 5, after line 8 insert the following:

"Section 5. There shall be appropriated to the Environmental and Public Protection Cabinet \$1,200,000 for fiscal year 2007-2008 from the General Fund to be distributed to the Horse Racing Authority to provide for the authority's personnel, administrative, and operating costs, except the costs of drug testing as provided under Section 2 of this Act."

The Senate Floor Amendment No. 1 to Title **HB 402** is as follows:

HB 402, Amend the title to read: "AN ACT relating to pari-mutuel tax and making an appropriation thereof."

Representative Firkins moved that the House refuse to concur in the Senate Floor Amendment No. 2 and Senate Floor Amendment No. 1 Title to **HB 402**. Agreed.

HB 156, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendment. Agreed.

The Senate Floor Amendment No. 1 to **HB 156** is as follows:

HB 156, On page 2, beginning on line 17, by placing an opening bracket before "All" and on page 2, line 18, after "quarterly." by placing a closing bracket and striking through all language between the opening and closing brackets;

On page 2, line 21, after "status.", by inserting the following;

"(6) All licensed charitable organizations that have annual gross receipts of two hundred thousand dollars (\$200,000) and do not have a weekly bingo session shall report to the office annually at the time and on a form established in administrative regulations promulgated by the office.

(7) All other licensed charitable organizations shall submit reports to the office at least quarterly at the time and on a form established in administrative regulations promulgated by the office.

(8)";

On page 3, line 12, by bracketing and striking through "(6)" and placing "(9)" at the front of the line;

On page 4, line 1, by bracketing and striking through "(7)" and placing "(10)" at the front of the line;

On page 7, line 4, after "due" by bracketing and striking through "on a quarterly basis" and inserting before the opening bracket "as set forth in administrative regulations promulgated by the office";

On page 8, after line 9, by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 238 IS CREATED TO READ AS FOLLOWS:

(1) (a) If the office has proposed a new or amended administrative regulation that changes the manner in which a charitable organization conducts charitable gaming or is likely to cause a charitable organization to incur new or additional costs, the office shall not promulgate the proposed administrative regulation without first receiving comments from the Charitable Gaming Advisory Commission established in Section 5 of this Act, subject to the restrictions of paragraph (b) of this subsection.

(b) 1. If the proposed administrative regulation qualifies under paragraph (a) of this subsection, the office shall distribute the proposed administrative regulation to the advisory commission.

2. The advisory commission shall be granted a maximum of sixty (60) days to submit its comments on the proposed regulatory change. If the administrative regulation is a new emergency regulation, the advisory commission shall be granted a maximum of thirty (30) days to submit its comments on the proposed regulatory change.

3. The time limits in this paragraph shall begin from the day the office submits the regulatory change and sets a date for a proposed hearing for the comments of the advisory commission. If the advisory commission is already scheduled to meet at a time that will give it an adequate opportunity to review the regulation and respond, the hearing may be held at that meeting.

4. If an advisory commission is not scheduled to meet, the office shall arrange for the advisory commission to meet at a time that will provide the advisory commission an adequate opportunity to review and comment on the regulation within the time limit. If the advisory commission fails to comment within the

time limit, the office may proceed with the administrative changes at its discretion.

(c) To the extent that any other statute relating to the office's authority to promulgate administrative regulations conflicts with this section, this section shall take precedence.

(d) If the advisory commission chooses to produce written comments, these comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A, and may include majority or minority comments or both.

(2) Any power or limitation relating to administrative regulations promulgated by the office that are subject to subsection (1) of this section shall also apply to administrative regulations promulgated by the executive director of the office.

Section 5. KRS 238.520 is amended to read as follows:

(1) The Charitable Gaming Advisory Commission is created to be composed of nine (9) members consisting of:

- (a) The secretary of the Environmental and Public Protection Cabinet or his designee;
- (b) The Attorney General or his designee;
- (c) One (1) representative from the Kentucky Commonwealth's Attorneys Association;
- (d) One (1) representative from the Kentucky Charitable Gaming Association;
- (e) One (1) certified public accountant;~~{and}~~
- (f) One (1) member~~{Four (4) members}~~ selected from the public at large;

(g) One (1) representative selected from the Joint Executive Council of Veterans Organizations of Kentucky;

(h) One (1) representative from Catholic organizations; and

(i) One (1) representative from Kentucky's volunteer firefighter organizations.

The certified public accountant, the one (1)~~{four (4)}~~ at-large member~~{members}~~, and the representatives from the Kentucky Commonwealth's Attorneys Association and the Kentucky Charitable Gaming Association shall be appointed by the Governor. The representative from each of the two (2) associations, the one (1) representative from the Joint Executive Council of Veterans Organizations of Kentucky, the one (1) representative from the Catholic organizations, and the one (1) representative from the volunteer firefighter organizations shall be selected from a list of at least three (3) names submitted to the Governor by the respective association.

- (2) Initial appointments to the commission shall be for staggered terms as follows: one (1) member for a term of one (1) year; two (2) members for a term of two (2) years; two (2) members for a term of three (3) years; and two (2) members for a term of four (4) years. Thereafter, each member shall be appointed for a term of four (4) years. No member from the public at large shall be appointed in the same year. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term. No member of the commission may serve more than two (2) full terms.
- (3) The Charitable Gaming Advisory Commission shall provide ongoing advice and input to the office and to the General Assembly but shall not~~{establish policy or}~~ become directly involved in the licensing and regulation of charitable gaming by the office.
- (4) The commission shall meet quarterly, upon the request of the chair or four (4) of its members or as otherwise directed by the office. Five (5) members shall constitute a quorum for conducting business. The commission shall annually elect a chairman from its membership, and no person elected chairman shall serve more than two (2) consecutive terms of one (1) year each. Members shall receive no compensation for serving on the commission, but shall be reimbursed for travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees.

Section 6. KRS 238.515 is amended to read as follows:

The office shall license and regulate the conduct of charitable gaming in the Commonwealth of Kentucky. In discharging this responsibility, the office shall have the following powers and duties:

- (1) Licensing charitable organizations, charitable gaming facilities, manufacturers, and distributors that desire to engage in charitable gaming;
- (2) Establishing and enforcing reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities;
- (3) Prescribing reasonable fees for licenses;
- (4) Establishing standards of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for;
- (5) Establishing a process for reviewing complaints and allegations of wrongdoing, and for investigating complaints with merit. In furtherance of this duty, the office shall have the authority to issue administrative subpoenas and summonses. The office shall also establish toll-free telephone service for receiving complaints and inquiries;
- (6) Taking appropriate disciplinary action and making referrals for criminal prosecution of persons who do not operate in compliance with this chapter;
- (7) Collecting and depositing all fees and fines in the charitable gaming regulatory account and administering the account;

- (8) Employing necessary staff, securing adequate office space, and executing other administrative and logistical matters as may be necessary to assure proper functioning of the office; and
- (9) Promulgating administrative regulations, in accordance with KRS Chapter 13A, which are necessary to carry out the purposes and intent of this chapter. *Any administrative regulation proposed by the office that changes the manner in which a charitable organization conducts charitable gaming or is likely to cause a charitable organization to incur new or additional costs shall be subject to the requirements of Section 4 of this Act. In promulgating administrative regulations under this subsection, the office shall submit any proposed regulations to the advisory commission established under Section 5 of this Act, and shall not promulgate the administrative regulations without giving the advisory commission the opportunity to produce written comments in accordance with Section 4 of this Act. If the advisory commission chooses to produce written comments, the comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A.*

Section 7. KRS 238.535 is amended to read as follows:

- (1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the office. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:
 - (a) Bingo in which the gross receipts do not exceed a total of twenty-five thousand dollars (\$25,000) per year;
 - (b) A raffle or raffles for which the gross receipts do not exceed twenty-five thousand dollars (\$25,000) per year; and
 - (c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed twenty-five thousand dollars (\$25,000) per year.

However, at no time shall a charitable organization's total limitations under this subsection exceed twenty-five thousand dollars (\$25,000).

- (2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the office in writing, on a simple form issued by the office, of its intent to engage in exempt charitable gaming and the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter relating to the conduct of charitable gaming, except:
 - (a) Payment of the fee imposed under the provisions of KRS 238.570; and
 - (b) The quarterly reporting requirements imposed under the provisions of KRS 238.550/~~(7)(5)~~, unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.

Before the last day of each year, a charitable organization exempt from licensure under the provisions of subsection (1) of this section shall file with the office a financial report detailing the type of gaming activity in which it engaged during that year, the total gross receipts derived from gaming, the amount of charitable gaming expenses paid, the amount of net receipts derived, and the disposition of those net receipts. This report shall be filed on a form issued by the office. Upon receipt of the yearly financial report, the office shall notify the charitable organization submitting it that its exemption is renewed for the next year. If the office determines that information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the office shall revoke the exemption. The organization may request an appeal of this revocation pursuant to KRS 238.565. If an exemption is revoked because an organization has exceeded the limit imposed in subsection (1) of this section, the organization shall apply for a retroactive license in accordance with subsection (3) of this section.

- (3) If an organization exceeds the limit imposed by any subsection of this section it shall:
 - (a) Report the amount to the office; and
 - (b) Apply for a retroactive charitable gaming license.
- (4) Upon receipt of a report and application for a retroactive charitable gaming license, the office shall investigate to determine if the organization is otherwise qualified to hold the license.
- (5) If the office determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.
- (6) If the office determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.
- (7) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period of two (2) years prior to its exemption request.
- (8) In order to qualify for licensure, a charitable organization shall:
 - (a) 1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of

those sections; or

2. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030, as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;
- (b) Have been established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure. For purposes of this paragraph, an applicant shall demonstrate establishment and continuous operation in Kentucky by its conduct of charitable activities from an office physically located within Kentucky both during the three (3) years immediately preceding its application for licensure and at all times during which it possesses a charitable gaming license. However, a charitable organization that operates for charitable purposes in more than ten (10) states and whose principal place of business is physically located in a state other than Kentucky may satisfy the requirements of this paragraph if it can document that it has:
1. Been actively engaged in charitable activities and has made reasonable progress, as defined in paragraph (c) of this subsection, in the conduct of charitable activities or the expenditure of funds within Kentucky for a period of three (3) years prior to application for licensure; and
 2. Operated for charitable purposes from an office or place of business in the Kentucky county where it proposes to conduct charitable gaming for at least one (1) year prior to application for licensure, in accordance with paragraph (d) of this subsection;
- (c) Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the office, reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "reasonable progress in accomplishing its charitable purposes" means the regular and uninterrupted conduct of activities within the Commonwealth or the expenditure of funds within the Commonwealth to accomplish relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment, conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3). In order to demonstrate reasonable progress in accomplishing its charitable purposes when applying to renew an existing license, a licensed charitable organization shall additionally provide to the office a detailed accounting regarding its expenditure of charitable gaming net receipts for the purposes described in this paragraph; and
- (d) Have maintained an office or place of business, other than for the conduct of charitable gaming, for one (1) year in the county in which charitable gaming is to be conducted. The office or place of business shall be a separate and distinct address and location from that of any other licensee of the Office of Charitable Gaming; except that up to three (3) licensed charitable organizations may have the same address if they legitimately share office space. For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. However, a charitable organization that has established and maintained an office or place of business in the county for a period of at least one (1) year may hold a raffle drawing or a charity fundraising event, including special limited charity fundraising events, in a Kentucky county other than that in which the organization's office or place of business is located. For raffles, the organization shall notify~~if the organization notifies~~ the Office of Charitable Gaming in writing of the organization's intent to change the drawing's location at least thirty (30) days before the drawing takes place. This written notification may be transmitted in any commercially reasonable means, authorized by the office, including facsimile and electronic mail. The notification shall set out the place and the county in which the drawing will take place. Approval by the office shall be received prior to the conduct of the raffle drawing at the new location. Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy this requirement if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered. Any licensed charitable organization that qualifies to conduct charitable gaming in an adjoining county under this paragraph, shall be permitted to conduct in its county of residence a charity fundraising event.
- (9) In applying for a license, the information to be submitted shall include but not be limited to the following:
- (a) The name and address of the charitable organization;
 - (b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county in which charitable gaming is to be conducted;
 - (c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;
 - (d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations' bylaws shall satisfy this requirement;
 - (e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;

2007 Regular Session

- (f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;
 - (g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;
 - (h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;
 - (i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;
 - (j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;
 - (k) An agreement that the charitable organization's records may be released by the Federal Internal Revenue Service to the office; and
 - (l) Any other information the office deems appropriate.
- (10) An organization or a group of individuals that does not meet the licensing requirements of subsection (8) of this section may hold a raffle if the gross receipts do not exceed one hundred fifty dollars (\$150) and all proceeds from the raffle are distributed to a charitable organization. The organization or group of individuals may hold up to three (3) raffles each year, and shall be exempt from complying with the notification, application, and reporting requirements of subsections (2) and (9) of this section.
- (11) The office may issue a license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.
- (12) The office shall charge a fee for each license issued and renewed, not to exceed three hundred dollars (\$300). Specific fees to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.
- (13) (a) A licensed charitable organization may place its charitable gaming license in escrow if:
- 1. The licensee notifies the office in writing that it desires to place its license in escrow; and
 - 2. The license is in good standing and the office has not initiated disciplinary action against the licensee.
- (b) During the escrow period, the licensee shall not engage in charitable gaming, and the escrow period shall not be included in calculating the licensee's retention rate under KRS 238.536.
- (c) A charitable organization may apply for reinstatement of its active license and the license shall be reinstated provided:
- 1. The charitable organization continues to qualify for licensure;
 - 2. The charitable organization has not engaged in charitable gaming during the escrow period; and
 - 3. The charitable organization pays a reinstatement fee established by the office.

Section 8. KRS 238.540 is amended to read as follows:

- (1) Except as provided in KRS 238.535(8)(d), charitable gaming shall be conducted by a licensed charitable organization at the location, date, and time which shall be stated on the license. **The licensee shall request a change in the date, time, or location of a charitable gaming event by mail, electronic mail, or facsimile transmission, and shall submit a lease and an original signature of an officer. The office shall process this request and issue or deny a license within ten (10) days.** ~~[A license holder shall notify the office at least thirty (30) days in advance of its intent to change its location, date, or time and approval by the office shall be received by the licensee prior to the conduct of charitable gaming at a new location.]~~
- (2) All premises or facilities on which or in which charitable gaming is conducted shall meet all applicable federal, state, and local code requirements relating to life, safety, and health.
- (3) A license to conduct charitable gaming shall be prominently displayed on or in the premises where charitable gaming is conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the office, law enforcement officials, and other interested officials.
- (4) At least one (1) chairperson who is listed on the application for licensure shall be at each charitable gaming activity conducted by the charitable organization and shall be responsible for the administration and conduct of the charitable gaming activity. No person shall serve as chairperson for more than one (1) charitable organization. The chairperson shall be readily identifiable as the chairperson and shall be present on the premises continuously during the charitable gaming activity. Charitable gaming shall be conducted and administered solely by officers, members, and bona fide employees of the licensed charitable organization. Volunteer personnel, who may or may not be members of the licensed charitable organization, may be utilized if each volunteer is readily identifiable as a volunteer. No person engaged in the conduct and administration of charitable gaming shall receive any compensation for services related to the charitable gaming activities,

including tipping. No net receipts derived from charitable gaming shall inure to the private benefit or financial gain of any individual. Any effort or attempt to disguise any other type of compensation or private inurement shall be considered an unauthorized diversion of funds and shall be actionable under KRS 238.995.

- (5) No licensed charitable organization shall contract with, or otherwise utilize the services of, any management company, service company, or consultant in managing or conducting any aspect of charitable gaming.
- (6) A licensed charitable organization shall not purchase or lease charitable gaming supplies and equipment from any person not licensed as a distributor in the Commonwealth of Kentucky.
- (7) A licensed charitable organization shall not accept any merchandise prizes donated by any owner, officer, employee, or contractee of a licensed manufacturer, distributor, charitable gaming facility, or any of their affiliates, or any member of their immediate families.
- (8) Any advertisement of charitable gaming, regardless of the medium used, shall contain the name of the charitable organization conducting the charitable gaming and its license number. An advertisement for a bingo session or sessions shall not advertise a bingo prize in excess of the limitation of five thousand dollars (\$5,000) per twenty-four (24) hour period set forth in KRS 238.545(1).

Section 9. KRS 238.505 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Office" means the Office of Charitable Gaming within the Environmental and Public Protection Cabinet;
- (2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity fundraising events conducted for fundraising purposes by charitable organizations licensed and regulated under the provisions of this chapter. Charitable gaming shall not include slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races;
- (3) "Charitable organization" means a nonprofit entity organized for charitable, religious, educational, literary, civic, fraternal, or patriotic purposes;
- (4) "Bingo" means a specific game of chance in which participants use cards or paper sheets, or card-minding device representations thereof, divided into horizontal and vertical spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random;
- (5) "Charity game ticket" means a game of chance using a folded or banded paper ticket, or a paper card with perforated break-open tabs, the face of which is covered or otherwise hidden from view to conceal a number, letter, symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners and shall include charity game tickets that utilize a seal card. Charity game ticket shall include pulltabs;
- (6) "Seal card" means a board or placard used in conjunction with charity game tickets, that contains a seal or seals which, when removed or opened, reveal predesignated winning numbers, letters, or symbols;
- (7) "Raffle" means a game of chance in which a participant is required to purchase a ticket for a chance to win a prize, with the winner to be determined by a random drawing;
- (8) "Charity fundraising event" means ~~an~~a fundraising activity of limited duration at which games of chance approved by the office are conducted, including bingo, raffles, charity game tickets, special limited charitable games, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding. Examples of such activities include events that attract patrons for community, social, and entertainment purposes apart from charitable gaming, such as fairs, festivals, carnivals, licensed gaming organization conventions, and bazaars;
- (9) "Manufacturer" means a person who assembles from raw materials or subparts any charitable gaming equipment or supplies used in the conduct of charitable gaming, including a person who converts, modifies, and adds to or removes parts from, charitable gaming equipment and supplies. The term shall not include:
 - (a) Any person who services or repairs charitable gaming supplies and equipment, so long as that person replaces or repairs an incidental, malfunctioning, or nonfunctioning part with a similar or identical part; and
 - (b) Any distributor who cuts, collates, and packages for distribution any gaming supplies and equipment purchased in bulk;
- (10) "Distributor" means a person who sells, markets, leases, or otherwise furnishes to a charitable organization charitable gaming equipment or supplies, or both, used in the conduct of charitable gaming. "Distributor" shall not include:
 - (a) A resident printer who prints raffle tickets at the request of a licensed charitable organization; and
 - (b) A licensed charitable organization that affects a one-time donation of charitable gaming supplies or equipment to another licensed charitable organization if the donation is first approved by the office.
- (11) "Charitable gaming facility" means a person, including a licensed charitable organization, that owns or is a lessee of premises which are leased or otherwise made available to two (2) or more licensed charitable organizations during a one (1) year period for the conduct of charitable gaming;
- (12) "Gross receipts" means all moneys collected or received from the conduct of charitable gaming;

2007 Regular Session

- (13) "Adjusted gross receipts" means gross receipts less all cash prizes and the amount paid for merchandise prizes purchased;
- (14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and deductions authorized under this chapter;
- (15) "Charitable gaming supplies and equipment" means any material, device, apparatus, or paraphernalia customarily used in the conduct of charitable gaming, including bingo cards and paper, charity game tickets, and other apparatus or paraphernalia used in conducting games of chance at charity fundraising events subject to regulation under this chapter. The term shall not include any material, device, apparatus, or paraphernalia incidental to the game, such as pencils, daubers, playing cards, or other supplies that may be purchased from normal sources of supply;
- (16) "Door prize" means a prize awarded to a person based solely upon the person's attendance at an event or the purchase of a ticket to attend an event;
- (17) "Special limited charitable game" means roulette; blackjack; poker; keno; money wheel; baccarat; pusher-type games; any dice game where the player competes against the house; and any other game of chance as identified, defined, and approved by administrative regulation of the office;
- (18) "Special limited charity fundraising event" means any type of charity fundraising event, commonly known as and operated as a "casino night," "Las Vegas night," or "Monte Carlo night," at which the predominant number or types of games offered for play are special limited charitable games;
- (19) "Session or bingo session" means a single gathering at which a bingo game or series of successive bingo games are played, excluding bingo played at a charity fundraising event;
- (20) "Immediate family" means:
 - (a) Spouse and parents-in-law;
 - (b) Parents and grandparents;
 - (c) Children and their spouses; and
 - (d) Siblings and their spouses;
- (21) "Affiliate" means any corporation, partnership, association, or other business or professional entity or any natural person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a licensed manufacturer, distributor, or charitable gaming facility;
- (22) "Secretary" means the secretary of the Environmental and Public Protection Cabinet;
- (23) "Executive director" means the executive director of the Office of Charitable Gaming within the Department of Public Protection;
- (24) "Chairperson" means the chief executive officer and any officer, member, or employee of a licensed charitable organization who will be involved in the management and supervision of charitable gaming as designated in the organization's charitable gaming license application under KRS 238.535(9)(g);
- (25) "Year" means calendar year except as used in KRS 238.545(4), 238.547(1), and 238.555(7), when "year" means the licensee's license year; and
- (26) "Card-minding device" means any mechanical, electronic, electromechanical, or computerized device that is interfaced with or connected to equipment used to conduct a game of bingo and that allows a player to store, display, and mark a bingo card face. A card-minding device shall not be designed and manufactured to resemble any electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker machine, or any similar video gaming device."

Representative Wayne moved that the House refuse to concur in the Senate Floor Amendment No. 1 to **HB 156**. Agreed.

SB 175, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved that **SB 175** be passed.

On the roll call the vote was: Yeas **98**, Nays **0**. (See March 12, 2007, roll call on **SB 175** - Appendix.)

SB 175 was passed and the title agreed to.

Representative Westrom moved that the vote by which **SB 175** was passed be reconsidered and said motion be placed on the table. Agreed.

JOURNAL OF THE HOUSE OF REPRESENTATIVES
2007 Regular Session

SB 29 taken from the Orders of the Day. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **SB 29** be passed.

On the roll call the vote was: **Yeas 54, Nays 39.** (See March 12, 2007, roll call on **SB 29** - Appendix.)

SB 29 was passed and the title agreed to.

Representative Wilkey moved that the vote by which **SB 29** was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker announced the appointment of a Conference Committee on the following:

HB 156 - Representative Wayne, Chair; Representatives Ballard and Siler

HB 185 - Representative Moberly, Chair; Representatives J. Lee, Pasley, and Napier

HB 362 - Representative Burch, Chair; Representatives Wayne, J. Lee, and Embry

HB 402 - Representative Firkins, Chair; Representatives Wilkey, Jenkins, and Draud

HB 490 - Representative Yonts, Chair; Representatives Webb, Vincent, and Rand

Representative Adkins moved to suspend the rules to allow the House to recess until 1:30 p.m. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Announcing passage of **HB 367**.

Message received in regard to **HB 177**: The Senate has passed **HB 177** with the following Senate Floor Amendment No. 3 and Senate Floor Amendment No. 2 Title and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 207**: The Senate has passed **HB 207** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 337**: The Senate has passed **HB 337** by way of Senate Committee Substitute with the following Senate Floor Amendment No. 2 and Senate Floor Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body. (12:04 p.m.)

Representative Jenkins moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Jenkins moved the adoption of the following **Legislative Citation No. 73**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Mary G. Wilson and welcomes this distinguished lady, the 17th president of the League of Women Voters of the United States and chair of the League of Women Voters Education Fund, to the House Chamber during the 2007 Regular Session of the Kentucky General Assembly. Traveling throughout the nation in her official capacity to meet with individual state organizations, this longtime resident of New Mexico and League member since 1986 who has held key leadership positions at local, state and national levels, she has helped guide the League to its Democracy Agenda, an advocacy and public education effort designed to strengthen and renew the basic tenets of American democracy. Having received her J.D. degree from the University of Denver in 1975, she was admitted to the Bars of the States of New Mexico and Colorado, the United States District Courts for the Districts of New Mexico and Colorado, and the Tenth Circuit Court of Appeals, and is a member of the National Association of Women Lawyers and the American Bar Association. An attorney with thirty years of experience in diverse fields of practice, Mary Wilson has served as in-house counsel for two large private companies, EG&G Mound Applied Technologies, Inc., and Ecology & Environment, Inc.; two federal agencies, the U.S. Department of Energy and the U.S. Equal Employment Opportunity Commission; and has provided legal and policy advice to top level management along with directing both in-house legal staff and outside counsel; and as the owner of Transitions to Tomorrow, Inc., from 1995 to 2003, has provided advice on initiatives to privatize government services and create

commercial opportunities at downsized government facilities. Whereas, the strength of our communities depends on the commitment of those who are willing to give abundantly of those personal offerings that will make a positive difference in the lives of others, this members of this august body are pleased to join Speaker Jody Richards in praising Mary Wilson for her contributions to the League of Women Voters and in extending best wishes as she continues her efforts on behalf of the common good. Done in Frankfort, Kentucky, this twelfth day of March, in the year two thousand and seven.

Legislative Citation No. 73 was adopted without objection.

Orders of the Day (Continued)

HB 128, with Senate Committee Substitute and attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 128** is as follows:

HB 128, AN ACT relating to honoring military service through education benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.507 is amended to read as follows:

- (1) The nonremarried spouse, regardless of age, and any child, stepchild, or orphan, under the age of twenty-six (26)~~twenty-three (23)~~, of a person who was a veteran and is now deceased~~veteran~~ shall not be required to pay any matriculation or tuition fees upon admission to any state-supported university, junior college, or vocational training institute for a period not in excess of forty-five (45)~~thirty-six (36)~~ months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion, if the deceased parent or spouse:
 - (a)
 1. Served in the Armed Forces of the United States during a national emergency, wars declared by Congress, or actions of the United Nations; or
 2. Died while on active duty in the Armed Forces of the United States regardless of wartime service; or
 3. Died as a result of a service-connected disability acquired while on active duty with the Armed Forces of the United States regardless of wartime service; and
 - (b)
 1. Was a resident of the Commonwealth of Kentucky at the time of death; or
 2. Was married to a resident of Kentucky at the time of death; and
 3. If discharged, was under honorable conditions.
- (2) In order to obtain the benefits conferred by subsection (1), the parent-child relationship must be shown by birth certificate, adoption papers, marriage certificate, or other documentary evidence. A stepchild must have been a member of the veteran's household at the time of the veteran's death. The spousal relationship must be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death must be evidenced by certification from the records of the Kentucky Department of Military Affairs, the Veterans Administration Records, or the Department of Defense of the United States. In the event one so admitted to a state-supported university, junior college, or vocational training institution under this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

Section 2. KRS 164.515 is amended to read as follows:

- (1) The spouse, regardless of age, and any child, stepchild, or orphan, under the age of twenty-six (26)~~twenty-three (23)~~, of a permanently and totally disabled member of the Kentucky National Guard or Reserve Component injured while on state active duty, active duty for training, or inactive duty training, or a permanently and totally disabled war veteran, or a one hundred percent (100%) service-connected disabled veteran regardless of wartime service, or prisoner of war or member of the Armed Services declared missing in action shall not be required to pay any matriculation or tuition fees upon his admission to any state-supported institution of higher education or to any state-supported vocational training school for a period not in excess of forty-five (45)~~thirty-six (36)~~ months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.
- (2) To be entitled to benefits under this section the parent or stepparent of the child claiming benefits if living must be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the United States Veterans Administration or the Department of Defense. If the veteran is deceased, the claim to benefits is to be based on the rating held by the veteran at the time of death or if a prisoner of war or missing in action, must have been declared as such by the Department of Defense. Members of the Kentucky National Guard must be rated permanently and totally disabled as provided in KRS Chapter 342. The parent's, stepparent's, or spouse's service and rating must be evidenced by certification from the records of the Kentucky Department of Military Affairs, Veterans Administration Records, or the Department of Defense of the United States.
- (3) The parent-child relationship must be shown by birth certificate, legal adoption papers, marriage certificate, or other

documentary evidence. A stepchild must be a member of the veteran's household. The spousal relationship must be shown by a marriage certificate or other documentary evidence.

- (4) To entitle a spouse, child, stepchild, or orphan to benefit under this section the disabled member of the National Guard or Reserve Component veteran living or deceased must have served on state active duty, active duty for training, or inactive duty training or active duty with the Armed Forces of the United States, and his discharge must have been under honorable conditions. He must be a resident or, if deceased, have been a resident of the Commonwealth of Kentucky.
- (5) No provision of this section shall serve to deny these benefits to an eligible spouse, child, stepchild, or orphan, who enlists, or who fulfills a military obligation, in the Armed Forces of the United States and is discharged under honorable conditions; the period of time spent in the military service to be compensated by like time, beyond the age of twenty-six (26)~~twenty-three (23)~~ years if required, but not in excess of the period of enrollment as set forth in subsection (1) of this section.
- (6) The marriage of an eligible child, stepchild, or orphan, shall not serve to deny full entitlement to the benefits provided in this section.

Section 3. KRS 164.7881 is amended to read as follows:

- (1) Eligible high school students who have graduated from high school and eligible postsecondary students who have earned a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and a supplemental award, or a supplemental award only pursuant to KRS 164.7879(3)(c), shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or a supplemental award only for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsections (5) and~~subsection~~ (6) of this section.
- (2) To receive the Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, an eligible high school or postsecondary student shall:
 - (a) Enroll in and attend a participating institution as a full-time student or a part-time student; and
 - (b) Maintain eligibility as provided in subsection (3) of this section.
- (3) Eligibility for a Kentucky educational excellence scholarship or a Kentucky educational excellence scholarship and supplemental award shall terminate upon the earlier of:
 - (a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or
 - (b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, for a cumulative total of eight (8) academic terms if the student enrolls as at least a part-time student in a four (4) year program.
- (4)
 - (a) The maximum award amount shall be determined by the authority and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible postsecondary student for an award period shall be delivered by the authority to the participating institution for disbursement to the eligible postsecondary student.
 - (b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible postsecondary student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible postsecondary student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible postsecondary student, except if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period.
 - (c)
 1. An eligible postsecondary student who is enrolled full-time in an undergraduate program of study, in the pharmacy program at the University of Kentucky, or in a program of study designated as an equivalent undergraduate program of study by the authority in an administrative regulation, shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study.
 2. To retain the maximum award for the second award period, an eligible postsecondary student shall have at least a 2.5 grade point average at the end of the first award period, except that if the eligible postsecondary student demonstrates to the satisfaction of the authority on appeal that~~interrupts~~ enrollment was interrupted during the award period for any reason specified in subsection (5) of this section,~~and the participating institution does not certify a cumulative grade point average for that student at the end of that award period,~~ the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the maximum award for the award period in which he or she resumes enrollment.
 3. To retain the maximum award amount for subsequent award periods, an eligible postsecondary student shall

have a cumulative grade point average of 3.0 or greater at the end of the prior award period, except that if the eligible postsecondary student demonstrates to the satisfaction of the authority on appeal that enrollment was interrupted during the award period for any reason specified in subsection (5) of this section, ~~and the participating institution does not certify a cumulative grade point average for that student at the end of that award period,~~ the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the same award for the award period in which he or she resumes enrollment as he or she received in the award period in which enrollment was interrupted.

4. Any eligible postsecondary student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period, except if the eligible postsecondary student demonstrates to the satisfaction of the authority on appeal that enrollment was interrupted during the award period for any reason specified in subsection (5) of this section.
 5. Any eligible postsecondary student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period, except if the eligible postsecondary student demonstrates to the satisfaction of the authority on appeal that enrollment was interrupted during the award period for any reason specified in subsection (5) of this section.
 6. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each Kentucky educational excellence scholarship recipient enrolled as a full-time or part-time student at the participating institution.
 7. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.
- (5) The expiration of a student's eight (8) academic terms and five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:
- (a) A serious and extended illness or injury of the student, certified by an attending physician;
 - (b) An injury of the student received as a victim of or party to a crime, certified by an attending physician;
 - (c) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;
 - ~~(d)(e)~~ Natural disasters that would render a student unable to attend classes; ~~or~~
 - ~~(e)(d)~~ Active duty status for the student ~~in the United States Armed Forces or~~ as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student ~~in the Peace Corps Act or~~ the Americorps, for up to three (3) years; or
 - (f) Active duty status for the student in the United States Armed Forces. A student whose eligibility expired prior to the three (3) year time limit on eligibility extensions imposed by paragraph (e) of this subsection prior to the effective date of this Act shall have his or her eligibility reinstated for the number of years beyond the three (3) years during which he or she was on active duty status in the Armed Forces. The number of months served on active duty status shall be rounded up to the next higher year to determine the maximum length of eligibility extension allowed.
- (6) An eligible postsecondary student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the authority shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award only for a maximum of ten (10) academic terms. The expiration of an eligible postsecondary student's five (5) year eligibility shall be extended to six (6) years for eligible postsecondary students meeting the requirements of this subsection.
- (7) Each eligible high school student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Senator Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement.

Representative C. Belcher moved that the House refuse to concur in the Senate Committee Substitute to **HB 128**. Agreed.

HB 225, with Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Committee Amendment No. 2 to **HB 225** is as follows:

HB 225, On page 3, after line 15, insert:

"Section 2. KRS 161.168 is amended to read as follows:

Notwithstanding any other statute to the contrary, a certified employee of a local board of education who is a member of a state National Guard or a Reserve component ordered to active military duty by the President of the United States shall be granted a leave of absence for this purpose and shall be considered to be rendering service to the state.

- (1) A local board of education that has granted military leave to a certified employee and has a commitment from the employee to return to work upon the conclusion of military leave may provide the employer's contribution toward the purchase of the state's medical insurance program during the period of military leave as long as the employee or spouse pays the additional cost of dependent coverage.
- (2) Upon the employee's return to work, the Commonwealth of Kentucky shall pay the member contribution and any accrued interest that is required to be paid under KRS 161.507(4)(b) in order for the member to receive retirement service credit for the period of active military duty. Under no circumstances shall a member be entitled to service credit under this paragraph that is in violation of the provisions of KRS 161.500. **The provision of this subsection shall be retroactive to January 1, 2003, for employees who have been deployed to active combat service.**
- (3) For each year of military service or each year of combined military and school service within a school year, the certified employee shall receive a year of service credit for purposes of the district's single salary schedule defined in KRS 157.320.
- (4) No provisions of this section shall be construed to provide disability benefits under KRS 161.611 or 161.663, survivorship benefits under KRS 161.520, life insurance benefits under KRS 161.555 or any other benefit available from the Kentucky Teachers' Retirement System as a result of active military service, or conditions or injuries resulting from active military service, except for the accrual of service credit which shall be acknowledged by the retirement system subject to the relevant conditions set forth in KRS 161.507."

The Senate Committee Amendment No. 1 Title to **HB 225** is as follows:

HB 225, Amend title to read as follows:

"AN ACT relating to veterans."

Representative Tilley moved that the House concur in Senate Committee Amendment No. 2 to **HB 225**. Agreed.

Representative Tilley moved that the House concur in the Senate Committee Amendment No. 1 Title to **HB 225**. Agreed.

Representative Tilley moved that **HB 225**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 12, 2007, roll call on **HB 225** - Appendix.)

HB 225, as amended by the Senate, was passed and title agreed to.

Representative Tilley moved that the vote by which **HB 225**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 50, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 50** is as follows:

HB 50, AN ACT relating to local school board members.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.280 is amended to read as follows:

- (1) Members of boards of education shall receive no salaries, but members of boards of education may receive a per diem of seventy-five dollars (\$75) in any calendar year, and their actual expenses for each regular or special meeting attended. Members shall receive this same per diem for training required by KRS 160.180. In no case shall the expenses incurred within the district or per diem of any member exceed three thousand dollars (\$3,000)~~two thousand dollars (\$2,000)~~ in any calendar year.
- (2) ~~[Notwithstanding the provisions of subsection (1) of this section, members of boards of education in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished and members elected from the divisions and in the manner prescribed by KRS 160.210(5) shall receive a per diem of seventy five dollars (\$75), and may be reimbursed for other actual and necessary expenditures incurred in the district in the performance of their duties authorized by the board. Members shall receive this same per diem for training required by KRS 160.180. In no case shall the expenses incurred within the district or per diem of any member exceed three thousand dollars (\$3,000) per calendar~~

year.

- (3) — Members of boards of education may be reimbursed for actual and necessary expenditures incurred outside the district in the performance of their duties authorized by the board.

~~(3)~~~~(4)~~ All claims shall be made out according to law and filed with the secretary of the board and shall be approved and paid as other claims against the board.

~~(4)~~~~(5)~~ Board members shall be eligible to participate in any group medical or dental insurance plan provided to employees of the district pursuant to KRS 161.158. Participating board members shall pay the full cost of any premium required for their participation in the plan.

Section 2. KRS 161.158 is amended to read as follows:

- (1) (a) Each district board of education may form its employees into a group or groups or recognize existing groups for the purpose of obtaining the advantages of group life, disability, medical, and dental insurance, or any group insurance plans to aid its employees including the state employee health insurance group as described in KRS 18A.225, as long as the employees continue to be employed by the board of education. Medical and dental group insurance plans obtained under authority of this section may include insurance benefits for the families of the insured group or groups of employees. Any district board of education may pay all or part of the premium on the policies, and may deduct from the salaries of the employees that part of the premium which is to be paid by them and may contract with the insurer to provide the above benefits. As permitted in KRS 160.280~~(4)~~~~(5)~~, board members shall be eligible to participate in any group medical or dental insurance provided by the district for employees.
- (b) If a district board of education participates in the state employee health insurance program, as described in KRS 18A.225, for its active employees and terminates participation and there is a state appropriation approved by the General Assembly for the employer's contribution for active employees' health insurance coverage, neither the board of education nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program.
- (2) Each district board of education shall adopt policies or regulations which will provide for deductions from salaries of its employees or groups of employees whenever a request is presented to the board by said employees or groups thereof. The deductions shall be made from salaries earned in at least eight (8) different pay periods, and shall be remitted to the appropriate organization or association as specified by the employees within thirty (30) days following the deduction provided the district has received appropriate invoices or necessary documentation. The deductions may be made for, but are not limited to, membership dues, tax-sheltered annuities, and group insurance premiums. With the exception of membership dues, the board shall not be required to make more than one (1) remittance of amounts deducted during a pay period for a separate type of deduction. Health insurance, life insurance, and tax-sheltered annuities shall be interpreted as separate types of deductions. When amounts have been correctly deducted and remitted by the board, the board shall bear no further responsibility or liability for subsequent transaction.
- (3) Payments and deductions made by the board of education under the authority of this section are presumed to be for services rendered and for the benefit of the common schools, and the payments and deductions shall not affect the eligibility of any school system to participate in the public school funding program as established in KRS Chapter 157.

Section 3. KRS 18A.225 is amended to read as follows:

- (1) (a) The term "employee" for purposes of this section means:
 1. Any person, including an elected public official, who is regularly employed by any department, office, board, agency, or branch of state government; or by a public postsecondary educational institution; or by any city, urban-county, charter county, county, or consolidated local government, whose legislative body has opted to participate in the state-sponsored health insurance program pursuant to KRS 79.080; and who is either a contributing member to any one (1) of the retirement systems administered by the state, including but not limited to the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, or the Judicial Retirement Plan; or is receiving a contractual contribution from the state toward a retirement plan; or, in the case of a public postsecondary education institution, is an individual participating in an optional retirement plan authorized by KRS 161.567;
 2. Any certified or classified employee of a local board of education;
 3. Any elected member of a local board of education;
 4. Any person who is a present or future recipient of a retirement allowance from the Kentucky Retirement Systems, Kentucky Teachers' Retirement System, the Legislators' Retirement Plan, the Judicial Retirement Plan, or the Kentucky Community and Technical College System's optional retirement plan authorized by KRS 161.567, except that a person who is receiving a retirement allowance and who is age sixty-five (65) or older shall not be included, with the exception of persons covered under KRS 61.702(4)(c), unless he or she is actively employed pursuant to subparagraph 1. of this paragraph; and
 - 5.~~(4)~~ Any eligible dependents and beneficiaries of participating employees and retirees who are entitled to participate in the state-sponsored health insurance program;
- (b) The term "health benefit plan" for the purposes of this section means a health benefit plan as defined in KRS

304.17A-005;

- (c) The term "insurer" for the purposes of this section means an insurer as defined in KRS 304.17A-005; and
 - (d) The term "managed care plan" for the purposes of this section means a managed care plan as defined in KRS 304.17A-500.
- (2) (a) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more insurers authorized to do business in this state, a group health benefit plan that may include but not be limited to health maintenance organization (HMO), preferred provider organization (PPO), point of service (POS), and exclusive provider organization (EPO) benefit plans encompassing all or any class or classes of employees. With the exception of employers governed by the provisions of KRS Chapters 16, 18A, and 151B, all employers of any class of employees or former employees shall enter into a contract with the Personnel Cabinet prior to including that group in the state health insurance group. The contracts shall include but not be limited to designating the entity responsible for filing any federal forms, adoption of policies required for proper plan administration, acceptance of the contractual provisions with health insurance carriers or third-party administrators, and adoption of the payment and reimbursement methods necessary for efficient administration of the health insurance program. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994, and shall include a mail-order drug option as provided in subsection (13) of this section. All employees and other persons for whom the health care coverage is provided or made available shall annually be given an option to elect health care coverage through a self-funded plan offered by the Commonwealth or, if a self-funded plan is not available, from a list of coverage options determined by the competitive bid process under the provisions of KRS 45A.080, 45A.085, and 45A.090 and made available during annual open enrollment.
- (b) The policy or policies shall be approved by the executive director of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws.
 - (c) Any carrier bidding to offer health care coverage to employees shall agree to provide coverage to all members of the state group, including active employees and retirees and their eligible covered dependents and beneficiaries, within the county or counties specified in its bid. Except as provided in subsection (18) of this section, any carrier bidding to offer health care coverage to employees shall also agree to rate all employees as a single entity, except for those retirees whose former employers insure their active employees outside the state-sponsored health insurance program.
 - (d) Any carrier bidding to offer health care coverage to employees shall agree to provide enrollment, claims, and utilization data to the Commonwealth in a format specified by the Personnel Cabinet with the understanding that the data shall be owned by the Commonwealth; to provide data in an electronic form and within a time frame specified by the Personnel Cabinet; and to be subject to penalties for noncompliance with data reporting requirements as specified by the Personnel Cabinet. The Personnel Cabinet shall take strict precautions to protect the confidentiality of each individual employee; however, confidentiality assertions shall not relieve a carrier from the requirement of providing stipulated data to the Commonwealth.
 - (e) The Personnel Cabinet shall develop the necessary techniques and capabilities for timely analysis of data received from carriers and, to the extent possible, provide in the request-for-proposal specifics relating to data requirements, electronic reporting, and penalties for noncompliance. The Commonwealth shall own the enrollment, claims, and utilization data provided by each carrier and shall develop methods to protect the confidentiality of the individual. The Personnel Cabinet shall include in the October annual report submitted pursuant to the provisions of KRS 18A.226 to the Governor, the General Assembly, and the Chief Justice of the Supreme Court, an analysis of the financial stability of the program, which shall include but not be limited to loss ratios, methods of risk adjustment, measurements of carrier quality of service, prescription coverage and cost management, and statutorially required mandates. If state self-insurance was available as a carrier option, the report also shall provide a detailed financial analysis of the self-insurance fund including but not limited to loss ratios, reserves, and reinsurance agreements.
 - (f) If any agency participating in the state-sponsored employee health insurance program for its active employees terminates participation and there is a state appropriation for the employer's contribution for active employees' health insurance coverage, then neither the agency nor the employees shall receive the state-funded contribution after termination from the state-sponsored employee health insurance program.
 - (g) Any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the state-sponsored health insurance plan's appropriation account.
 - (h) Each entity participating in the state-sponsored health insurance program shall provide an amount at least equal to the state contribution rate for the employer portion of the health insurance premium. For any participating entity that used the state payroll system, the employer contribution amount shall be equal to but not greater than the state contribution rate.
- (3) The premiums may be paid by the policyholder:
- (a) Wholly from funds contributed by the employee, by payroll deduction or otherwise;

2007 Regular Session

- (b) Wholly from funds contributed by any department, board, agency, public postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government; or
 - (c) Partly from each, except that any premium due for health care coverage or dental coverage, if any, in excess of the premium amount contributed by any department, board, agency, postsecondary education institution, or branch of state, city, urban-county, charter county, county, or consolidated local government for any other health care coverage shall be paid by the employee.
- (4) If an employee moves his place of residence or employment out of the service area of an insurer offering a managed health care plan, under which he has elected coverage, into either the service area of another managed health care plan or into an area of the Commonwealth not within a managed health care plan service area, the employee shall be given an option, at the time of the move or transfer, to change his or her coverage to another health benefit plan.
- (5) No payment of premium by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, public postsecondary educational institution, or branch of state, city, urban-county, charter county, county, or consolidated local government shall be considered a proper cost of administration.
- (6) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, and continuation of insurance or coverage after retirement.
- (7) Group rates under this section shall be made available to the disabled child of an employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.
- (8) The health care contract or contracts for employees shall be entered into for a period of not less than one (1) year.
- (9) The secretary shall appoint thirty-two (32) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state-sponsored health insurance program for employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, two (2) members representing the Kentucky Teachers' Retirement System, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees, two (2) members from a list of five (5) names submitted by the Kentucky Association of Counties, two (2) members from a list of five (5) names submitted by the Kentucky League of Cities, and two (2) members from a list of names consisting of five (5) names submitted by each state employee organization that has two thousand (2,000) or more members on state payroll deduction. The advisory committee shall be appointed in January of each year and shall meet quarterly.
- (10) Notwithstanding any other provision of law to the contrary, the policy or policies provided to employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of employees or their dependents.
- (11) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Office of Insurance, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.
- (12) Any employee who is eligible for and elects to participate in the state health insurance program as a retiree, or the spouse or beneficiary of a retiree, under any one (1) of the state-sponsored retirement systems shall not be eligible to receive the state health insurance contribution toward health care coverage as a result of any other employment for which there is a public employer contribution. This does not preclude a retiree and an active employee spouse from using both contributions to the extent needed for purchase of one (1) state sponsored health insurance policy for that plan year.
- (13) (a) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail-order drug option for maintenance drugs for state employees. Maintenance drugs may be dispensed by mail order in accordance with Kentucky law.
- (b) A health insurer shall not discriminate against any retail pharmacy located within the geographic coverage area of the health benefit plan and that meets the terms and conditions for participation established by the insurer, including price, dispensing fee, and copay requirements of a mail-order option. The retail pharmacy shall not be required to dispense by mail.
- (c) The mail-order option shall not permit the dispensing of a controlled substance classified in Schedule II.
- (14) The policy or policies provided to state employees or their dependents pursuant to this section shall provide coverage for obtaining a hearing aid and acquiring hearing aid-related services for insured individuals under eighteen (18) years of age, subject to a cap of one thousand four hundred dollars (\$1,400) every thirty-six (36) months pursuant to KRS 304.17A-132.

- (15) If a state employee's residence and place of employment are in the same county, and if the hospital located within that county does not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a contiguous county that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
- (16) If a state employee's residence and place of employment are each located in counties in which the hospitals do not offer surgical services, intensive care services, obstetrical services, level II neonatal services, diagnostic cardiac catheterization services, and magnetic resonance imaging services, the employee may select a plan available in a county contiguous to the county of residence that does provide those services, and the state contribution for the plan shall be the amount available in the county where the plan selected is located.
- (17) The Personnel Cabinet is encouraged to study whether it is fair and reasonable and in the best interests of the state group to allow any carrier bidding to offer health care coverage under this section to submit bids that may vary county by county or by larger geographic areas.
- (18) Notwithstanding any other provision of this section, the bid for proposals for health insurance coverage for calendar year 2004 shall include a bid scenario that reflects the statewide rating structure provided in calendar year 2003 and a bid scenario that allows for a regional rating structure that allows carriers to submit bids that may vary by region for a given product offering as described in this subsection:
 - (a) The regional rating bid scenario shall not include a request for bid on a statewide option;
 - (b) The Personnel Cabinet shall divide the state into geographical regions which shall be the same as the partnership regions designated by the Department for Medicaid Services for purposes of the Kentucky Health Care Partnership Program established pursuant to 907 KAR 1:705;
 - (c) The request for proposal shall require a carrier's bid to include every county within the region or regions for which the bid is submitted and include but not be restricted to a preferred provider organization (PPO) option;
 - (d) If the Personnel Cabinet accepts a carrier's bid, the cabinet shall award the carrier all of the counties included in its bid within the region. If the Personnel Cabinet deems the bids submitted in accordance with this subsection to be in the best interests of state employees in a region, the cabinet may award the contract for that region to no more than two (2) carriers; and
 - (e) Nothing in this subsection shall prohibit the Personnel Cabinet from including other requirements or criteria in the request for proposal.
- (19) Any fully insured health benefit plan or self-insured plan issued or renewed on or after July 12, 2006, to public employees pursuant to this section which provides coverage for services rendered by a physician or osteopath duly licensed under KRS Chapter 311 that are within the scope of practice of an optometrist duly licensed under the provisions of KRS Chapter 320 shall provide the same payment of coverage to optometrists as allowed for those services rendered by physicians or osteopaths.
- (20) Any fully insured health benefit plan or self-insured plan issued or renewed on or after July 12, 2006, to public employees pursuant to this section shall comply with the provisions of KRS 304.17A-270 and 304.17A-525.
- (21) Any full insured health benefit plan or self insured plan issued or renewed on or after July 12, 2006, to public employees shall comply with KRS 304.17A-600 to 304.17A-633 pertaining to utilization review, KRS 205.593 and 304.17A-700 to 304.17A-730 pertaining to payment of claims, KRS 304.14-135 pertaining to uniform health insurance claim forms, KRS 304.17A-580 and 304.17A-641 pertaining to emergency medical care, KRS 304.99-123, and any administrative regulations promulgated thereunder.

Section 4. KRS 161.158 is amended to read as follows:

- (1) (a) Each district board of education may form its employees into a group or groups or recognize existing groups for the purpose of obtaining the advantages of group life, disability, medical, and dental insurance, or any group insurance plans to aid its employees including the state employee health insurance group as described in KRS 18A.225, as long as the employees continue to be employed by the board of education. Medical and dental group insurance plans obtained under authority of this section may include insurance benefits for the families of the insured group or groups of employees. Any district board of education may pay all or part of the premium on the policies, and may deduct from the salaries of the employees that part of the premium which is to be paid by them and may contract with the insurer to provide the above benefits. As permitted in KRS 160.280(5), board members shall be eligible to participate in any group medical or dental insurance provided by the district for employees.
- (b) If a district board of education participates in the state employee health insurance program, as described in KRS 18A.225, for its active employees and terminates participation and there is a state appropriation approved by the General Assembly for the employer's contribution for active employees' health insurance coverage, neither the board of education nor the employees shall receive the state-funded contribution after termination from the state employee health insurance program.
- (2) (a) Each district board of education shall adopt policies or regulations which will provide for:
 1. Deductions from salaries of its employees or groups of employees whenever a request is presented to the

board by said employees or groups thereof. The deductions shall be made from salaries earned in at least eight (8) different pay periods, ~~and shall be remitted to the appropriate organization or association as specified by the employees within thirty (30) days following the deduction provided the district has received appropriate invoices or necessary documentation~~. The deductions may be made for, but are not limited to, membership dues, tax-sheltered annuities, and group insurance premiums. With the exception of membership dues, the board shall not be required to make more than one (1) remittance of amounts deducted during a pay period for a separate type of deduction; and

2. Deductions from payments for the per diem and actual expenses provided under subsection (1) of Section 1 of this Act to members of the district board of education whenever a request is presented by a board member to the board. The deductions may be made for but not be limited to membership dues, health insurance purchases, scholarship funds, and contributions to a political action committee.

(b) The deductions under paragraph (a)1. and 2. of this subsection shall be remitted to the appropriate organization or association as specified by the employees within thirty (30) days following the deduction, provided the district has received appropriate invoices or necessary documentation.

(c) Health insurance, life insurance, and tax-sheltered annuities shall be interpreted as separate types of deductions. When amounts have been correctly deducted and remitted by the board, the board shall bear no further responsibility or liability for subsequent transaction.

- (3) Payments and deductions made by the board of education under the authority of this section are presumed to be for services rendered and for the benefit of the common schools, and the payments and deductions shall not affect the eligibility of any school system to participate in the public school funding program as established in KRS Chapter 157.

Representative Higdon moved that the House concur in the Senate Committee Substitute to **HB 50**. Agreed.

Representative Higdon moved that **HB 50**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 12, 2007, roll call on **HB 50** - Appendix.)

HB 50, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Higdon moved that the vote by which **HB 50**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 287, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendment. Agreed.

The Senate Floor Amendment No. 1 to **HB 287** is as follows:

HB 287, On page 2, line 4, after the ";" insert "and"; and

On page 2, line 17, after the ";" delete "and"; and

On page 2, line 27, after the ";" insert "and".

Representative Riner moved that the House concur in Senate Floor Amendment No. 1 to **HB 287**. Agreed.

Representative Riner moved that **HB 287**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 12, 2007, roll call on **HB 287** - Appendix.)

HB 287, as amended by the Senate, was passed and the title agreed to.

Representative Riner moved that the vote by which **HB 287**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 280, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 280** is as follows:

HB 280, AN ACT relating to military burials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 213.076 is amended to read as follows:

- (1)
 - (a) A certificate of death or a provisional certificate of death for each death which occurs in the Commonwealth shall be filed with the cabinet or as otherwise directed by the state registrar prior to final disposition, and it shall be registered if it has been completed and filed in accordance with this section. The funeral director, or person acting as such, who first takes custody of a dead body shall be responsible for filing the certificate of death. The funeral director, or person acting as such, shall obtain the required personal and statistical particulars from the person best qualified to supply them over the signature and address of the informant.
 - (b) At the time of obtaining the required personal and statistical particulars from the informant referred to in paragraph (a) of this subsection, the funeral director, or person acting as such, shall ask the informant if the deceased ever served in the military. If the informant answers in the affirmative, then the funeral director, or person acting as such, shall provide the informant with a fact sheet, stating military burial rights, supplied by the Kentucky Department of Veterans' Affairs.
 - (c) The funeral director, or person acting as such, shall within five (5) days of the death, present the certificate to the attending physician, if any, or to the health officer or coroner as directed by the state registrar, for the medical certificate of the cause of death and other particulars necessary to complete the record as required by this chapter.
 - ~~(d)(a)~~ It shall be unlawful for an institution to release a dead human body until the funeral director, or person acting as such, has completed and filed with the local registrar or person in charge of the institution, a provisional certificate of death. If death occurs outside an institution, the provisional certificate shall be filed with the local registrar by the funeral director, or person acting as such, prior to final disposition of the dead body. A copy of the provisional certificate of death signed by the person with whom it was filed, shall constitute authority for the possession, transportation, and, except for cremation, final disposition of the body.
 - ~~(e)(b)~~ All persons having in their possession a completed provisional certificate of death shall file the certificate at not more than weekly intervals with the local registrar.
 - ~~(f)(c)~~ If the place of death is unknown but the dead body is found in the Commonwealth, the certificate of death shall be completed and filed in accordance with this section. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be determined by approximation subject to amendment upon completion of any postmortem examination required to be performed.
 - ~~(g)(d)~~ If death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, and the place where it is first removed shall be considered the place of death. If a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space, and the body is first removed from the conveyance in the Commonwealth, the death shall be registered in Kentucky, but the certificate shall show the actual place of death insofar as can be determined.
- (2) If any certificate of death is incomplete or unsatisfactory, the state registrar shall call attention to the defects in the certificate and require the person responsible for the entry to complete or correct it. The state registrar may also require additional information about the circumstances and medical conditions surrounding a death in order to properly code and classify the underlying cause.
- (3) The medical certification shall be completed, signed, and returned to the funeral director within five (5) working days after presentation to the physician, dentist, or chiropractor in charge of the patient's care for the illness or condition which resulted in death, except when inquiry is required by KRS 72.400 to 72.475. In such cases, and if the cause of death is unknown or under investigation, the cause of death shall be shown as such on the certificate. A supplemental report providing the medical information omitted from the original certificate shall be filed by the certifier with the state registrar within five (5) days after receiving results of the inquiry as required by KRS 72.400 to 72.475. The supplemental report shall be made a part of the existing death certificate. This report shall be considered an amendment, and the death certificate shall be marked "Amended." In the absence of the physician, dentist, or chiropractor, or with such person's approval, the certificate may be completed and signed by his associate physician, dentist, or chiropractor, or the chief medical officer of the institution in which death occurred, or the physician who performed an autopsy upon the decedent, or a physician employed by the local health department, if the individual has access to the medical history of the case and death is due to natural causes.
- (4) If death occurs more than thirty-six (36) hours after the decedent was last treated or attended by a physician, dentist, or chiropractor, the case shall be referred to the coroner for investigation to determine and certify the cause of death. In the event that a coroner is not available to sign the certificate and there is no duly appointed deputy, the county judge/executive shall appoint a competent person to investigate the death and certify to its cause.
- (5)
 - (a) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the Vital Statistics Branch. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.
 - (b) In the case of a death in which diabetes was an underlying cause or contributing condition, diabetes shall be listed in the appropriate location on the death certificate by the physician, dentist, chiropractor, or coroner who certifies to the cause of death.

2007 Regular Session

- (c) In the case of a death in which diabetes was an immediate, underlying, or contributing cause of or condition leading to death, the physician, dentist, chiropractor, or coroner who certifies to the cause of death shall check "yes" for each of the following questions on the death certificate:
1. "Did the deceased have diabetes?"; and
 2. "Was diabetes an immediate, underlying, or contributing cause of or condition leading to death?".
- (6) The Vital Statistics Branch shall provide self-addressed, color-coded envelopes for the funeral homes in the Commonwealth of Kentucky.
- (7) Three (3) free verification-of-death statements shall be provided to the funeral director by the Vital Statistics Branch for every death in the Commonwealth of Kentucky.
- (8) The body of any person whose death occurs in Kentucky shall not be interred, deposited in a vault or tomb, cremated, or otherwise disposed of, or removed from or into any registration district, until a provisional certificate of death has been filed with the local registrar of the registration district in which the death occurs. If the death occurred from a disease declared by the Cabinet for Health and Family Services to be infectious, contagious, or communicable and dangerous to the public health, no permit for the removal or other disposition of the body shall be granted by the registrar except under conditions prescribed by the Cabinet for Health and Family Services and the local health department. The Cabinet for Health and Family Services shall identify by regulation those communicable diseases which require blood and body fluid precautions. If a person who has been diagnosed as being infected with a communicable disease for which blood and body fluid precautions are required, dies within a health facility as defined in KRS 216B.015, the facility shall notify any embalmer or funeral director to whom the body will be transported of the need for such precautions. The notice shall be provided by including the statement "Blood and Body Fluid Precautions" on the provisional report-of-death form as prescribed by the Cabinet for Health and Family Services. Lack of this notice shall not relieve any embalmer or funeral director from taking universal blood and body fluid precautions as are recommended by the United States Department of Health and Human Services, Centers for Disease Control for Morticians' Services. No embalmer or funeral director shall charge more for embalming the remains of a person with a communicable disease which requires blood and body fluid precautions than the price for embalming services listed on the price list funeral providers are required to maintain and provide to consumers pursuant to 16 C.F.R. Sec. 453.2 (1988).
- (9) A burial-transit permit for the final disposition issued under the law of another state which accompanies a dead body or fetus brought into the Commonwealth shall be the authority for final disposition of the body or fetus in the Commonwealth and may be accepted in lieu of a certificate of death. There shall be noted on the face of the record made for return to the local registrar that the body was shipped to Kentucky for interment and the actual place of death.
- (10) Nothing in this section shall be construed to delay, beyond a reasonable time, the interment or other disposition of a body unless the services of the coroner or the health officer are required or the Department for Public Health deems it necessary for the protection of the public health. If compliance with this section would result in unreasonable delay in the disposition of the body the funeral director, or person acting as such, shall file with the local registrar or deputy registrar prior to interment a provisional certificate of death which shall contain the name, date, and place of death of the deceased, the name of the medical certifier, and an agreement to furnish within ten (10) days a complete and satisfactory certificate of death.
- (11) No sexton or other person in charge of any place in which interment or other disposition of dead bodies is made shall inter or allow interment or other disposition of a dead body or fetus unless it is accompanied by a copy of the provisional certificate of death. The sexton, or if there is no sexton, the funeral director, or person acting as such, shall enter on the provisional certificate over his signature, the date, place, and manner of final disposition and file the certificate within five (5) days with the local registrar.
- (12) Authorization for disinterment, transportation, and reinterment or other disposition shall be required prior to disinterment of any human remains. The authorization shall be issued by the state registrar upon proper application. The provisions of this subsection shall apply to all manners of disposition except cremation and without regard for the time and place of death. The provisions of KRS 381.765 shall not apply to remains removed for scientific study and the advancement of knowledge.
- (13) After a death certificate has been on file for five (5) years, it may not be changed in any manner except upon order of a court. Prior to that time, requests for corrections, amendments, or additions shall be accompanied by prima facie evidence which supports the requested change.

Section 2. KRS 525.055 is amended to read as follows:

- (1) A person is guilty of disorderly conduct in the first degree when he or she:
- (a) In a public place and with intent to cause public inconvenience, annoyance, or alarm, or wantonly creating a risk thereof:
1. Engages in fighting or in violent, tumultuous, or threatening behavior;
 2. Makes unreasonable noise; or
 3. Creates a hazardous or physically offensive condition by any act that serves no legitimate purpose; and

- (b) Acts in a way described in paragraph (a) of this subsection within three hundred (300) feet of a:
 - 1. Cemetery during a funeral or burial;
 - 2. Funeral home during the viewing of a deceased person;
 - 3. Funeral procession;
 - 4. Funeral or memorial service; or
 - 5. Building in which a funeral or memorial service is being conducted; and
- (c) Acts in a way described in paragraph (a) of this subsection at any point in time between one (1) hour prior to the commencement of an event specified in paragraph (b) of this subsection and one (1) hour following its conclusion; and
- (d) Knows that he or she is within three hundred (300) feet of an occasion described in paragraph (b) of this subsection.

(2) Disorderly conduct in the first degree is a Class A misdemeanor.

Section 3. KRS 525.155 is amended to read as follows:

- (1) A person is guilty of interference with a funeral when, at any point in time between one (1) hour prior to the commencement of an event specified in paragraph (a) of this subsection and one (1) hour following its conclusion, he or she ~~at any time on any day:~~
 - (a) ~~blocks, impedes, inhibits, or in any other manner obstructs or interferes with access into or from any building or parking lot of a building in which a funeral, wake, memorial service, or burial is being conducted, or any burial plot or the parking lot of the cemetery in which a funeral, wake, memorial service, or burial is being conducted;~~
 - (b) ~~Congregates, pickets, patrols, demonstrates, or enters on that portion of a public right of way or private property that is within three hundred (300) feet of an event specified in paragraph (a) of this subsection; or~~
 - (c) ~~Without authorization from the family of the deceased or person conducting the service, during a funeral, wake, memorial service, or burial:~~
 - 1. ~~Sings, chants, whistles, shouts, yells, or uses a bullhorn, auto horn, sound amplification equipment, or other sounds or images observable to or within earshot of participants in the funeral, wake, memorial service, or burial; or~~
 - 2. ~~Distributes literature or any other item.~~
- (2) Interference with a funeral is a Class B misdemeanor.

The Senate Committee Amendment No. 1 Title to **HB 280** is as follows:

HB 280, By amending the title to read as follows: "AN ACT relating to funerals, burials, and other similar occasions and services."

Representative Damron moved that the House concur in the Senate Committee Substitute to **HB 280**. Agreed.

Representative Damron moved that the House concur in the Senate Committee Amendment No. 1 Title to **HB 280**. Agreed.

Representative Damron moved that **HB 280**, by way of Senate Committee Substitute, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 97, Nays 2. (See March 12, 2007, roll call on **HB 280** - Appendix.)

HB 280, by way of Senate Committee Substitute, as amended by the Senate, was passed and title agreed to.

Representative Damron moved that the vote by which **HB 280**, by way of Senate Committee Substitute, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 296, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 296** is as follows:

HB 296, AN ACT relating to workers' compensation self-insurance and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.340 is amended to read as follows:

- (1) Every employer under this chapter shall either insure and keep insured his liability for compensation hereunder in some

corporation, association, or organization authorized to transact the business of workers' compensation insurance in this state or shall furnish to the executive director satisfactory proof of his financial ability to pay directly the compensation in the amount and manner and when due as provided for in this chapter. In the latter case, the executive director shall require the deposit of an acceptable security, indemnity, or bond to secure, to the extent the executive director directs, the payment of compensation liabilities as they are incurred. *A public sector self-insured employer shall not be required to deposit funds as security, indemnity, or bond to secure the payment of liabilities under this chapter, if the public employer has authority to raise taxes, notwithstanding provisions of KRS 68.245, 132.023, 132.027, and 160.470 relating to recall and reconsideration of local taxes; raise tuition; issue bonds; raise fees or fares for services provided; or has other authority to generate funds for its operation.*

- (2) Every employer subject to this chapter shall file, or have filed on its behalf, with the office, as often as may be necessary, evidence of its compliance with the provisions of this section and all others relating hereto. Any insurance carrier or self-insured group providing workers' compensation insurance coverage for a Kentucky location shall file on behalf of the employer, with the executive director, evidence of the employer's compliance with this chapter. The filing shall be made within ten (10) days after the issuance of a policy, endorsement to a policy, or similar documentation of coverage. Every employer who has complied with the foregoing provision and has subsequently canceled its insurance or its membership in an approved self-insured group, as the case may be, shall immediately notify, or have notice given on its behalf to the office of the cancellation, the date thereof, and the reasons therefor; and every insurance carrier or self-insured group shall in like manner notify the executive director upon the cancellation, lapse, termination, expiration by reason of termination of policy period, or nonrenewal of any policy issued by it or termination of any membership agreement, whichever is applicable under the provisions of this chapter, except that the carrier or self-insured group need not set forth its reasons therefor unless requested by the executive director. The above filings are to be made on the forms prescribed by the executive director. Termination of any policy of insurance issued under the provisions of this chapter shall take effect no greater than ten (10) days prior to the receipt of the notification by the executive director unless the employer has obtained other insurance and the executive director is notified of that fact by the insurer assuming the risk. Upon determination that any employer under this chapter has failed to comply with these provisions, the executive director shall promptly notify interested government agencies of this failure and, with particular reference to employers engaged in coal mining, the executive director shall promptly report any failures to the Department for Natural Resources so that appropriate action may be undertaken pursuant to KRS 351.175.

Section 2. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include the effects of the natural aging process, and does not include any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury;
- (2) "Occupational disease" means a disease arising out of and in the course of the employment;
- (3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence;
- (4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made;
- (5) "Death" means death resulting from an injury or occupational disease;
- (6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer;
- (7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter;
- (8) "Office" means the Office of Workers' Claims in the Department of Labor;
- (9) "Executive director" means the executive director of the Office of Workers' Claims;
- (10) "Board" means the Workers' Compensation Board;
- (11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;

- (b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and
- (c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:
 - 1. Total and permanent loss of sight in both eyes;
 - 2. Loss of both feet at or above the ankle;
 - 3. Loss of both hands at or above the wrist;
 - 4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
 - 5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
 - 6. Incurable insanity or imbecility; or
 - 7. Total loss of hearing;
- (12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits;
- (13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits;
- (14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits;
- (15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices;
- (16) "Person" means any individual, partnership, limited partnership, limited liability company, firm, association, trust, joint venture, corporation, or legal representative thereof;
- (17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns;
- (18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations, including the sale of produce at on-site markets and the processing of produce for sale at on-site markets. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market;
- (19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter;
- (20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States;
- (21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien;
- (22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every self-insured group operating under the provisions of this chapter;
- (23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption;
- (b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including but not limited to administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time;

- (24) "Premium" for every self-insured group means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group;
- (25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Office of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.
- (b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.
- (c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.
- (d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors;
- (26) "Insurance policy" for an insurance company or self-insured group means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year;
- (27) "Self-insurance year" for a self-insured group means the annual period of certification of the group created pursuant to KRS 342.350(4) and 304.50-010;
- (28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the executive director using generally-accepted actuarial methods as follows:
- (a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The executive director shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value

shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the executive director. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period;

- (b) The executive director shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the office and from the records of the Office of Employment and Training, Education Cabinet. The executive director shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period;
 - (c) The executive director shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the office and the Office of Employment and Training data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122;
 - (d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the executive director, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification;
 - (e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the executive director pursuant to KRS 342.340(1);
 - (f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection;
 - (g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection; and
 - (h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents (\$0.30) per one hundred dollars (\$100) of the employer's most recent annualized payroll for employees covered by this chapter;
- (29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget;
 - (30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System;
 - (31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits;
 - (32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth;
 - (33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods;
 - (34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive

economy;

- (35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition; and
- (36) "Permanent disability rating" means the permanent impairment rating selected by an administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b).

Section 3. KRS 304.13-167 is amended to read as follows:

- (1) Every workers' compensation insurer shall adhere to a uniform classification system and uniform experience rating system filed with the executive director by an advisory organization designated by the executive director.
- (2) Every workers' compensation insurer shall report its experience in accordance with the statistical plans and other reporting requirements in use by an advisory organization designated by the executive director.
- (3) A workers' compensation insurer may develop subclassifications of the uniform classification system upon which rates may be made. These subclassifications and their filing shall be subject to the provisions of this chapter applicable to filings generally.
- (4) A workers' compensation insurer may develop rating plans which identify loss experience as a factor to be used. These rating plans and their filing shall be subject to the provisions of this chapter applicable to filings generally.
- (5) The executive director shall disapprove subclassifications, rating plans, or other variations from manual rules filed by a workers' compensation insurer if the insurer fails to demonstrate that the data thereby produced can be reported consistent with the uniform classification system and experience rating system and in such a fashion so as to allow for the application of experience rating filed by the advisory organization.

- (6) The executive director shall approve rating plans for workers' compensation insurance that give specific identifiable consideration in the setting of rates to employers who implement a drug-free workplace program pursuant to administrative regulations adopted by the Office of Workers' Claims in the Department of Labor. The plans shall take effect January 1, 2008, shall be actuarially sound, and shall state the savings anticipated to result from such drug-free workplace programs. The credit shall be at least five percent (5%) unless the executive director determines that five percent (5%) is actuarially unsound. The executive director is also authorized to develop a schedule of premium credits for workers' compensation insurance for employers who have safety programs that contain certain criteria for safety programs. The executive director shall consult with the executive director of the Office of Workers' Claims in the Department of Labor in setting such criteria. A drug-free workplace credit under this subsection shall not be available to employers who receive a credit under KRS 304.13-412 or Chapter 351.

Section 4. Because of the increase in the security, indemnity, and bond requirements for self-insured employers, an emergency is declared to exist, and Section 1 of this Act takes effect upon its passage and approval by the Governor or upon otherwise becoming a law.

The Senate Committee Amendment No. 1 Title to **HB 296** is as follows:

HB 296, Amend title to read "AN ACT relating to workers' compensation and declaring an emergency."

Representative Jenkins moved that the House concur in the Senate Committee Substitute to **HB 296**. Agreed.

Representative Jenkins moved that the House concur in the Senate Committee Amendment No. 1 Title to **HB 296**. Agreed.

Representative Jenkins moved that **HB 296**, by way of Senate Committee Substitute, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See March 12, 2007, roll call on **HB 296** - Appendix.)

HB 296, by way of Senate Committee Substitute, was passed and title agreed to.

Representative Jenkins moved that the vote by which **HB 296**, by way of Senate Committee Substitute, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 305, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 305** is as follows:

HB 305, AN ACT relating to increasing the state minimum wage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.275 is amended to read as follows:

- (1) Except as may otherwise be provided by this chapter, every employer shall pay to each of his employees wages at a rate of not less than five dollars and eighty-five cents (\$5.85) an hour beginning on the effective date of this Act, not less than six dollars and fifty-five cents (\$6.55) an hour beginning July 1, 2008, and not less than seven dollars and twenty-five cents (\$7.25) an hour beginning July 1, 2009. If the federal minimum hourly wage as prescribed by 29 U.S.C. sec. 206(a)(1) is increased in excess of the minimum hourly wage in effect under this subsection, the minimum hourly wage under this subsection shall be increased to the same amount, effective on the same date as the federal minimum hourly wage rate. If the state minimum hourly wage is increased to the federal minimum hourly wage, it shall include ~~The minimum wage rates required under this chapter shall be adjusted in accordance with adjustments made in the federal minimum hourly rate. The adoption required in this subsection includes~~ only the federal minimum hourly rate prescribed in 29 U.S.C. sec. 206(a)(1) and ~~shall~~ does not include other wage rates, or conditions, exclusions, or exceptions to the federal minimum hourly wage rate. In addition, the increase to ~~adoption of~~ the federal minimum hourly wage rate does not extend or modify the scope or coverage of the minimum wage rate required under this chapter.
- (2) Notwithstanding the provisions of subsection (1) of this section, for any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars (\$30) per month in tips from patrons or others, the employer may pay as a minimum not less than the hourly wage rate required to be paid a tipped employee under the federal minimum hourly wage law as prescribed by 29 U.S.C. sec. 203. The employer shall establish by his records that for each week where credit is taken, when adding tips received to wages paid, not less than the minimum rate prescribed in 29 U.S.C. sec. 203 was received by the employee. No employer shall use all or part of any tips or gratuities received by employees toward the payment of the statutory minimum hourly wage as required by 29 U.S.C. sec. 203. Nothing, however, shall prevent employees from entering into an agreement to divide tips or gratuities among themselves.

Section 2. KRS 154.22-040 is amended to read as follows:

- (1) Each year the authority shall under its Rural Economic Development Assistance Program, on the basis of the final unemployment figures calculated by the Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent calendar year, and shall certify those counties as qualified counties. A county not certified on the basis of final unemployment figures may also be certified as a qualified county if the authority determines the county is one (1) of the sixty (60) most distressed counties in the Commonwealth based on the following criteria with equal weight given to each criterion:
 - (a) The average countywide rate of unemployment in the most recent three (3) consecutive calendar years, on the basis of final unemployment figures calculated by the Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet;
 - (b) In each county the percentage of adults twenty-five (25) years of age and older who have attained at least a high school education or equivalent, on the basis of the most recent data available from the United States Department of Commerce, Bureau of the Census; and
 - (c) Road quality, as quantified by the access within a county to roads ranked in descending order from best quality to worst quality as follows: two (2) or more interstate highways, one (1) interstate highway, a state four (4) lane parkway, four (4) lane principal arterial access to an interstate highway, state two (2) lane parkway and none of the preceding road types, as certified by the Kentucky Transportation Cabinet to the authority.

If the authority determines that a county which has previously been certified as a qualified county no longer meets the criteria of this subsection, the authority shall decertify that county. The authority shall not provide inducements for any facilities in that county and an approved company shall not be eligible for the inducements offered by KRS 154.22-010 to 154.22-070 unless the tax incentive agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county. In addition, the authority shall certify coal-producing counties, not otherwise certified as qualified counties in this subsection, for economic development projects involving the new construction of electric generation facilities. A coal producing county shall mean a county in the Commonwealth of Kentucky that has produced coal upon which the tax imposed under KRS 143.020 was paid at any time. For economic development projects undertaken in a regional industrial park, as defined in KRS 42.4588, or in an industrial park created pursuant to an interlocal agreement in which revenues are shared as provided in KRS 65.245, where the physical boundaries of the industrial park lie within two (2) or more counties of which at least one (1) of the counties is a qualified county under this section, an eligible company undertaking an economic development project within the physical boundaries of the industrial park may be approved for the inducements under KRS 154.22-010 to 154.22-080.

- (2) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

- (3) The economic development project shall involve a minimum investment of one hundred thousand dollars (\$100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.
- (4) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:
1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or
 2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.
- (b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. However, for projects receiving preliminary approval of the authority prior to July 1, 2008, the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage existing on January 1, 2007. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.
- (c) The requirements of this subsection shall not apply to eligible companies which are nonprofit corporations established under KRS 273.163 to 273.387 and whose employees are handicapped and sheltered workshop workers employed at less than the established minimum wage as authorized by KRS 337.295.

For an eligible company, within a regional industrial park which lies within two (2) or more counties, the calculation of the wage and benefit requirement shall be determined by averaging the average county hourly wage for all counties within the regional industrial park.

- (5) No economic development project which will result in the replacement of agribusiness, manufacturing, or electric generation facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:
- (a) Rehabilitates an agribusiness, manufacturing, or electric generation facility:
1. Which has not been in operation for a period of ninety (90) or more consecutive days; or
 2. For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or
 3. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;
- (b) Replaces an agribusiness, manufacturing, or electric generation facility existing in the Commonwealth:
1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
 2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
- (c) Replaces an existing agribusiness, manufacturing, or electric generation facility located in the same qualified county, and the existing agribusiness, manufacturing, or electric generation facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the agribusiness, manufacturing, or electric generation facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the agribusiness, manufacturing, or electric generation facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.
- (6) With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company

and authorizing the undertaking of the economic development project. After preliminary approval, the authority may by final approval designate an eligible company to be an approved company.

Section 3. KRS 154.23-025 is amended to read as follows:

- (1) Relevant standards for approval of eligible companies and economic development projects shall include but are not limited to creditworthiness of the eligible company, the number of new jobs to be provided by a project to Kentucky residents, and the likelihood that the project will be an economic success.
- (2) An eligible company shall certify to the authority by written application that it makes the following commitments in an economic development project:
 - (a) A minimum investment of one hundred thousand dollars (\$100,000) in the project;
 - (b) Creation of a minimum of ten (10) new full-time jobs at the project site for qualified employees by the activation date, as set forth in KRS 154.23-035 or 154.23-040;
 - (c) A statement that no significant number of existing jobs in the Commonwealth will be lost or adversely affected due to approval of the eligible company and its economic development project; and
 - (d) A statement that the economic development project could reasonably and efficiently locate outside the qualified zone and, without the inducements offered by the authority, the eligible company would likely locate outside the zone.
- (3)
 - (a) No project that will result in the replacement of an existing manufacturing or service or technology facility existing in the Commonwealth shall be approved by the authority; however, the authority may approve a project if the project is one:
 1.
 - a. That rehabilitates a manufacturing or service or technology facility that has not been in operation; or
 - b. For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or
 - c. To which the title is vested in one other than the eligible company and that is sold or transferred under a foreclosure ordered by a court of competent jurisdiction or by order of bankruptcy court;
 2. Replaces a manufacturing or service or technology facility existing in the Commonwealth that been damaged or destroyed by fire, or the title to which shall have been taken under the exercise of the power of eminent domain or is the subject of a nonappealable judgment that grants the power of eminent domain to the authority, in any of these events to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
 3. Replaces an existing manufacturing or service or technology facility located in the same qualified zone that cannot be expanded due to the lack of available real estate at or adjacent to the manufacturing or service or technology facility to be replaced. Any economic development project satisfying the requirements of this paragraph of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing or service or technology facility to be replaced.
 - (b) No economic development project otherwise satisfying the requirements of paragraph (a) of this subsection shall be approved by the authority that results in a lease abandonment or lease termination by the approved company without the consent of the lessor.
- (4)
 - (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:
 1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or
 2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.
 - (b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. **However, for projects receiving preliminary approval of the authority prior to July 1, 2008, the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage existing on January 1, 2007.** In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.

Section 4. KRS 154.24-090 is amended to read as follows:

The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A, regarding the approval of eligible

2007 Regular Session

companies and economic development projects conducted by those companies. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the following criteria:

- (1) A determination by the authority that more than seventy-five percent (75%) of services provided by the eligible company from the proposed project shall be provided for persons located outside the Commonwealth during each year of the period during which it receives inducements as authorized in KRS 154.24-110;
- (2) The economic development project shall result in the creation by the eligible company of a minimum of fifteen (15) new full-time jobs for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth at the activation date set forth in the company's service and technology agreement as described in KRS 154.24-120. The activation date shall occur within two (2) years after the date of the final resolution authorizing the economic development project. The authority may extend the period for compliance with this subsection up to one (1) year from the activation date upon the written application of an eligible company requesting an extension;
- (3) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:
 1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or
 2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.
 (b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. However, for projects receiving preliminary approval of the authority prior to July 1, 2008, the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage existing on January 1, 2007. In addition to the base hourly wages, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wages; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wages, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wages through increased hourly wages combined with employee benefits;
- (4) Written evidence that:
 - (a) Approval of the economic development project and the resulting inducements to be offered are essential to the creation of new jobs in the Commonwealth by an eligible company in connection with its economic development project; and
 - (b) No significant number of existing jobs in the Commonwealth will be lost, or adversely affected, due to the designation of an eligible company as an approved company, and to the approval of the eligible company's economic development project; and
- (5) That the economic development project could reasonably and efficiently locate outside of the Commonwealth and, without the inducements offered by the authority, the eligible company would likely locate outside the state.

Section 5. KRS 154.28-080 is amended to read as follows:

- (1) The authority shall promulgate standards for the determination and approval of eligible companies and their economic development projects in accordance with KRS Chapter 13A.
- (2) The standards for approval of eligible companies and economic development projects shall include but not be limited to: the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to the residents of the Commonwealth; and the likelihood of the economic success of the economic development project.
- (3) The economic development project shall involve a minimum investment of one hundred thousand dollars (\$100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final resolution authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development projects for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.
- (4) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety percent (90%) of its full-time employees whose jobs were created with base hourly wages equal to either:
 1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or
 2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken;
 (b) If the base hourly wage calculated in subparagraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. However, for projects receiving preliminary approval of the authority prior to July

1, 2008, the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage existing on January 1, 2007. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits;

- (5) No economic development project which will result in the replacement of a manufacturing or agribusiness facility existing within the Commonwealth shall be approved by the authority; however, the authority may approve an economic development project that:
- (a) Rehabilitates a manufacturing or agribusiness facility:
 - 1. Which has not been in operation for a period of ninety (90) or more consecutive days; or
 - 2. For which the current occupant of the facility has published a notice of closure so long as the eligible company intending to acquire the facility is not an affiliate of the current occupant; or
 - 3. To which the title is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;
 - (b) Replaces a manufacturing or agribusiness facility existing in the Commonwealth:
 - 1. To which the title shall have been taken under the exercise of the power of eminent domain, or to which the title shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
 - 2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
 - (c) Replaces an existing manufacturing or agribusiness facility located in the same county that cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing or agribusiness facility to be replaced. Any economic development project satisfying the requirements of this subsection shall be eligible only for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing or agribusiness facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority that results in a lease abandonment or lease termination by the eligible company without the consent of the lessor.
- (6) With respect to each eligible company making an application to the authority for inducements, and with respect to these economic development projects described in the application which do not involve an expansion, the authority shall make inquiries and request materials of the applicant, including but not limited to written evidence that except for the receipt of inducements authorized by KRS 154.28-015 to 154.28-090 and KRS 141.400, the eligible company will not locate its economic development project within the Commonwealth. Upon the review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project.
- (7) After a diligent review of the relevant materials and completion of its inquiries, the authority, by resolution of its board of directors, may designate an eligible company to be an approved company.
- (8) All meetings of the board of directors of the authority shall be held in accordance with KRS 61.805 to 61.850. The board of directors of the authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 6. KRS 154.48-020 is amended to read as follows:

- (1) The authority may establish standards for the determination and preliminary approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A.
- (2) The criteria for preliminary approval of eligible companies and environmental stewardship projects shall include but not be limited to the need for the inducements, the eligible costs to be expended by the eligible company, and the number of employees whose jobs are to be created or retained as a result of the project.
- (3) Each eligible company making an application to the authority for the inducement shall, in a manner acceptable to the authority, describe the nature of the product to be manufactured as a result of the project, identify the eligible costs associated with the project, identify the time schedule of the proposed project, set out alternatives that are available to the eligible company, identify the influence this incentive had on the company's decision to locate the project in the Commonwealth, and provide any additional information relating to the project as the authority may require.
- (4) The project shall have eligible costs of at least five million dollars (\$5,000,000).
- (5) (a) Within six (6) months after the activation date, the approved company shall compensate a minimum of ninety

percent (90%) of its full-time employees whose jobs were created or retained with base hourly wages equal to either:

1. Seventy-five percent (75%) of the average hourly wage for the Commonwealth; or
2. Seventy-five percent (75%) of the average hourly wage for the county in which the project is to be undertaken.

- (b) If the base hourly wage calculated in paragraph (a)1. or (a)2. of this subsection is less than one hundred fifty percent (150%) of the federal minimum wage, then the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage. However, for projects receiving preliminary approval of the authority prior to July 1, 2008, the base hourly wage shall be one hundred fifty percent (150%) of the federal minimum wage existing on January 1, 2007. In addition to the applicable base hourly wage calculated above, the eligible company shall provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage; however, if the eligible company does not provide employee benefits equal to at least fifteen percent (15%) of the applicable base hourly wage, the eligible company may qualify under this section if it provides the employees hired by the eligible company as a result of the economic development project total hourly compensation equal to or greater than one hundred fifteen percent (115%) of the applicable base hourly wage through increased hourly wages combined with employee benefits.

- (6) After a review of relevant materials and completion of inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorize a conditional undertaking of the project pursuant to a memorandum of agreement negotiated between the eligible company and the authority.
- (7) The preliminarily approved company shall, in a manner acceptable to the authority and at certain times as the authority may require, provide documentation relating to the eligible costs expended or obligated in connection with the project. The authority shall review the preliminarily approved company's progress in connection with the project to determine if the conditions set forth in the memorandum of agreement have been met.
- (8) After a review of the documentation relating to the preliminarily approved company's compliance under the memorandum of agreement, the authority, by resolution, may give its final approval to the preliminarily approved company's application for a project and may grant to the preliminarily approved company the status of an approved company.
- (9) All meetings of the authority shall be held in accordance with KRS 61.805 to 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

The Senate Committee Amendment No. 1 Title to **HB 305** is as follows:

HB 305, Amend title to read "AN ACT relating to minimum wage."

Representative Gray moved that the House concur in the Senate Committee Substitute to **HB 305**. Agreed.

Representative Gray moved that the House concur in the Senate Committee Amendment No. 1 Title to **HB 305**. Agreed.

Representative Gray moved that **HB 305**, by way the Senate Committee Substitute, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 93, Nays 5. (See March 12, 2007, roll call on **HB 305** - Appendix.)

HB 305, by way of Senate Committee Substitute, as amended by the Senate, was passed and title agreed to.

Representative Gray moved that the vote by which **HB 305**, by way of Senate Committee Substitute, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 355, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 355** is as follows:

HB 355, AN ACT relating to area planning commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 147.670 is amended to read as follows:

The area planning commission shall have the power and duty to:

- (1) Prepare an area-wide comprehensive plan of the entire area within its jurisdiction, which includes all territory incorporated and unincorporated within the counties signator thereto. The area-wide comprehensive plan shall include at least all

comprehensive plan elements and research requirements prescribed in KRS Chapter 100, so that the planning commissions of local planning units as established under KRS Chapter 100 and their respective legislative bodies, may adopt all or parts of said area-wide comprehensive plan, as it applies to their respective areas of jurisdiction, as a means of fulfilling the applicable requirements of KRS Chapter 100. This area-wide comprehensive plan shall be reviewed and amended, if necessary, at least once every five (5) years;

- (2) Appoint an executive director for the commission and fix his compensation. The director shall be qualified by training and experience in the field of planning and zoning;
- (3) Upon written request of a city or county within the territory of the area planning commission, the area planning commission's staff may prepare and submit for consideration to the appropriate local planning unit, zoning ordinances based on the comprehensive plans of such local planning unit. The area planning commission staff assigned to perform such work shall consult with the appropriate local planning unit as established under KRS Chapter 100, the city or county legislative bodies, and all property owners who are directly affected by any change in the zoning ordinance applicable to such local planning unit;
- (4) Prescribe the qualifications of, appoint, remove and fix the compensation of employees of the commission;
- (5) Prepare, publish and distribute reports and other material relating to the business of the commission;
- (6) Prepare and submit an annual budget to the area planning council for the operation of the commission;
- (7) Exercise general supervision of and make regulations for the administration of the affairs of the commission;
- (8) Establish policies, procedures, and priorities for assigning staff and providing services to planning units established under the provision of KRS Chapter 100, their respective cities and counties, and other public and private agencies and organizations, and may, irrespective of KRS 147.675, enter into agreements with cities, counties, and other public agencies and organizations in accordance with the provisions of KRS 65.210 to 65.300 for the administration of KRS 65.8801 to 65.8839 and KRS Chapters 99, 99A, 100, and 198B; and
- (9) Keep an accurate and complete record of all commission proceedings, financial statements, and annually report to the various cities and counties signators to the agreement provided in KRS 147.620.

Section 2. KRS 65.8811 is amended to read as follows:

- (1) (a) A code enforcement board shall consist of no fewer than three~~either three (3), five (5), or seven (7)}~~ members who shall be appointed by the executive authority of the local government, subject to the approval of the legislative body.
- (b) A joint code enforcement board shall include representation on the board of all participating local governments and members shall be appointed as set out in the terms of the interlocal agreement.
- (2)~~[(a)]~~ The initial appointments to a ~~three (3) member~~ code enforcement board shall be as follows:
 - ~~(a)[1-] One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be~~One (1) member appointed for a term of one (1) year;
 - ~~(b)[2-] One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be~~One (1) member appointed for a term of two (2) years; and
 - ~~(c)[3-] One-third (1/3) of the membership or one-third (1/3) of the membership and one (1) member of the board shall be~~One (1) member appointed for a term of three (3) years.
- ~~[(b)]~~ The initial appointments to a five (5) member code enforcement board shall be as follows:
 1. ~~One (1) member appointed for a term of one (1) year;~~
 2. ~~Two (2) members appointed for a term of two (2) years each; and~~
 3. ~~Two (2) members appointed for a term of three (3) years each.~~
- ~~[(e)]~~ The initial appointments to a seven (7) member code enforcement board shall be as follows:
 1. ~~Two (2) members appointed for a term of one (1) year each;~~
 2. ~~Three (3) members appointed for a term of two (2) years each; and~~
 3. ~~Two (2) members appointed for a term of three (3) years each.~~

All subsequent appointments shall be made for a term of three (3) years.

- (3) (a) Each member of a code enforcement board shall have resided within the boundaries of the local government unit for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office.
- (b) Board members serving on joint code enforcement boards shall have resided within the boundaries of the local government they represent for a period of at least one (1) year prior to the date of the member's appointment and shall reside there throughout the term in office.
- (4) A member may be reappointed, subject to approval of the legislative body.
- (5) Any vacancy on a code enforcement board shall be filled within sixty (60) days by the executive authority, subject to the

approval of the legislative body. If a vacancy is not filled by the executive authority within sixty (60) days, the remaining members of the code enforcement board shall fill the vacancy. All vacancies shall be filled for the remainder of the unexpired term.

- (6) Any member of a code enforcement board may be removed by the appointing authority for misconduct, inefficiency, or willful neglect of duty. Any appointing authority who exercises the power to remove a member of a code enforcement board shall submit a written statement to the member and to the legislative body of the local government setting forth the reasons for removal. The member so removed shall have the right of appeal to the Circuit Court.
- (7) All members of a code enforcement board shall, before entering upon their duties, take the oath of office prescribed by Section 228 of the Constitution of the Commonwealth of Kentucky.
- (8) The members of a code enforcement board may be reimbursed for expenses or compensated, or both, as specified in the ordinance creating the board.
- (9) No member of a local government code enforcement board shall hold any elected or appointed office, whether paid or unpaid, or any position of employment with the unit of local government that has created the code enforcement board.
- (10) Each legislative body that elects to establish a code enforcement board is encouraged to provide opportunities for education regarding pertinent topics for the members of the code enforcement board.

The Senate Committee Amendment No. 1 Title to **HB 355** is as follows:

HB 355, Amend title to read as follows: "AN ACT relating to the administration of boards established by local ordinance."

Representative Simpson moved that the House concur in the Senate Committee Substitute to **HB 355**. Agreed.

Representative Simpson moved that the House concur in the Senate Committee Amendment No. 1 Title to **HB 355**. Agreed.

Representative Simpson moved that **HB 355**, by way of Senate Committee Substitute, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 12, 2007, roll call on **HB 355** - Appendix.)

HB 355, by way of Senate Committee Substitute, as amended by the Senate, was passed and title agreed to.

Representative Simpson moved that the vote by which **HB 355**, by way of Senate Committee Substitute, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 386, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendment. Agreed.

The Senate Committee Amendment No. 1 to **HB 386** is as follows:

HB 386, On page 2, line 7, by deleting the word "of" and inserting the word "for" in lieu thereof.

Representative Draud moved that the House concur in the Senate Committee Amendment No. 1 to **HB 386**. Agreed.

Representative Draud moved that **HB 386**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 7. (See March 12, 2007, roll call on **HB 386** - Appendix.)

HB 386, as amended by the Senate, was passed and the title agreed to.

Representative Draud moved that the vote by which **HB 386**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 394, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 394** is as follows:

HB 394, AN ACT relating to ophthalmic dispensers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 326.010 is amended to read as follows:

As used in this chapter:

- (1) "Board" ~~means~~~~[as used in this chapter shall mean]~~ the "Kentucky Board of Ophthalmic Dispensers."
- (2) "Ophthalmic dispensing~~[...]~~" ~~means that~~ a person~~[... practices ophthalmic dispensing within the meaning of the provisions of this chapter relating to ophthalmic dispensers, who]~~ prepares and dispenses lenses, spectacles, eyeglasses, or appurtenances thereto to the intended wearers~~[... thereof]~~ on written prescriptions from licensed physicians, osteopaths, or optometrists~~[... duly licensed to practice their profession]~~, and in accordance with ~~these~~~~[such]~~ prescriptions, interprets, measures, adapts, fits, and adjusts ~~the~~~~[such]~~ lenses, spectacles, eyeglasses, or appurtenances thereto to the human face for the aid or correction of visual or ocular anomalies of the human eyes. The services and appliances relating to ophthalmic dispensing shall be dispensed, furnished, or supplied to the intended wearer or user~~[... thereof]~~ only upon a written prescription issued by a physician, osteopath, or optometrist~~[... but]~~. Duplications, replacements, reproductions, or repetitions may be provided~~[done]~~ without prescriptions, ~~but~~~~[in which event any such act]~~ shall be construed to be ophthalmic dispensing the same as if performed on the basis of an original written prescription.
- (3) "Optical establishment" means any establishment where ophthalmic dispensing services for the general public are offered, advertised, or performed. Optical establishment shall not include any establishment that comes under the practice of medicine by a duly licensed physician, the practice of osteopathy by a duly licensed osteopath, or the practice of optometry by a duly licensed optometrist.

Section 2. KRS 326.070 is amended to read as follows:

- (1) Nothing in the provisions of this chapter relating to ophthalmic dispensing shall be construed to limit or restrict, in any respect, the practice of medicine by duly licensed physicians~~[... or]~~ the practice of osteopathy by duly licensed osteopaths, or the practice of optometry by duly licensed optometrists. ~~At, and such]~~ licensed physician, osteopath, or optometrist shall have all the rights and privileges ~~of which may accrue under the provisions of this chapter to]~~ ophthalmic dispensers licensed under this chapter~~[hereunder]~~.
- (2) This chapter shall not be construed to prohibit an unlicensed person from performing mechanical work upon inert matter in an optical office, laboratory, or shop.
- (3) Persons, firms, and corporations that sell completely assembled eyeglasses or spectacles without advice or aid as to ~~their~~~~[the]~~ selection~~[... thereof]~~, as merchandise, from permanently located or established places of business shall not be subject to this chapter.
- (4) Physicians, osteopaths~~[... and]~~ optometrists, and their employees while working under their regulation and supervision shall have the right to practice ophthalmic dispensing without qualifying under this chapter and shall not be subject to any of the provisions ~~of this chapter~~~~[herein]~~.

Section 3. KRS 326.090 is amended to read as follows:

- (1) The board may refuse to issue a license, or may suspend, revoke, impose probationary conditions upon, impose an administrative fine upon, or issue a written reprimand against the holder of a license to practice ophthalmic dispensing or an apprentice license if the applicant or licensee has:
- (a) Committed a dishonest or corrupt act. If the act is a crime, conviction in a criminal proceeding shall not be a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence of guilt at the ensuing disciplinary hearing of the licensee. Conviction includes all instances in which a plea of no contest is the basis of the conviction;
 - (b) Committed any unfair, false, misleading, or deceptive act or practice;
 - (c) Been incompetent or negligent in the practice of ophthalmic dispensing;
 - (d) Failed to comply with a lawful order of the board;
 - (e) Aided or abetted another person in falsely procuring or attempting to procure a license;
 - (f) Aided or abetted an unlicensed person in activities which violate KRS 326.030 and which are not otherwise exempted from the provisions of this chapter;
 - (g) Exhibited chronic or persistent inebriety or addiction to a drug habit, to an extent that disqualifies the applicant or the licensee from practicing with safety to the public;
 - (h) Committed fraud or deception in the application or in the examination for the license; or
 - (i) Violated any provisions of this chapter or administrative regulations promulgated in accordance with this chapter.
- (2) The board may impose a fine against any person who:
- (a) Operates an optical establishment without the supervision of a Kentucky-licensed ophthalmic dispenser;
 - (b) Allows, aids, or abets an unlicensed person to perform activities that violate KRS 326.030 and are not otherwise exempted from the provisions of this chapter; or
 - (c) Allows a Kentucky licensed ophthalmic dispenser to supervise more than one (1) optical establishment at the same time.
- (3) After investigating an alleged violation and offering the licensee the opportunity to respond to the allegation, the board may issue a written reprimand to the licensee if the board determines that a violation that is not of a serious nature has

occurred. A copy of the reprimand shall be placed in the permanent file of the licensee. The licensee may file a written response to the reprimand within thirty (30) days of receiving the reprimand or may request a hearing with the board. If the licensee responds to the reprimand, his or her response shall be placed in the licensee's permanent file. If the licensee requests a hearing, the board shall set aside the written reprimand, pending the outcome of a hearing by the board under the provisions of KRS Chapter 13B.

Section 4. KRS 326.100 is amended to read as follows:

- (1) The board before suspending, revoking, imposing probationary, or supervisory conditions upon, imposing an administrative fine, issuing a written reprimand, or taking any combination of these actions regarding any person~~licensee~~ under this chapter shall conduct a hearing under the provisions of KRS Chapter 13B, upon the request of that person~~the licensee~~.
- (2) After denying an application under the provisions of this chapter, the board shall grant a hearing to the denied applicant under the provisions of KRS Chapter 13B.
- (3) Any applicant aggrieved by a disciplinary action of the board may appeal the final order of the board to the Circuit Court in the county in which the licensee is practicing in accordance with KRS Chapter 13B.

Representative Jenkins moved that the House concur in the Senate Committee Substitute to **HB 394**. Agreed.

Representative Jenkins moved that **HB 394**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 12, 2007, roll call on **HB 394** - Appendix.)

HB 394, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 394**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 514, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 514** is as follows:

HB 514, AN ACT relating to the assumption of duties by local elected officers and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 62.010 is amended to read as follows:

- (1) No officer shall enter upon the duties of his office until he takes the oath required of him by law.
- (2) Each person elected to an office shall take the oath of office on or before the day the term of office to which he has been elected begins, except in years where the first Monday in January falls upon January 1. In years where the first Monday falls upon January 1, no penalty shall be applied to any officer that fails to take the oath of office, so long as the oath of office is taken within thirty (30) days of the first Monday of January 1.
- (3) Each person appointed to an office shall take the oath of office within thirty (30) days after he receives notice of his appointment.

Section 2. KRS 62.050 is amended to read as follows:

- (1) Except as otherwise provided by statute, no officer required by law to give bond shall enter upon the duties of his office until he gives the bond, except in years where the first Monday in January falls upon January 1. In years where the first Monday falls upon January 1, no penalty shall be applied to any officer that fails to take the oath of office, so long as the oath of office is taken within thirty (30) days of the first Monday of January.
- (2) Except as otherwise provided by statute, each person elected to an office who is required to give bond shall give the bond on or before the day the term of office to which he has been elected begins.
- (3) Each person appointed to an office who is required to give bond shall give the bond within thirty (30) days after he receives notice of his appointment.

Section 3. The provisions of this Act shall apply retroactively to any elected officer required to take the oath of office and execute bond by the first Monday of year 2007.

Section 4. Whereas it is in the interest of the People of the Commonwealth that any disputes concerning the assumption of duties be speedily and efficiently resolved, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Representative Riggs moved that the House concur in the Senate Committee Substitute to **HB 514**. Agreed.

Representative Riggs moved that **HB 514**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0.** (See March 12, 2007, roll call on **HB 514** - Appendix.)

HB 514, by way of Senate Committee Substitute, was passed and title agreed to.

Representative Riggs moved that the vote by which **HB 514**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 84, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Committee Substitute to **HJR 84** is as follows:

HJR 84, A JOINT RESOLUTION requiring that a statue of Bert T. Combs be erected in Powell County, on Kentucky Route 213, on the surplus land across from the U.S. Post Office in the community of Stanton.

WHEREAS, from time to time, the General Assembly has seen fit to honor various Kentuckians by erecting memorials and naming portions of state highways in their honor; and

WHEREAS, these Kentuckians have come from all walks of life, held a multitude of jobs, and had a variety of reasons that they were deserving of the honor; and

WHEREAS, these individuals have included former Governors, decorated veterans, slain law enforcement officers, local elected officials, astronauts, doctors, educators, distinguished athletes, and civic leaders; and

WHEREAS, the General Assembly again sees fit to honor a group of individuals who have made the lives of their fellow Kentuckians better and brought honor and respect to the Commonwealth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. (1) The members of this body, both individually and collectively, commend and applaud former Governor Bert T. Combs for his efforts and accomplishments in improving the lives of ordinary Kentuckians and moving the state forward.

(2) Within 30 days of the effective date of this Resolution, the Kentucky Transportation Cabinet shall erect the statue of Bert T. Combs, provided by the community of Stanton, in Powell County on Kentucky Route 213, on the surplus land across from the U.S. Post Office in the community of Stanton.

Section 2. (1) The Transportation Cabinet shall honor Denzil "Hoss" Halbert by naming the bridge on the new Kentucky Route 80 nearest to downtown Martin, in Martin, Kentucky, in Floyd County, the "Denzil 'Hoss' Halbert Memorial Bridge".

(2) The Transportation Cabinet shall, within 30 days of the effective date of this Resolution, erect signs at each end of the bridge specified in this section that read "Denzil 'Hoss' Halbert Memorial Bridge."

The Senate Committee Amendment No. 1 Title to **HJR 84** is as follows:

HJR 84, By amending the title to read "A JOINT RESOLUTION honoring distinguished Kentuckians for their service to the Commonwealth."

Representative Henderson moved that the House concur in the Senate Committee Substitute to **HJR 84**. Agreed.

Representative Henderson moved that the House concur in the Senate Committee Amendment No. 1 Title to **HJR 84**. Agreed.

Representative Henderson moved that **HJR 84**, by way of Senate Committee Substitute, as amended by the Senate, be adopted.

On the roll call the vote was: **Yeas 99, Nays 0.** (See March 12, 2007, roll call on **HJR 84** - Appendix.)

HJR 84, by way of Senate Committee Substitute, as amended by the Senate, was adopted and titled agreed to.

Representative Henderson moved that the vote by which **HJR 84**, by way of Senate Committee Substitute, as amended by the Senate, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 536, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Committee Amendment No. 1 to **HB 536** is as follows:

HB 536, On page 20, after line 23, insert the following language:

"Section 9. An amount not to exceed \$8,000,000 during the 2006-2008 biennium shall be deemed a necessary government expense and transferred from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) to adequately fund needs for training grants of the Bluegrass State Skills Corporation. These funds are in addition to the grant funds appropriated in the 2006-2008 biennium. These funds shall be transferred only upon certification of extraordinary need by the Secretary of the Cabinet for Economic Development to the Secretary of the Finance and Administration Cabinet."; and

Renumber subsequent section accordingly.

Representative Jenkins moved that the House concur in Senate Committee Amendment No. 1 to **HB 536**. Agreed.

Representative Jenkins moved that **HB 536**, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 12, 2007, roll call on **HB 536** - Appendix.)

HB 536, as amended by the Senate, was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 536**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Adkins moved that the rules be suspended to move the following bills from the Committee on Rules and post them for passage in the Order of the Days: **HB 177, 337, 418, and 207**. Agreed.

HB 138, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 138** is as follows:

HB 138, AN ACT relating to alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 241.010 is amended to read as follows:

As used in this chapter and in KRS Chapters 242 and 243, unless the context requires otherwise:

- (1) "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine, from whatever source or by whatever process it is produced.
- (2) "Alcoholic beverage" means every liquid or solid, whether patented or not, containing alcohol in an amount in excess of more than one percent (1%) of alcohol by volume, which is fit for beverage purposes. It includes every spurious or imitation liquor sold as, or under any name commonly used for, alcoholic beverages, whether containing any alcohol or not. It does not include the following products:
 - (a) Medicinal preparations manufactured in accordance with formulas prescribed by the United States Pharmacopoeia, National Formulary, or the American Institute of Homeopathy;
 - (b) Patented, patent, and proprietary medicines;
 - (c) Toilet, medicinal, and antiseptic preparations and solutions;
 - (d) Flavoring extracts and syrups;
 - (e) Denatured alcohol or denatured rum;
 - (f) Vinegar and preserved sweet cider;
 - (g) Wine for sacramental purposes;
 - (h) Alcohol unfit for beverage purposes that is to be sold for legitimate external use; and
 - (i) Malt beverages, containing not more than three and two-tenths percent (3.2%) of alcohol by weight, in territory that has voted to allow the sale thereof.
- (3) "Board" means the State Alcoholic Beverage Control Board created by KRS 241.030.
- (4) "Bottle" means any container which is used for holding alcoholic beverages for the use and sale of alcoholic beverages at retail.
- (5) "Brewer" means any person who manufactures malt beverages or owns, occupies, carries on, works, or conducts any brewery, either by himself or by his agent.
- (6) "Brewery" means any place or premises where malt beverages are manufactured for sale, and includes all offices, granaries, mash rooms, cooling rooms, vaults, yards, and storerooms connected with the premises; or where any part of the process of

the manufacture of malt beverages is carried on; or where any apparatus connected with manufacture is kept or used; or where any of the products of brewing or fermentation are stored or kept.

- (7) "Building containing licensed premises" means the licensed premises themselves and includes the land, tract of land, or parking lot in which the premises are contained, and any part of any building connected by direct access or by an entrance which is under the ownership or control of the licensee by lease holdings or ownership.
- (8) "Caterer" means a corporation, partnership, or individual that operates the business of a food service professional by preparing food in a licensed and inspected commissary, transporting the food and alcoholic beverages to the caterer's designated and inspected banquet hall or to a location selected by the customer, and serving the food and alcoholic beverages to the customer's guests.
- (9) "Charitable organization" means a nonprofit entity recognized as exempt from federal taxation under section 501(c) of the Internal Revenue Code (26 U.S.C. sec. 501(c)) or any organization having been established and continuously operating within the Commonwealth of Kentucky for charitable purposes for three (3) years and which expends at least sixty percent (60%) of its gross revenue exclusively for religious, educational, literary, civic, fraternal, or patriotic purposes.
- (10) "Cider" means any fermented fruit-based beverage containing more than one-tenth of one percent (0.1%) alcohol by volume and includes hard cider and perry cider.
- (11) "City administrator" means city alcoholic beverage control administrator.
- (12) "Commissioner" means the commissioner of the Kentucky Department of Revenue.
- (13) "Convention center" means any facility which, in its usual and customary business, provides seating for a minimum of one thousand (1,000) people and offers convention facilities and related services for seminars, training and educational purposes, trade association meetings, conventions, or civic and community events or for plays, theatrical productions, or cultural exhibitions.
- (14) "Convicted" and "conviction" means a finding of guilt resulting from a plea of guilty, the decision of a court, or the finding of a jury, irrespective of a pronouncement of judgment or the suspension of the judgment.
- (15) "County administrator" means county alcoholic beverage control administrator.
- (16) "Distilled spirits" or "spirits" means any product capable of being consumed by a human being which contains alcohol in excess of the amount permitted by KRS Chapter 242 obtained by distilling, mixed with water or other substances in solution, except wine, hard cider, and malt beverages.
- (17) "Distiller" means any person who is engaged in the business of manufacturing distilled spirits at any distillery in the state and is registered in the Office of the Collector of Internal Revenue for the United States at Louisville, Kentucky.
- (18) "Distillery" means any place or premises where distilled spirits are manufactured for sale, and which are registered in the office of any collector of internal revenue for the United States. It includes any United States government bonded warehouse.
- (19) "Distributor" means any person who distributes malt beverages for the purpose of being sold at retail.
- (20) "Dry territory" means a county, city, district, or precinct in which a majority of voters have voted in favor of prohibition.
- (21) "Election" means:
 - (a) An election held for the purpose of taking the sense of the people as to the application or discontinuance of alcoholic beverage sales under KRS Chapter 242; or
 - (b) Any other election not pertaining to alcohol.
- (22) "Executive director" means the executive director of the Office of Alcoholic Beverage Control.
- (23) "Field representative" means any employee or agent of the office who is regularly employed and whose primary function is to travel from place to place for the purpose of visiting taxpayers, and any employee or agent of the office who is assigned, temporarily or permanently, by the executive director to duty outside the main office of the office at Frankfort, in connection with the administration of alcoholic beverage statutes.
- (24) "License" means any license issued pursuant to KRS 243.020 to 243.670.
- (25) "Licensee" means any person to whom a license has been issued, pursuant to KRS 243.020 to 243.670.
- (26) "Limited restaurant" means:
 - (a) A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, which maintains a minimum seating capacity of one hundred (100) persons for dining, and which is located in a territory where prohibition is no longer in effect under KRS 242.185(6); or
 - (b) A facility where the usual and customary business is the serving of meals to consumers, which has a bona fide kitchen facility, which receives at least seventy percent (70%) of its gross income from the sale of food, which maintains a minimum seating capacity of fifty (50) persons for dining, which has no open bar, which requires that alcoholic beverages be sold in conjunction with the sale of a meal, and which is located in a territory where prohibition is no longer in effect under Section 8 of this Act.

- (27) "Malt beverage" means any fermented undistilled alcoholic beverage of any name or description, manufactured from malt wholly or in part, or from any substitute for malt, and having an alcoholic content greater than that permitted under subsection (2)(i) of this section.
- (28) "Manufacture" means distill, rectify, brew, bottle, and operate a winery.
- (29) "Manufacturer" means a vintner, distiller, rectifier, or brewer, and any other person engaged in the production or bottling of alcoholic beverages.
- (30) "Minor" means any person who is not twenty-one (21) years of age or older.
- (31) "Office" means the Office of Alcoholic Beverage Control.
- (32) "Premises" means the land and building in and upon which any business regulated by alcoholic beverage statutes is operated or carried on. "Premises" shall not include as a single unit two (2) or more separate businesses of one (1) owner on the same lot or tract of land, in the same or in different buildings if physical and permanent separation of the premises is maintained, excluding employee access by keyed entry and emergency exits equipped with crash bars, and each has a separate public entrance accessible directly from the sidewalk or parking lot. Any licensee holding an alcoholic beverage license on July 15, 1998 shall not, by reason of this subsection, be ineligible to continue to hold his or her license or obtain a renewal, of the license.
- (33) "Prohibition" means the application of KRS 242.190 to 242.430 to a territory.
- (34) **"Qualified historic site" means a contributing property with dining facilities for at least fifty (50) persons and lodging on the premises as authorized by KRS 219.021 within a commercial district listed in the National Register of Historic Places, or a site that is listed as a National Historic Landmark with dining facilities for at least fifty (50) persons and lodging on the premises as authorized by KRS 219.021. Notwithstanding the provisions of this subsection, a distillery which is listed as a National Historic Landmark and which has a souvenir retail liquor license under KRS 243.0305, shall be deemed a "qualified historic site" under this section.**
- (35) "Rectifier" means any person who rectifies, purifies, or refines distilled spirits or wine by any process other than as provided for on distillery premises, and every person who, without rectifying, purifying, or refining distilled spirits by mixing alcoholic beverages with any materials, manufactures any imitations of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters, or any other name.
- ~~(36)~~~~(35)}~~ "Repackaging" means the placing of alcoholic beverages in any retail container irrespective of the material from which the container is made.
- ~~(37)~~~~(36)}~~ "Restaurant" means a facility where the usual and customary business is the serving of meals to consumers, that has a bona fide kitchen facility, and that receives at least fifty percent (50%) of its gross receipts from the sale of food.
- ~~(38)~~~~(37)}~~ "Retail container" means any bottle, can, barrel, or other container which, without a separable intermediate container, holds alcoholic beverages and is suitable and destined for sale to a retail outlet, whether it is suitable for delivery to the consumer or not.
- ~~(39)~~~~(38)}~~ "Retail outlet" means retailer, hotel, motel, restaurant, railroad dining car, club, and any facility where alcoholic beverages are sold directly to the consumers.
- ~~(40)~~~~(39)}~~ "Retail sale" means any sale where delivery is made in Kentucky to any consumers.
- ~~(41)~~~~(40)}~~ "Retailer" means any person who sells at retail any alcoholic beverage for the sale of which a license is required.
- ~~(42)~~~~(41)}~~ "Sale" means any transfer, exchange, or barter for consideration, and includes all sales made by any person, whether principal, proprietor, agent, servant, or employee, of any alcoholic beverage.
- ~~(43)~~~~(42)}~~ "Service bar" means a bar, counter, shelving, or similar structure used for storing or stocking supplies of alcoholic beverages that is a workstation where employees prepare alcoholic beverage drinks to be delivered to customers away from the service bar. A service bar shall be located in an area where the general public, guests, or patrons are prohibited.
- ~~(44)~~~~(43)}~~ "Sell" includes solicit or receive an order for, keep or expose for sale, keep with intent to sell, and the delivery of any alcoholic beverage.
- ~~(45)~~~~(44)}~~ "Small farm winery" means a winery producing wines, in an amount not to exceed fifty thousand (50,000) gallons in a calendar year.
- ~~(46)~~~~(45)}~~ "Souvenir package" means a special package of Kentucky straight bourbon whiskey available for retail sale at a licensed Kentucky distillery where the whiskey was produced or bottled that is available from a licensed retailer.
- ~~(47)~~~~(46)}~~ "State director" means the director of the Division of Distilled Spirits or the director of the Division of Malt Beverages, or both, as the context requires.
- ~~(48)~~~~(47)}~~ "Supplemental bar" means a bar, counter, shelving, or similar structure used for serving and selling distilled spirits or wine by the drink for consumption on the licensed premises to guests and patrons from additional locations other than the main bar. A supplemental bar shall be continuously constructed and accessible to patrons for distilled spirits or wine sales or service without physical separation by walls, doors, or similar structures.
- ~~(49)~~~~(48)}~~ "Vehicle" means any device or animal used to carry, convey, transport, or otherwise move alcoholic beverages or

any products, equipment, or appurtenances used to manufacture, bottle, or sell these beverages.

~~(50)~~~~((49))~~ "Vintner" means any person who owns, occupies, carries on, works, conducts, or operates any winery, either by himself or by his agent, except persons who manufacture wine for sacramental purposes exclusively.

~~(51)~~~~((50))~~ "Warehouse" means any place in which alcoholic beverages are housed or stored.

~~(52)~~~~((51))~~ "Wholesale sale" means a sale to any person for the purpose of resale.

~~(53)~~~~((52))~~ "Wholesaler" means any person who distributes alcoholic beverages for the purpose of being sold at retail, but it shall not include a subsidiary of a manufacturer or cooperative of a retail outlet.

~~(54)~~~~((53))~~ "Wine" means the product of the normal alcoholic fermentation of the juices of fruits, with the usual processes of manufacture and normal additions, and includes champagne and sparkling and fortified wine of an alcoholic content not to exceed twenty-four percent (24%) by volume. It includes cider, hard cider, and perry cider and also includes preparations or mixtures vended in retail containers if these preparations or mixtures contain not more than fifteen percent (15%) of alcohol by volume. It includes ciders, perry, or sake having an alcohol content greater than that permitted under subsection (2)(i) of this section.

~~(55)~~~~((54))~~ "Winery" means any place or premises in which wine is manufactured from any fruit, or brandies are distilled as a by-product of wine or other fruit, or cordials are compounded.

SECTION 2. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

(1) To promote economic development and tourism in any county or city in which prohibition is in effect, in whole or in part, and a qualified historic site is located, a local option election for the limited sales of alcoholic beverages by the drink may be held in the precinct of the county where the qualified historic site is located, notwithstanding any other provision of the Kentucky Revised Statutes.

(2) A local option election for the limited sale of alcoholic beverages by the drink held under subsection (1) of this section shall be conducted in the same manner as specified in KRS 242.020; 242.030(1), (2), and (5); 242.040; and 242.060 to 242.120. The form of the proposition to be voted upon shall be, "Are you in favor of the sale of alcoholic beverages by the drink at qualified historic sites in the (name of precinct)?"

(3) Upon approval of the proposition, the Office of Alcoholic Beverage Control shall issue a license to qualified historic sites that meet the criteria included in the proposition for the sale of alcoholic beverages by the drink as provided in KRS 243.030.

Section 3. KRS 243.030 is amended to read as follows:

The following kinds of distilled spirits and wine licenses may be issued by the director of the Division of Distilled Spirits, the fees for which shall be:

- | | | |
|------|---|------------|
| (1) | Distiller's license, per annum | \$2,500.00 |
| (2) | Rectifier's license, per annum | \$2,500.00 |
| (3) | Blender's license, per annum | \$2,500.00 |
| (4) | Vintner's license, per annum | \$1,000.00 |
| (5) | Small farm winery license, per annum | \$100.00 |
| | (a) Small farm winery off-premises retail license, per annum | \$25.00 |
| (6) | Wholesaler's license, per annum | \$2,000.00 |
| (7) | Retail package license, per annum: | |
| | (a) In counties containing cities of the first class or a consolidated local government | \$800.00 |
| | (b) In counties containing cities of the second class | \$700.00 |
| | (c) In counties containing cities of the third class | \$600.00 |
| | (d) In counties containing cities of the fourth class | \$500.00 |
| | (e) In all other counties | \$400.00 |
| (8) | Retail drink license, motel drink license, restaurant drink license, or supplemental bar license, per annum: | |
| | (a) In counties containing cities of the first class or a consolidated local government | \$1,000.00 |
| | (b) In counties containing cities of the second class | \$700.00 |
| | (c) In counties containing cities of the third class | \$600.00 |
| | (d) In counties containing cities of the fourth class | \$500.00 |
| | (e) The fee for each of the first five (5) supplemental bar licenses shall be the same as the fee for the drink license. There shall be no charge for each supplemental license issued in excess of five (5) to the same licensee at the same premises. | |
| (9) | Transporter's license, per annum | \$100.00 |
| (10) | Dining car license, per annum | \$100.00 |

2007 Regular Session

(11)	Special nonbeverage alcohol vendor's license, per annum	\$50.00
(12)	Special industrial alcohol license, per annum	\$50.00
(13)	Special nonindustrial alcohol license, per annum	\$50.00
(14)	Special agent's or solicitor's license, per annum	\$25.00
(15)	Special storage or warehouse license and bottling house storage license, per annum \$500.00	
(16)	Special temporary liquor license, per event	\$100.00
(17)	Special private club license, per annum	\$300.00

The fee for each special private club license shall be the fee set out in this subsection; however, there shall be no charge for each special private club license issued in excess of six (6) that is issued to the same licensee at the same premises.

(18)	Special Sunday retail drink license, per annum	\$500.00
(19)	Nonresident special agent or solicitor's license, per annum	\$100.00
(20)	Transport permit, nonresident license, per annum	\$100.00
(21)	Through transporter's license, per annum	\$100.00
(22)	Freight forwarder's license, per annum	\$100.00
(23)	Restaurant wine license, per annum.....	\$500.00
(24)	Special temporary wine license, per event	\$50.00
(25)	Caterer's license, per annum	\$800.00
(26)	Souvenir retail liquor license, per annum	\$500.00
(27)	Special temporary distilled spirits and wine auction license, per event	\$100.00
(28)	Airport drink license, per annum	\$1,000.00
(29)	Convention center or convention hotel complex license, per annum	\$5,000.00
(30)	Extended hours supplemental license, per annum	\$2,000.00
(31)	Horse race track license, per annum	\$2,000.00
(32)	Automobile race track license, per annum	\$2,000.00
(33)	Air or rail system license, per annum	\$2,000.00
(34)	Riverboat license, per annum	\$1,000.00
(35)	Bottling house license, per annum	\$1,000.00
(36)	Hotel in-room license, per annum	\$200.00
(37)	Bonded warehouse license, per annum	\$1,000.00
(38)	Air transporter liquor license, per annum	\$500.00
(39)	Sampling license, per annum	\$100.00
(40)	Replacement or duplicate license	\$25.00
(41)	Entertainment destination license, per annum	\$7,500.00
(42)	(a) Limited restaurant license or limited golf course license, per annum (includes distilled spirits, wine, and malt beverages), new applicants:	
	1. In counties containing cities of the first class or a consolidated local government	\$1,200.00
	2. In counties containing cities of the second class	\$900.00
	3. In counties containing cities of the third class	\$800.00
	4. In counties containing cities of the fourth, fifth, or sixth classes	\$700.00
	(b) Renewals for limited restaurant licenses or limited golf course licenses shall be \$50.00 less than the applicable licensing fee for new applicants.	
(43)	Small farm winery wholesaler's license, per annum	\$100.00
(44)	<u>Qualified historic site license (includes distilled spirits, wine, and malt beverages by the drink), per annum.....</u>	<u>\$1,000.00</u>
(45)	A nonrefundable fee of fifty dollars (\$50) shall be charged to process each new transitional license pursuant to KRS	

243.045.

~~(46)~~~~(45)~~ Other special licenses the board finds necessary for the proper regulation and control of the traffic in distilled spirits and wine and provides for by administrative regulation. In fixing the amount of license taxes that are required to be fixed by the board, it shall have regard for the value of the privilege granted.

A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application under this section, except for subsections (5), (9), (11), (12), (13), (14), (16), (19), (20), (21), (22), (24), (27), (39), and (40). The application fee shall be applied to the licensing fee if the license is issued; otherwise it shall be retained by the office.

Section 4. KRS 243.040 is amended to read as follows:

The following kinds of malt beverage licenses may be issued by the director of the Division of Malt Beverages, the fees for which shall be:

- | | | |
|------|--|-----------------|
| (1) | Brewer's license, per annum | \$2,500.00 |
| (2) | Microbrewery license, per annum | \$500.00 |
| (3) | Distributor's license, per annum | \$500.00 |
| (4) | Malt beverage retail license, per annum: | |
| | (a) New applicants | \$200.00 |
| | (b) Renewals | \$150.00 |
| (5) | Dining car license, per annum | \$200.00 |
| (6) | Transporter's license, per annum | \$100.00 |
| (7) | Special temporary license, per event | \$50.00 |
| (8) | Special off-premises retail storage license, per annum | \$100.00 |
| (9) | Distributor's storage, per annum | \$250.00 |
| (10) | Special beer transporter's license, per annum | \$100.00 |
| (11) | Brew-on-premises license, per annum | \$500.00 |
| (12) | Out-of-state brewer license, per annum | \$1,500.00 |
| (13) | Malt beverage warehouse license, per annum | \$1,000.00 |
| (14) | Replacement or duplicate license, per annum | \$25.00 |
| (15) | Limited out-of-state brewer license, per annum | \$250.00 |
| (16) | <u>Qualified historic site, per annum.....</u> | <u>\$200.00</u> |
| (17) | A nonrefundable fee of fifty dollars (\$50) shall be charged to process each new transitional license pursuant to KRS 243.045. | |

~~(18)~~~~(17)~~ Other special licenses as the state board finds to be necessary for the administration of KRS Chapters 241, 242, 243, and 244 and for the proper regulation and control of the trafficking in malt beverages, as provided for by administrative regulations promulgated by the state board.

Applicants for special licenses provided for under the authority granted in subsection (15) may be exempt from so much of the provisions of subsection (1)(f) of KRS 243.100 set out in administrative regulations promulgated by the board. A nonrefundable application fee of fifty dollars (\$50) shall be charged to process each new application for a license under this section except for subsections (6), (7), (10), and (14). The application fee shall be applied to the licensing fee if the license is issued, or otherwise the fee shall be retained by the office.

SECTION 5. A NEW SECTION OF KRS CHAPTER 243 IS CREATED TO READ AS FOLLOWS:

- (1) A qualified historic site license shall authorize the licensee to:**
- (a) Sell distilled spirits, wine, and malt beverages by the drink at one (1) or more permanent or nonpermanent locations on the premises over which the licensee, by lease or ownership, has exclusive control without obtaining additional supplemental bar licenses prescribed by KRS 243.037 and 244.330;**
 - (b) Sell distilled spirits, wine, and malt beverages by the drink to patrons at public or private functions held on the premises; and**
 - (c) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.250, 243.280, and 244.310.**
- (2) Nothing in this section exempts the holder of a qualified historic site license from the provisions of KRS Chapters 241, 242, 243, and 244, or from any rules of the board as established by administrative regulations, except as expressly stated in this section.**

Section 6. KRS 243.050 is amended to read as follows:

- (1) The office may issue a railroad system license to a railroad company upon the payment of the required fee. This license tax shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages.

- (2) The office may issue a commercial airlines system license to a commercial airlines system or charter flight system upon the payment of the required fee. This license fee shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages and the license may be renewed annually. The license shall authorize the licensee to sell distilled spirits and wine by the drink and by miniature bottle, and malt beverages, upon regularly scheduled or charter flights of the licensee, in and out of the State of Kentucky. The license shall authorize the licensee to store alcoholic beverages for retail sale at a location or locations, if operating from more than one (1) airport in Kentucky, as designated on the license application.
- (3) The office may issue a transporter's license to a commercial airline system, a charter flight system, or a commercial cargo system, upon the payment of the required fee. This license may be renewed annually. The license shall authorize the licensee to transport distilled spirits and wine and malt beverages, into and out of the State of Kentucky, upon regularly scheduled or charter flights of the licensee. The license shall authorize, for the purpose of transportation, the storage of alcoholic beverages at a location or locations, if operating from more than one (1) airport in Kentucky, as designated on the license application. This license shall authorize an airline to transport if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship, or receive the alcoholic beverages.
- (4) The office may issue a convention center or convention hotel complex license for the retail sale of distilled spirits, wine, and malt beverages for consumption on the premises to a convention center or hotel having seating capacity of one thousand (1,000) or more persons. The license shall cover all alcoholic beverage sales on the premises, except that a separate hotel in-room service license shall be required, where applicable. An extended supplement license under subsection (5) of this section may also be issued where applicable. The convention center or convention hotel complex license shall be a nonquota license and shall not be transferable to other premises. The provisions of this subsection shall not apply to convention center licenses or the renewal thereof, other than those in a city of the first class or a county containing a city of the first class or a consolidated local government, if the original license was issued prior to July 15, 1998.
- (5) Where it is determined by the office to be in the best interest of promoting tourism, conventions, and the economic development of Kentucky or any part thereof, the office may issue a supplemental license for the retail sale of alcoholic beverages by the drink at convention centers, at horse race tracks licensed to conduct a race meeting under KRS Chapter 230, at commercial airports through which more than five hundred thousand (500,000) passengers arrive or depart annually, ~~and~~ at automobile race tracks having a seating capacity of at least thirty thousand (30,000) people, and at qualified historic sites. Upon application by the holder of a retail alcoholic beverage license at a convention center, convention hotel complex, horse race track, automobile race track, ~~meeting the requirements of this subsection, or~~ commercial airport, or qualified historic site meeting the requirements of this subsection as provided above, the office may establish the days when the supplemental license will be valid at the specific location, including Sundays after 1 p.m. The supplemental license fee shall be established, and shall be in addition to all other licenses and fees due by the holder in connection with the retailing of alcoholic beverages. The office may, by administrative regulation or special conditions of the supplemental permit, establish such restrictions on the use of the license as will insure that it will be primarily for the benefit of the convention business, the horse racing industry, passengers at large commercial airports, ~~and~~ the automobile racing industry, and qualified historic sites.

Section 7. KRS 244.500 is amended to read as follows:

- (1) No person holding a license to sell malt beverages shall offer or give anything tangible of value as a premium for the return of caps, stoppers, corks, stamps, wrappers, coupons, or labels taken from any bottle, case, barrel, or package containing malt beverages or to offer or give anything of value as a premium, gift, or prize for any purpose in connection with the sale of malt beverages.
- (2) Subsection (1) of this section shall not apply to the return of moneys specifically deposited for the return of the original containers to the owners; nor shall subsection (1) of this section prohibit brewers, wholesalers, or distributors from giving anything of value as a premium, gift, or prize to wholesalers, distributors, or their employees in connection with sales incentive programs.
- (3) Subsection (1) of this section shall not apply to brewer-sponsored national sweepstakes in which major prizes, not including rebates, price discount coupons, or brand-related novelty items are given to consumers based on certificates found in malt beverage packages or on point of sale materials. Malt beverage distributors, retail licensees, and their employees shall not be eligible to redeem the certificates or participate in the national sweepstakes.
- (4) Subsection (1) of this section shall not prohibit brewers, out-of-state brewers, wholesalers, distributors, or retail licensees from selling malt beverages packaged in or securely bundled with brand-related novelty items if the price charged for the packaged or bundled malt beverages specifically includes the cost of the brand-related novelty item.

SECTION 8. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

- (1) In order to promote economic development and tourism, other provisions of the Kentucky Revised Statutes notwithstanding, a city or county in which prohibition is in effect may, by petition in accordance with KRS 242.020, hold a local option election on the sale of alcoholic beverages by the drink at restaurants and dining facilities that seat a minimum of fifty (50) persons and derive a minimum of seventy percent (70%) of their gross receipts from the sale of food if alcoholic beverages are purchased in conjunction with a meal. The election shall be held in accordance with

KRS 242.030(1), (2), and (5), 242.040, and 242.060 to 242.120, and the proposition on the ballot shall state "Are you in favor of the sale of alcoholic beverages by the drink in (name of city or county) at restaurants and dining facilities with a seating capacity of at least fifty (50) persons and which derive at least seventy percent (70%) of their gross receipts from the sale of food if the alcoholic beverage is purchased in conjunction with a meal?". If the majority of the votes in an election held pursuant to this subsection are "Yes," licenses may be issued to qualified restaurants and dining facilities and the licensees may be regulated and taxed in accordance with KRS 242.185(4) and (5).

- (2) The sale of alcoholic beverages under subsection (1) of this section shall be incidental to the sale of a meal. Restaurants and dining facilities that are issued a license under subsection (1) of this section shall not have an open bar and shall be prohibited from selling alcoholic beverages to any person who has not purchased or does not purchase a meal. Alcoholic beverages shall be deemed to have been purchased in conjunction with a meal if the alcoholic beverages are served after the meal is ordered and no more than one-half (1/2) hour after the meal is completed.

Section 9. KRS 243.033 is amended to read as follows:

- (1) A caterer's license may be issued as a supplementary license to a caterer that holds a retail package liquor license or a distilled spirits and wine by the drink retail license or a limited restaurant license.
- (2) The caterer's license may be issued as a primary license to a caterer in any wet territory for the premises that serves as the caterer's commissary and designated banquet hall. No primary caterer's license shall be issued to a premises that operates as a restaurant. The alcoholic beverage stock of the caterer shall be kept under lock and key at the licensed premises during the time that the alcoholic beverages are not being used in conjunction with a catered function.
- (3) The caterer's license shall authorize the caterer to:
 - (a) Purchase and store alcoholic beverages in the manner prescribed in KRS 243.250, 243.280, and 244.310;
 - (b) Transport, sell, serve, and deliver malt beverages by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and malt beverages for a customer and his or her guests, in:
 1. Cities and counties in which prohibition is not in effect under KRS 242.185(6) or Section 8 of this Act if the receipts from the catering of food at any catered event are at least seventy percent (70%) of the gross receipts from the catering of both food and malt beverages; or
 2. All other wet territory if the receipts from the catering of food at any catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and malt beverages;
 - (c) Transport, sell, serve, and deliver distilled spirits and wine by the drink at locations away from the licensed premises or at the caterer's designated banquet hall in conjunction with the catering of food and alcoholic beverages for a customer and his guests, in:
 1. Cities and counties in which prohibition is not in effect under KRS 242.185(6) or Section 8 of this Act if the receipts from the catering of food at any catered event are at least seventy percent (70%) of the gross receipts from the catering of both food and alcoholic beverages;
 2. Cities of the fourth class and counties containing cities of the fourth class in which prohibition is not in effect under KRS 242.185(1) to (5) if the receipts from the catering of food at any catered event are at least fifty percent (50%) of the gross receipts from the catering of both food and alcoholic beverages; or
 3. All other wet territory in which the sale of distilled spirits and wine by the drink is authorized if the receipts from the catering of food at any catered event are at least thirty-five percent (35%) of the gross receipts from the catering of both food and alcoholic beverages;
 - (d) Receive and fill telephone orders for alcoholic beverages in conjunction with the ordering of food for a catered event; and
 - (e) Receive payment for alcoholic beverages served at a catered event on a by-the-drink or by-the-event basis. The caterer may bill the host for by-the-function sales of alcoholic beverages in the usual course of the caterer's business.
- (4) A caterer licensee shall not cater alcoholic beverages at locations for which retail alcoholic beverage licenses or special temporary licenses have been issued.
- (5) A caterer licensee shall not cater distilled spirits and wine on Sunday except in territory in which the Sunday sale of distilled spirits and wine is permitted under the provisions of KRS 244.290 and 244.295. A caterer licensee shall not cater malt beverages on Sunday except in territory in which the Sunday sale of malt beverages is permitted under the provisions of KRS 244.480.
- (6) The location at which alcoholic beverages are sold, served, and delivered by a caterer, pursuant to this section, shall not constitute a public place for the purpose of KRS Chapter 222. If the location is a multi-unit structure, only the unit or units at which the function being catered is held shall be excluded from the public place provisions of KRS Chapter 222.
- (7) The caterer licensee shall post a copy of his caterer's license at the location of the function for which alcoholic beverages are catered.
- (8) The name and license numbers of the caterer shall be painted or securely attached, in a contrasting color, in a form

prescribed by the board by promulgation of an administrative regulation, upon all vehicles used by the caterer to transport alcoholic beverages.

- (9) All restrictions and prohibitions applying to a distilled spirits and wine retail drink licensee not inconsistent with this section, shall apply to the caterer licensee.
- (10) The caterer licensee shall maintain records as set forth in KRS 244.150 and in administrative regulations promulgated by the board.

The Senate Committee Amendment No. 1 to the Senate Committee Substitute to **HB 138** is as follows:

HB 138, On page 20, after line 26, by inserting the following:

"Section 12. KRS 244.290 is amended to read as follows:

- (1) A premises that is licensed to sell distilled spirits or wine at retail shall not be permitted to remain open during the hours the polls are open on any regular or primary election day unless the licensee provides a separate locked department in which all stock of distilled spirits and wine are kept during the hours the polls are open.
- (2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS Chapter 242.
- (3) Except as provided in KRS 243.050, a premise for which there has been granted a license for the sale of distilled spirits or wine at retail by the drink or by the package shall not remain open for any purposes between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday, unless:
 - (a) The licensee provides a separate locked department in which all stocks of distilled spirits and wine are kept during those times; or
 - (b) The legislative body of a city of the first, second, third, or fourth class or an urban-county government, or the fiscal court of a county containing a city of the first, second, third, or fourth class, has otherwise established the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries.
- (4) In any county containing a city of the first, second, or third class or any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of the city or county may, by ordinance, permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the designated closing hour of that locality at hotels, motels, or restaurants which:
 - (a) Have dining facilities with a minimum seating capacity of one hundred (100) people at tables; and
 - (b) Receive at least fifty percent (50%) or more of their gross annual income from the dining facilities from the sale of food.
- (5) In any county containing a city of the first class or in any city located therein in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the distilled spirits director may issue a license to holders of a distilled spirits and wine retail drink quota license or a special private club license which permits the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until the prevailing time for that locality.
- (6) Any city of the fourth class or county containing a city of the fourth class which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink under KRS 242.185(1), may also regulate and provide for the limited sale of distilled spirits and wine by the drink on Sundays if:
 - (a) The limited Sunday drink licenses are issued only to those hotels, motels, inns, or restaurants authorized to sell alcoholic beverages by the drink under KRS 242.185(3); and
 - (b) The holders of distilled spirits and wine retail drink licenses have applied to the state director and meet all other legal requirements for obtaining a limited Sunday liquor by the drink license.
- (7) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, in any county containing an urban-county government where Sunday sales of distilled spirits and wine by the drink have been previously approved, the legislative body of the urban-county government may by ordinance extend Sunday sales to any premises licensed to sell distilled spirits and wine by the drink located within the territorial boundaries of the urban-county government and may by ordinance establish the hours such distilled spirits and wine by the drink may be sold.

Section 13. KRS 244.295 is amended to read as follows:

- (1) In any county containing an urban-county government, a premises that has been granted a license for the sale of distilled spirits or wine at retail shall not be permitted to remain open for any purpose between midnight and 6 a.m., or at any time during the twenty-four (24) hours of a Sunday, or during the hours the polls are open on any regular or primary election day unless the licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and the department is kept locked during the time mentioned above. The licensee shall be deemed to have complied with this section; except that the legislative body of an urban-county government in which traffic in distilled

spirits and wine is permitted under KRS Chapter 242 shall have the exclusive right and power, by ordinance, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries. Provided, however, distilled spirits or wine may not be sold in any portion of a county containing an urban-county government during the twenty-four (24) hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in subsections (2) and (3) of this section, and distilled spirits or wine may not be sold on any election day while the polls are still open; and provided, also, that all stocks of distilled spirits and wine must be kept locked during the _____ hours in which the licensee is prohibited from selling same.

- (2) In any county containing an urban-county government in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of county)?"
- (3) In any county containing an urban-county government in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, the legislative body of such urban-county government may by resolution or ordinance submit to the electorate a proposal to permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until a closing hour specified in the proposal by hotels, motels, convention centers, convention hotel complexes, restaurants, racetracks, and commercial airports which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty percent (50%) or more of gross annual income from dining facilities by the sale of food. The proposal to be submitted to the electorate shall be so framed that any voter who wishes to vote in favor of the limited Sunday sales of distilled spirits and wine by the drink may signify his approval by voting "yes" and any voter who wishes to vote against the limited Sunday sales of distilled spirits and wine by the drink may do so by voting "no." The election shall be held on a date stipulated by the legislative body, and the cost of the election shall be borne by the urban-county government. The proposal shall be published pursuant to KRS Chapter 424 and shall also be advertised by written or printed handbills posted at not less than five (5) conspicuous places in each precinct of the county for two (2) weeks before the election. The general election laws, including penalties for violations, shall apply to the election, except where those laws are inconsistent with the provisions of this section. The proposal submitted to the electorate shall be effective immediately if a majority of those voting on the proposal shall vote "yes."
- (4) In any county containing an urban-county government in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in subsections (2) and (3) of this section, holders of distilled spirits and wine retail drink licenses may apply to the director of the Division of Distilled Spirits for a special Sunday sale retail drink license. Upon receipt of an application and payment of the prescribed fee, the director shall issue a license.
- (5) Notwithstanding any provision of the Kentucky Revised Statutes to the contrary, in any county containing an urban-county government where Sunday sales of distilled spirits and wine by the drink have been previously approved, the legislative body of the urban-county government may by ordinance extend Sunday sales to any premises licensed to sell distilled spirits and wine by the drink located within the territorial boundaries of the urban-county government and may by ordinance establish the hours such distilled spirits and wine by the drink may be sold.

Section 14. KRS 244.480 is amended to read as follows:

- (1) Except as provided in subsection (3) of this section, no brewer or distributor shall deliver any malt beverages on Sunday or between the hours of midnight and 6 a.m. on any other day.
- (2) Except as provided in subsection (3) of this section, no retailer shall sell, give away, or deliver any malt beverages between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday or during the hours the polls are open on a primary or regular election day.
- (3) The legislative body of an urban-county government or a city of the first, second, third, or fourth class or of a county containing an urban-county government or a city of the first, second, third, or fourth class in which traffic in malt beverages is permitted by KRS Chapter 242, shall have the exclusive power to establish the times in which malt beverages may be sold within its jurisdictional boundaries, including Sunday sales if the hours so fixed:
 - (a) Shall not prohibit the sale, gift, or delivery of any malt beverages between 6 a.m. and midnight during any day, except Sunday; and
 - (b) Prohibit the sale of malt beverages on any primary or regular election day during the hours the polls are open."

Representative Keene moved that the House concur in the Senate Committee Substitute to **HB 138**.

On the roll call the vote was: Yeas 56, Nays 40. (See March 12, 2007, roll call on **HB 138** - Appendix.)

The House did concur in the Senate Committee Substitute to **HB 138**.

Representative Keene moved that the House concur in the Senate Committee Amendment No. 1 to the Senate Committee Substitute to **HB 138**. Agreed.

Representative Keene moved that **HB 138**, by way of Senate Committee Substitute, as amended by the Senate, be passed.

On the roll call the vote was: **Yeas 55, Nays 41.** (See March 12, 2007, roll call on **HB 138** - Appendix.)

HB 138, by way of Senate Committee Substitute, as amended by the Senate, was passed and the title agreed to.

Representative Keene moved that the vote by which **HB 138**, by way of Senate Committee Substitute, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 100 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **SB 100** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See March 12, 2007, roll call on **SB 100** - Appendix.)

SB 100 was passed and the title agreed to.

Representative Riggs moved that the vote by which **SB 100** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 25 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved that **SB 25** be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See March 12, 2007, roll call on **SB 25** - Appendix.)

SB 25 was passed and the title agreed to.

Representative McKee moved that the vote by which **SB 25** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 103, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoffman moved the adoption of the House Committee Substitute to **SB 103**. Agreed.

Representative Hoffman moved that **SB 103**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See March 12, 2007, roll call on **SB 103** - Appendix.)

SB 103, by way of House Committee Substitute, was passed and the title agreed to.

Representative Hoffman moved that the vote by which **SB 103**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 22, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Pullin moved the adoption of House Floor Amendment No. 1 to **SB 22**. Agreed.

Representative Pullin moved the adoption of House Floor Amendment No. 2 to **SB 22**. Agreed.

Representative Pullin moved that **SB 22**, as amended, be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See March 12, 2007, roll call on **SB 22** - Appendix.)

SB 22, as amended, was passed and the title agreed to.

Representative Pullin moved that the vote by which **SB 22**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 145 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **SB 145** be passed.

On the roll call the vote was: **Yeas 81, Nays 18.** (See March 12, 2007, roll call on **SB 145** - Appendix.)

SB 145 was passed and the title agreed to.

Representative Riggs moved that the vote by which **SB 145** was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 109 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **SJR 109** be adopted.

On the roll call the vote was: **Yeas 99, Nays 0.** (See March 12, 2007, roll call on **SJR 109** - Appendix.)

SJR 109 was adopted.

Representative Webb moved that the vote by which **SJR 109** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 30, with House Committee Substitutes, House Committee Amendment, and House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Keene moved the adoption of the House Committee Substitute No. 2 to **SB 30**. Agreed.

Representative Keene moved that **SB 30**, by way of House Committee Substitute No. 2, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See March 12, 2007, roll call on **SB 30** - Appendix.)

SB 30, by way of House Committee Substitute, was passed.

Representative Keene moved the adoption of House Committee Amendment No. 1 Title to **SB 30**. Agreed.

Representative Keene moved that the vote by which **SB 30**, by way of House Committee Substitute, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 177, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Floor Amendment No. 3 to **HB 177** is as follows:

HB 177, On page 1, after the ";" at the end of the first WHEREAS clause by inserting the word "and";

On page 1, after the first WHEREAS clause by inserting the following:

"WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Junction City, in Boyle County, is such to justify its being reclassified as a city of the fourth class;" and

On page 1, after line 2, by inserting the following:

"Section 2. The City of Junction City, in Boyle County, is transferred from the fifth to the fourth class of cities."

The Senate Floor Amendment No. 2 Title to **HB 177** is as follows:

HB 177, Amend the title to read "AN ACT relating to the classification of the City of Crestview Hills, in Kenton County and the City of Junction City, in Boyle County."

Representative Draud moved that the House concur in Senate Floor Amendment No. 3 to **HB 177**. Agreed.

Representative Draud moved that the House concur in Senate Floor Amendment No. 2 Title to **HB 177**. Agreed.

Representative Draud moved that the **HB 177**, as amended by the Senate be passed.

Representative Hoover moved that **HB 177** be laid on the Clerk's desk.

On the roll call the vote was: **Yeas 91, Nays 0.** (See March 12, 2007, roll call on **HB 177** - Appendix.)

HB 177 was laid on the Clerk's desk.

HB 337, with Senate Committee Substitute and Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 337** is as follows:

HB 337, AN ACT relating to Medicaid reimbursement for smoking cessation treatment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.560 is amended to read as follows:

- (1) The scope of medical care for which the Cabinet for Health and Family Services undertakes to pay shall be designated and limited by regulations promulgated by the cabinet, pursuant to the provisions in this section. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of Medical Assistance Program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any Medical Assistance Program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the Medical Assistance Program and the dentist prior to the removal of the teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for health and family services after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available, including, but not limited to, the following categories, except where the aid is for the purpose of obtaining an abortion:
 - (a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;
 - (b) Nursing-home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;
 - (c) Drugs, nursing care, medical supplies, and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist. For purposes of this paragraph, drugs shall include those amino acid modified preparations and low-protein modified food products for the treatment of the following inherited metabolic diseases, if the amino acid modified preparations or low-protein modified food products are prescribed for therapeutic treatment and are administered under the direction of a physician, and are limited to the following conditions:
 1. Phenylketonuria;
 2. Hyperphenylalaninemia;
 3. Tyrosinemia (types I, II, and III);
 4. Maple syrup urine disease;
 5. A-ketoacid dehydrogenase deficiency;
 6. Isovaleryl-CoA dehydrogenase deficiency;
 7. 3-methylcrotonyl-CoA carboxylase deficiency;
 8. 3-methylglutaconyl-CoA hydratase deficiency;
 9. 3-hydroxy-3-methylglutaryl-CoA lyase deficiency (HMG-CoA lyase deficiency);
 10. B-ketothiolase deficiency;
 11. Homocystinuria;
 12. Glutaric aciduria (types I and II);
 13. Lysinuric protein intolerance;
 14. Non-ketotic hyperglycinemia;
 15. Propionic acidemia;
 16. Gyrate atrophy;
 17. Hyperornithinemia/hyperammonemia/homocitrullinuria syndrome;
 18. Carbamoyl phosphate synthetase deficiency;
 19. Ornithine carbamoyl transferase deficiency;

- 20. Citrullinemia;
 - 21. Argininosuccinic aciduria;
 - 22. Methylmalonic acidemia; and
 - 23. Argininemia;
- (d) Physician, podiatric, and dental services;
 - (e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses shall be provided only to children under age twenty-one (21);
 - (f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent;
 - (g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where the students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified in this paragraph;
 - (h) Services provided by health-care delivery networks as defined in KRS 216.900; ~~and~~
 - (i) Services provided by midlevel health-care practitioners as defined in KRS 216.900; and
 - (j) Smoking cessation treatment interventions or programs prescribed by a physician, advanced registered nurse practitioner, physician assistant, or dentist, including but not limited to counseling, telephone counseling through a quitline, recommendations to the recipient that smoking should be discontinued, and prescription and over-the-counter medications and nicotine replacement therapy approved by the United States Food and Drug Administration for smoking cessation, if funds are available.
- (2) Payments for hospital care, nursing-home care, and drugs or other medical, ophthalmic, podiatric, and dental supplies shall be on bases which relate the amount of the payment to the cost of providing the services or supplies. It shall be one (1) of the functions of the council to make recommendations to the Cabinet for Health and Family Services with respect to the bases for payment. In determining the rates of reimbursement for long-term-care facilities participating in the Medical Assistance Program, the Cabinet for Health and Family Services shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:
- (a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;
 - (b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars (\$15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the United States Department of Labor. Medically equipped motor vehicles, vans, or trucks shall be exempt from the fifteen thousand dollar (\$15,000) limitation. Costs exceeding this limit shall not be reimbursable and shall be borne by the facility. Costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the Cabinet for Health and Family Services if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;
 - (c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;
 - (d) The cost of contracts, loans, or other payments made by the facility to owners, administrators, or both, unless the payments are for services which would otherwise be necessary to the operation of the facility and the services are required by regulations of the Cabinet for Health and Family Services. Any other payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;
 - (e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators, and other indirect payments made to the owner, unless the payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the Cabinet for Health and Family Services; and
 - (f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship shall be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles, and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business. An exception to the relationship shall exist if fifty-one

percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

- (3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.
- (4) The rules and regulations of the Cabinet for Health and Family Services shall require that a written statement, including the required opinion of a physician, shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing the medical services.
- (5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. It shall not be necessary that the amount of payments for units of services be uniform for the entire state but amounts may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in each locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, as long as the place of practice is within the boundaries of the state.
- (6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.
- (7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless the recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advanced registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under the physician's supervision.
- (8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of the payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.
- (9) No long-term-care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986, shall deny admission of a person to a bed certified for reimbursement under the provisions of the Medical Assistance Program solely on the basis of the person's paying status as a Medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the Medical Assistance Program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for Medicaid reimbursement. No facility may decertify a bed occupied by a Medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.
- (10) Family-practice physicians practicing in geographic areas with no more than one (1) primary-care physician per five thousand (5,000) population, as reported by the United States Department of Health and Human Services, shall be reimbursed one hundred twenty-five percent (125%) of the standard reimbursement rate for physician services.
- (11) The Cabinet for Health and Family Services shall make payments under the Medical Assistance program for services which are within the lawful scope of practice of a chiropractor licensed pursuant to KRS Chapter 312, to the extent the Medical Assistance Program pays for the same services provided by a physician.
- (12) The Medical Assistance Program shall use the form and guidelines established pursuant to KRS 304.17A-545(5) for assessing the credentials of those applying for participation in the Medical Assistance Program, including those licensed and regulated under KRS Chapters 311, 312, 313, 314, 315, and 320, any facility required to be licensed pursuant to KRS Chapter 216B, and any other health care practitioner or facility as determined by the Department for Medicaid Services through an administrative regulation promulgated under KRS Chapter 13A.

Section 2. The General Assembly finds and declares that:

- (1) Diabetes is a chronic disease in which the body does not produce enough insulin, a hormone needed for the proper metabolism of carbohydrates, which results in a high blood sugar level;
- (2) The serious long-term complications associated with high blood sugar include blindness, lower-extremity amputation, kidney failure, and cardiovascular disease which shortens life by approximately 13 years;
- (3) America is facing a diabetes epidemic with an estimated 20.8 million Americans living with the disease and it is estimated that one in three people born in the year 2000 or later will develop diabetes;
- (4) Diabetes is a leading health problem among Kentuckians, ranking seventh in the nation in the largest percentage of adults with diabetes and is the fifth leading cause of death for Kentuckians;
- (5) Overweight and obesity are strongly linked to the development of type 2 diabetes;
- (6) Kentuckians are at great risk of developing diabetes because the prevalence of obesity in Kentucky is higher than the national average for males and females (27 percent in Kentucky males compared to 23 percent for the nation and 23.9 percent in Kentucky females compared to 22 percent for the nation);

(7) In recent years, there has been an alarming increase in the number of younger people diagnosed with diabetes, which is attributable to lifestyle and an excess body mass;

(8) The cornerstones for the prevention and control of diabetes include education, early screening, and early treatment;

(9) Diabetes can be prevented or the onset delayed by maintaining normal body weight and engaging in regular physical activity, and even modest weight loss has been shown to lower blood sugar levels, improve fat level in the blood, lower blood pressure, and treat other metabolic diseases;

(10) Body mass index (BMI) is a commonly used tool to measure the amount of weight relative to a person's height, is easy to calculate, and is readily available on an easy-to-read chart which converts height and weight to BMI;

(11) The National Heart, Lung, and Blood Institute guidelines define overweight as a body mass index equal or greater than 25 and obesity as a BMI equal to or greater than 30;

(12) The American Diabetes Association (ADA), American Heart Association (AHA), and the Centers for Disease Control and Prevention (CDC) recognize that weight management is of great importance in reducing cardiovascular risks for people with type 2 diabetes;

(13) The ADA recommends weight loss for all overweight or obese adults who have, or who are at risk for developing, type 2 diabetes; and

(14) The adoption of the ADA, AHA, and CDC guidelines for the prevention and treatment of diabetes, including the monitoring of BMI, is of great significance in improving the health status of Kentuckians.

SECTION 3. A NEW SECTION OF KRS CHAPTER 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

- (1) The Cabinet for Health and Family Services is urged to encourage primary care providers participating in the Medicaid program to obtain and record the body mass index of Medicaid recipients on at least an annual basis.
- (2) The Cabinet for Health and Family Services is urged to encourage health care providers to use the body mass index record and the American Diabetes Association guidelines in the treatment of Medicaid recipients to prevent or delay the onset of diabetes mellitus, control diabetes, and prevent the long-term complications associated with diabetes.

The Senate Floor Amendment No. 2 to HB 337 is as follows:

HB 337, On page 10, after line 4, by inserting the following:

"SECTION 4. KRS CHAPTER 319B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

- (1) "Board" means the Kentucky Board of Prosthetics, Orthotics, and Pedorthics;
- (2) "Certified orthotic fitter" means a person who is certified under this chapter to fit the following non-custom orthotic devices:
 - (a) Cervical orthoses not requiring more than minor modification;
 - (b) Pressure gradient hose;
 - (c) Trusses;
 - (d) Prefabricated spinal orthoses, except those used in the treatment of scoliosis, rigid body jackets made of thermoformable materials, and "halo" devices; and
 - (e) Prefabricated orthoses of upper and lower extremities, except those used in the treatment of bone fractures;
- (3) "Custom fabricated and fitted device" means an orthosis, prosthesis, or pedorthic device that is fabricated to original measurements, or to a mold for use by a patient in accordance with a prescription from a health care practitioner or provider authorized by law to write such prescriptions, and that requires substantial clinical and technical judgment in its design and fitting;
- (4) "Custom fitted device" means a prefabricated orthosis, prosthesis, or pedorthic device sized or modified for use by the patient in accordance with a prescription from a health care practitioner or provider authorized by law to write such prescriptions that requires substantial clinical judgment and substantive alteration for appropriate use;
- (5) "Facility" means the business location where orthotic, prosthetic, or pedorthic care is provided. In the case of an orthotic/prosthetic facility, the orthotic/prosthetic facility has the appropriate clinical and laboratory space and equipment to provide comprehensive orthotic or prosthetic care; and, in the case of a pedorthic facility, the pedorthic facility has the appropriate clinical space and equipment to provide pedorthic care. Licensed orthotists, prosthetists, and pedorthists must be available to either provide care or to supervise the provision of care by nonlicensed staff;
- (6) "Licensed orthotist" means a person who is licensed under this chapter to practice orthotics and who represents the person to the public by title or description of services that includes the term "orthotic," "orthotist," "brace," or a similar title or description of services;
- (7) "Licensed pedorthist" means a person who is licensed under this chapter to practice pedorthics and who represents the

person to the public by the title or description of services that includes the term "pedorthic," "pedorthist," or a similar title or description of services;

- (8) "Licensed prosthetist" means a person who is licensed under this chapter to practice prosthetics and who represents the person to the public by title or description of services that includes the term "prosthetic," "prosthetist," "artificial limb," or a similar title or description of services;
- (9) "Orthosis" means a custom-designed, fabricated, fitted, or modified device to correct, support, or compensate for a neuro-musculoskeletal disorder or acquired condition. "Orthosis" does not include fabric or elastic supports, corsets, arch supports, low-temperature plastic splints, trusses, elastic hoses, canes, crutches, soft cervical collars, dental appliances, or other similar devices that are carried in stock and sold without modification as "over-the-counter" items by a drug store, department store, corset shop, or surgical supply facility;
- (10) "Orthotic and prosthetic education program" means a course of instruction accredited by the Commission on Accreditation of Allied Health Education Programs, consisting of:
 - (a) An adequate curriculum of college level training and instruction in math, physics, biology, chemistry, and psychology; and
 - (b) A specific curriculum in orthotic or prosthetic courses, including:
 - 1. Lectures covering pertinent anatomy, biomechanics, pathomechanics, prosthetic-orthotic components and materials, training and functional capabilities, prosthetic or orthotic performance evaluation, prescription considerations, etiology of amputations and disease processes necessitating prosthetic or orthotic use, and medical management;
 - 2. Subject matter related to pediatric and geriatric problems;
 - 3. Instruction in acute care techniques, such as immediate and early postsurgical prosthetics and fracture bracing techniques; and
 - 4. Lectures, demonstrations, and laboratory experiences related to the entire process of measuring, casting, fitting, fabricating, aligning, and completing prostheses or orthoses;
- (11) "Orthotics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing an orthosis, under an order from a licensed health care practitioner or provider authorized by law to issue such an order, for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity;
- (12) "Orthotist" means a person who is specifically trained and educated to provide or manage the provision of a custom-designed, fabricated, modified and fitted external orthosis to an orthotic patient, based on a clinical assessment and a prescription from a health care practitioner or provider authorized by law to write such prescriptions, to restore physiological function or cosmesis;
- (13) "Over-the-counter device" means a prefabricated, mass-produced device that is prepackaged and requires no professional advice or judgment in either size selection or use, including fabric or elastic supports, corsets, generic arch supports, and elastic hoses;
- (14) "Pedorthic device" means therapeutic footwear, foot orthoses for use at the ankle or below, and modified footwear made for therapeutic purposes, as prescribed by a licensed health care practitioner or provider authorized by law to issue such prescription. "Pedorthic device" does not include nontherapeutic accommodative inlays or nontherapeutic accommodative footwear, regardless of method of manufacture, shoe modifications made for nontherapeutic purposes, unmodified, over-the-counter shoes, or prefabricated foot care products;
- (15) "Pedorthic education program" means a course of instruction accredited by the Board for Certification in Pedorthics, consisting of:
 - (a) A basic curriculum of instruction in foot-related pathology of diseases, anatomy, and biomechanics;
 - (b) A specific curriculum in pedorthic courses, including lectures covering shoes, foot orthoses, and shoe modifications, pedorthic components and materials, training and functional capabilities, pedorthic performance evaluation, prescription considerations, etiology of disease processes necessitating use of pedorthic devices, medical management, and subject matter related to pediatric and geriatric problems; and
 - (c) Lectures, demonstrations, and laboratory experiences related to the entire process of measuring and casting, fitting, fabricating, aligning, and completing pedorthic devices;
- (16) "Pedorthics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a pedorthic device, under an order from a licensed health care practitioner or provider authorized by law to issue such order for the correction or alleviation of neuromuscular or musculoskeletal dysfunction, disease, injury, or deformity;
- (17) "Pedorthist" means a person who measures, designs, fabricates, fits, or services pedorthic devices and assists in the formulation of the order of pedorthic devices, as ordered by a licensed health care practitioner or provider authorized by law to issue such order for the support or correction of disabilities caused by neuro-musculoskeletal diseases, injuries, or deformities;

- (18) "Person" means a natural person;
- (19) "Prosthesis" means a custom designed, fabricated, fitted, or modified device to replace an absent external limb, for the purpose of restoring physiological function or cosmesis. "Prosthesis" does not include artificial eyes, ears, or dental appliances, cosmetic devices such as artificial breasts, eyelashes, or wigs, or other devices that do not have a significant impact on the musculoskeletal functions of the body;
- (20) "Prosthetics" means the science and practice of evaluating, measuring, designing, fabricating, assembling, fitting, adjusting, or servicing a prosthesis, under an order from a licensed health care practitioner or provider authorized by law to issue such order;
- (21) "Prosthetist" means a person who is specifically trained and educated to provide or manage the provision of a custom designed, fabricated, modified, and fitted external limb prosthesis to a prosthetic patient, based on a clinical assessment and a prescription from a health care practitioner or provider authorized to write such prescriptions, to restore physiological function or cosmesis;
- (22) "Prosthetist/Orthotist" means a person who practices both disciplines of prosthetics and orthotics and who represents the person to the public by title or by description of services; and
- (23) "Resident" means a person who has completed an education program in either orthotics or prosthetics and is continuing such person's clinical education in a residency program approved by the board.

SECTION 5. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

There is hereby established the Kentucky Board of Prosthetics, Orthotics, and Pedorthics, which shall consist of five (5) members who shall be appointed by the Governor.

- (1) One (1) member shall be a citizen at large who is not affiliated with and does not have more than five percent (5%) financial interest in any one (1) health care profession or business.
- (2) Four (4) members shall be appointed and vacancies shall be filled from four (4) separate lists of three (3) names each submitted by the Kentucky Orthotics and Prosthetics Association. Each person on this list shall be a licensed orthotist, prosthetist, or pedorthist licensed under this chapter. All shall be residents of Kentucky and shall have engaged in the unrestricted practice of orthotics, prosthetics, or pedorthics within this state for at least two (2) years without disciplinary action.
- (3) All appointments to the board after the effective date of this Act shall be for a term of four (4) years and until their successors are appointed and qualify. No member shall serve for more than two (2) successive terms, or for more than ten (10) consecutive years. The Governor may remove any member of the board for misconduct, incompetence, or neglect of duty.
- (4) The board shall meet at least annually and may meet at such other times as necessary to complete the business required. A majority of the members of the board shall constitute a quorum for the transaction of business. Annually the board shall elect from its membership a chair, a secretary, and a chair-elect.
- (5) There shall be no liability on the part of, and no action for damages against, any current or former board member, representative, agent, or employee of the board, when the person is functioning within the scope of board duties, acting without malice, and with the reasonable belief that the actions taken by him or her are warranted by law.
- (6) Each board member shall receive, in addition to travel, lodging, and other actual and necessary expenses, a per diem not to exceed one hundred twenty dollars (\$120) for each day the member is actually engaged in the discharge of official duties approved by the board. The board shall, by promulgation of administrative regulations, set the amount of the per diem.

SECTION 6. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

The board shall:

- (1) Promulgate administrative regulations to:
- (a) Establish licensure and certification categories and issue licenses for orthotists, prosthetists, and pedorthists, and certificates for certified orthotic fitters;
- (b) Establish the qualifications, educational courses, curriculum, hours, and standards that are prerequisite to issuance of all levels and types of licensure or certification established pursuant to paragraph (a) of this subsection. Any qualifications established by the board shall include the following:
1. To qualify for a license to practice orthotics or prosthetics, a person shall:
 - a. Possess a baccalaureate degree or semester hours equivalent to four (4) years of study at a four-year college or university;
 - b. Complete the amount of formal training including but not limited to any necessary hours of classroom education and clinical practice required by the board;
 - c. Complete a clinical residency in the professional area for which a license is sought, in accordance with standards, guidelines, or procedures for residencies inside or outside this state established and approved by the board. The majority of training shall be devoted to services performed under the supervision of a licensed practitioner or provider of orthotics or prosthetics

or a person who has obtained certification from the American Board for Certification in Orthotics and Prosthetics, Inc. or the Board for Orthotist/Prosthetist Certification;

d. Pass all written, practical, and oral examinations that are required and approved by the board; and

e. Be qualified to practice in accordance with commonly accepted standards of orthotic and prosthetic care acceptable to the board;

2. To qualify for a license to practice pedorthics, a person shall:

a. Possess a high school diploma or comparable credential approved by the board;

b. Complete the amount of formal training including but not limited to any necessary hours of classroom education and clinical practice required by the board;

c. Pass all examinations that are required and approved by the board;

d. Complete a qualified work experience program or internship in pedorthics, in accordance with standards and procedures established by the board; and

e. Be qualified to practice in accordance with commonly accepted standards of pedorthic care acceptable to the board;

3. To qualify for a license to practice as a certified orthotic fitter, a person shall:

a. Possess a high school diploma or comparable credential approved by the board;

b. Complete the amount of formal training including but not limited to any necessary hours of classroom education and clinical practice required by the board;

c. Pass all examinations that are required and approved by the board;

d. Complete a qualified work experience program or internship, in accordance with standards and procedures established by the board; and

e. Be qualified to practice in accordance with commonly accepted standards of care acceptable to the board; and

4. A person may be licensed or certified in more than one discipline;

(c) Establish the circumstances or conditions, if any, under which persons shall be entitled to exemption from licensure or certification after completion of training, while waiting to take or receive the results of any required examination, or upon meeting specified minimum educational and clinical qualifications;

(d) Select the examination or examinations to be utilized as the board's licensure or certification examination or examinations and the prerequisites for admission to the examination or examinations. The board is authorized to enter into a contract or agreement with the chosen examination service or services, or select an intermediary between the board and the examination service or services, to process applicants for the examination or examinations;

(e) Establish any other criteria for issuance of licensure or certification that are reasonably related to the safe and competent performance of prosthetics, orthotics, and pedorthics;

(f) Accredit continuing education courses;

(g) 1. Establish the fees to be paid for each of the following:

a. Application for licensure or certification;

b. Renewal or reinstatement of licensure or certification;

c. Late renewal of licensure or certification;

d. Application for continuing education course accreditation; and

e. Duplicate or replacement license or certificate;

2. The fees shall be set at a level that is adequate to pay all of the expenses of implementing and administering licensure or certification under this chapter;

(h) Establish the continuing education requirements for license or certificate holders, which shall include the frequency of reporting, number of hours, types of courses, approval of courses, methods of proving compliance, penalties for violation, and all fees necessary for implementation of the continuing education process; and

(i) Delineate the standards of practice for persons licensed or certified under this chapter relative to therapeutic footwear and medical devices for the foot and ankle; and

(2) Administer and enforce the provisions of this chapter and evaluate the qualifications of license and certificate applicants.

SECTION 7. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

The board may:

(1) Employ needed personnel and contract with the Division of Occupations and Professions within the Finance and

Administration Cabinet for the provision of administrative services;

- (2) Issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths, and investigate allegations of practices violating the provisions of this chapter;
- (3) Seek injunctive relief in the Circuit Court of the county where the violation occurred to stop the unlawful practice of prosthetics, orthotics, and pedorthics by unlicensed persons;
- (4) Conduct hearings pursuant to KRS Chapter 13B and keep records and minutes necessary to carry out the functions of this chapter;
- (5) Suspend or revoke licenses or certificates or impose supervisory or probationary conditions upon licensees or certificate holders, or impose administrative disciplinary fines, issue written reprimands or admonishments, or any combination thereof;
- (6) Grant retired or inactive licensure or certification status under conditions set forth by the board by the promulgation of administrative regulations; and
- (7) Issue advisory private letter rulings to any affected licensee or certificate holder who makes such a request regarding any matters within the board's primary jurisdiction. Any private letter ruling shall affect only the person making the inquiry and shall have no precedential value for any other inquiry or future contested case that might come before the board. Any dispute regarding a private letter ruling may, if the board chooses to do so, be resolved pursuant to KRS Chapter 13B.

SECTION 8. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) Any license or certificate issued by the board shall contain the name of the person to whom it is issued, the address of the person, the date and number of the license or certificate, and other information the board deems necessary. The address contained on the license or certificate shall be the address where all correspondence and renewal forms from the board shall be sent. Any person whose address changes shall, within thirty (30) days after the address change, notify the board of the address change. The most recent address contained in the board's records for each license or certificate holder shall be the address deemed sufficient for purposes of service of process.
- (2) Every licensee or certificate holder shall either keep his or her license or certificate prominently displayed in the office or place in which the licensee or certificate holder practices or have it stored in a place from which it can be immediately produced upon request of a patient or a representative of the board.
- (3) Any person whose license or certificate has been lost or destroyed may make application to the board for a replacement. This application shall be accompanied by an affidavit setting out the facts concerning the loss or destruction of the original license or certificate and the payment of a reasonable replacement fee as established by the board in subsection (1)(g) of Section 6 of this Act.
- (4) Any person whose name is changed by marriage or court order may surrender the person's license or certificate and apply to the board for a replacement license or certificate.

SECTION 9. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) On and after July 1, 2009, no person shall practice any profession governed by this chapter, or hold out as being able to practice any such profession, or dispense an orthosis, prosthesis, or pedorthic device, unless such person is licensed or certified by the board.
- (2) Until July 1, 2009, a person certified by the American Board for Certification in Orthotics and Prosthetics, Inc., with the title of Certified Orthotist (CO), Certified Prosthetist (CP), or Certified Orthotist-Prosthetist (CPO), or by the Board for Orthotist/Prosthetist Certification with the title of Board of Orthotic Certification -- Orthotist (BOCO) or Board of Certification -- Prosthetist (BOCP), or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards, may apply for and may be granted orthotic or prosthetic licensure by the board, upon payment of the required fee. After July 1, 2009, any applicant for initial licensure as an orthotist or a prosthetist shall meet the requirements of this chapter regarding the applicable license.
- (3) Until July 1, 2009, a person certified as a Certified Pedorthist (CPED) by the Board of Certification in Pedorthics, Inc., or a person certified as a CO, CP or CPO by the American Board for Certification in Orthotics and Prosthetics, Inc., or certified as a BOCO or BOCP by the Board for Orthotist/Prosthetist Certification, or holding similar certifications from other accrediting bodies with equivalent educational requirements and examination standards, may apply for and may be granted pedorthic licensure under this chapter, upon payment of the required fee. After that date, any applicant for initial licensure as a pedorthist shall meet the requirements of the board regarding licensure.
- (4) Notwithstanding any other provision of this chapter to the contrary, a person who has practiced full time for a minimum of the past five (5) years in a prosthetic/orthotic facility as an orthotist or prosthetist, or in a pedorthic facility as a pedorthist, may file an application with the board before July 1, 2008, in order to continue to practice orthotics, prosthetics, or pedorthics, and may be issued a license to practice orthotics, prosthetics, or pedorthics by the board without examination, upon the board's receipt of payment of the required licensing fee and after the board has completed an investigation of the applicant's work history. The investigation may include but is not limited to completion by the applicant of a questionnaire regarding the applicant's work history and scope of practice.

SECTION 10 A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

A licensee or certificate holder may provide care or services only if the care or services are provided pursuant to an order from:

- (1) A licensed health care practitioner authorized to issue such an order; or
- (2) A licensed physician, if the care or services are eligible for reimbursement from Medicare, Medicaid, or health insurance.

SECTION 11. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) The scope of practice of a licensee or certificate holder shall not include the right to diagnose a medical problem or condition, or the right to give medical advice as to the nature, cause, or treatment for the problem or condition for which the orthotic, prosthetic, or pedorthic device is being dispensed. However, the scope of practice of a licensee or certificate holder does include the right to provide information or demonstration regarding the proper use and care of the device and to make adjustments to the device as needed.
- (2) No person shall dispense or sell an over-the-counter device, based upon an image of the customer's limb captured by the person through a mold, cast, scanning device, digital appliance, or pressure sensitive device, unless the customer has first presented to that person a written prescription for that device from a health care practitioner or provider authorized by law to write such a prescription.

SECTION 12. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

Nothing in this chapter or in the administrative regulations promulgated by the board pursuant to this chapter shall be interpreted to limit or restrict:

- (1) A licensed health care practitioner or provider from engaging in the full scope of practice authorized by the license for that person's profession, training, or services;
- (2) A person licensed as a physical therapist under KRS Chapter 327 or as an occupational therapist under KRS Chapter 319A from engaging in that person's profession pursuant to his or her education and training;
- (3) A person certified as an athletic trainer under KRS Chapter 311 from engaging in that person's profession pursuant to his or her education and training;
- (4) A person licensed as a physician under KRS Chapter 311 from engaging in that person's profession pursuant to his or her education and training;
- (5) A person licensed as a chiropractor under KRS Chapter 312 from engaging in that person's profession pursuant to his or her education and training;
- (6) A person licensed as a pharmacist under KRS Chapter 315 from engaging in that person's profession pursuant to his or her education and training;
- (7) Individuals acting under the supervision and control of a licensed pharmacist or pharmacy from measuring, fitting or adjusting any non-custom fabricated and fitted device including but not limited to over-the-counter devices, so long as such individual does not create a cast, mold, or scan of a part of the human body for the purpose of constructing a medical device to treat a patient's medical condition, and so long as such individual meets one (1) of the following criteria for the device:
 - (a) Documented training from a manufacturer or training from a licensed or certified orthotist, prosthetist, or pedorthist;
 - (b) Certification or registration as a fitter of orthotic, prosthetic, or pedorthic devices from a nationally recognized board or association such as the Board for Orthotist/Prosthetist Certification (BOC), the Board of Certification for Pedorthists, the National Community Pharmacists Association (NCPA), or the American Board for Certification in Orthotics and Prosthetics (ABC); or
 - (c) Direct supervision by a trained and experienced, or certified, or registered, fitter of orthotic, prosthetic, or pedorthic devices; or
- (8) Individuals acting under the supervision and control of a licensed pharmacist or pharmacy from measuring, fitting or adjusting any non-custom fabricated and fitted pedorthic devices including but not limited to diabetic shoes, so long as such individual meets the criteria of either subsection (7)(a) or (7)(b) of this section, and so long as the individual does not create a cast, mold, or scan of a part of the human body for the purpose of constructing a medical device to treat a patient's medical problem.

SECTION 13. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

This chapter shall not apply to:

- (1) The practice of orthotics, prosthetics, or pedorthics by a person who is employed by the federal government or any bureau, division, or agency of the federal government while in the discharge of the employee's official duties;
- (2) The practice of orthotics, prosthetics, or pedorthics by:
 - (a) A student enrolled in a school of orthotics, prosthetics, or pedorthics;
 - (b) A resident continuing his or her clinical education in a residency accredited by the National Commission on Orthotic and Prosthetic Education;

(c) A student in a qualified work experience program or internship in pedorthics; or

(d) A physician licensed under KRS Chapter 311; or

- (3) The measuring, fitting, or adjusting of an orthotic device by an employee or authorized representative of an orthosis manufacturer registered with the federal food and drug administration, when the employee or representative is supervised by a licensed health care professional authorized by law to prescribe, measure, or fit the device, and the measuring, fitting, or adjusting of the device occurs in the office of the licensed health care professional or in a health care facility.

SECTION 14. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

No person shall profess to be a licensee or certificate holder, or practice or assume the duties incident to a license issued under this chapter, or use the title "orthotist," "prosthetist," "pedorthist," "certified orthotic fitter," or any words or letters which designate or tend to designate to the public that the person is an orthotist, prosthetist, pedorthist, or certified orthotic fitter, unless he or she holds a valid, current license or certificate from the board.

SECTION 15. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) Every license or certificate issued under this chapter shall expire on June 30 following the date of issuance unless sooner revoked and canceled.
- (2) On or before June 1 of each year, the board shall send notices to all licensee or certificate holders, at their last known addresses, advising them that the annual renewal fee is due on July 1 of each year. Every licensee or certificate holder shall renew his or her license or certificate on or before July 1 of each year by the payment to the board of an annual renewal fee which shall be a reasonable fee set by regulation of the board and upon submission of a statement of compliance with the continuing education regulations of the board. If this renewal fee is not paid or such statement of compliance is not submitted on or before July 1, the board shall notify the delinquent licensee or certificate holder by mail at his or her last known address that the fee and statement are past due and that a delinquent penalty fee is assessed, in addition to the renewal fee, and that the renewal fee and penalty must be paid and the statement of compliance submitted on or before January 1. If such fees, penalties, and statement are not submitted by January 1, it shall be the duty of the board to suspend or revoke the license or certificate for nonpayment of the annual renewal and delinquent fees or for failure to submit the statement of compliance for the current year.
- (3) All fees collected under the provisions of this chapter, or the rules and regulations adopted pursuant thereto, shall be paid into the State Treasury, and credited to a trust and agency fund to be used in defraying the costs and expenses in the administration of this chapter, including but not limited to salaries and necessary travel expenses. No part of this fund shall revert to the general funds of this Commonwealth.

SECTION 16. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

The board is authorized in its sound discretion to:

- (1) Enter into reciprocal agreements with corresponding boards of other states having qualifications and standards at least as high as those of this state, providing for reciprocal licensure or certification without further examination of persons who have been duly licensed or certified upon written examination. Approval of such agreements by the Governor, or any other officer or agency of this state, shall not be required; and
- (2) Issue licenses or certificates by reciprocity or endorsement, and without further examination, to persons who have been duly licensed or certified upon written examination in another state having qualifications and standards at least as high as those of this state, or who have successfully passed the appropriate national examination.

SECTION 17. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) The board may deny or refuse to renew a license or certificate, may suspend or revoke a license or certificate, or may impose probationary conditions where the licensee, certificate holder, or applicant for licensure or certification has engaged in unprofessional conduct which has endangered or is likely to endanger the health, welfare, or safety of the public. Unprofessional conduct shall include:
- (a) Obtaining a license or certificate by means of fraud, misrepresentation, or concealment of material facts;
- (b) Unprofessional conduct as defined by administrative regulations promulgated by the board or violating the code of ethics promulgated by the board;
- (c) Being convicted of a felony in any court if the act or acts for which the applicant, licensee, or certificate holder was convicted are found by the board to have a direct bearing on whether he or she should be entrusted to serve the public in the capacity of the licensed or certified profession;
- (d) Violating any lawful order or administrative regulation rendered or promulgated by the board; or
- (e) Violating any provision of this chapter.
- (2) A denial, refusal to renew, suspension, revocation, or imposition of probationary conditions upon a license or certificate may be ordered by the board in a decision made after an administrative hearing conducted in accordance with KRS Chapter 13B and administrative regulations promulgated by the board. The board shall have discretion to accept or reject an application for reinstatement following an administrative hearing conducted in accordance with KRS Chapter 13B.

- (3) The surrender of a license or certificate shall not serve to deprive the board of jurisdiction to proceed with disciplinary actions under this chapter.

SECTION 18. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

Fees shall be collected and determined by the board for the following:

- (1) Licensed orthotist, prosthetist, or pedorthist:

- (a) Initial license fee, not to exceed three hundred dollars (\$300);
- (b) License renewal fee, not to exceed three hundred dollars (\$300);
- (c) Late renewal fees, not to exceed one hundred dollars (\$100);
- (d) Reinstatement fee, not to exceed three hundred dollars (\$300);
- (e) Duplicate license fee, not to exceed twenty-five dollars (\$25); and
- (f) Continuing education course accreditation fee, not to exceed fifty dollars (\$50); and

- (2) Certified orthotic fitter:

- (a) Initial certificate fee, not to exceed one hundred fifty dollars (\$150);
- (b) Certificate renewal fee, not to exceed one hundred fifty dollars (\$150);
- (c) Late renewal fees, not to exceed fifty dollars (\$50);
- (d) Reinstatement fee, not to exceed one hundred fifty dollars (\$150);
- (e) Duplicate certificate fee, not to exceed ten dollars (\$10); and
- (f) Continuing education course accreditation fee, not to exceed twenty-five dollars (\$25).

SECTION 19. A NEW SECTION OF KRS CHAPTER 319B IS CREATED TO READ AS FOLLOWS:

- (1) Until July 1, 2009, any person who practices as a certified orthotic fitter, orthotist, prosthetist, or pedorthist in violation of this chapter shall be subject to only a warning for the first offense. The person shall be granted thirty (30) days to comply with the provisions of this chapter. Any subsequent offenses committed at any time shall be subject to the relevant penalties in subsection (2) of this section.
- (2) Except as otherwise indicated in subsection (1) of this section, any person violating any provision of this chapter shall be fined not less than five hundred dollars (\$500) nor more than five thousand dollars (\$5,000), or imprisoned for not more than six (6) months, or both."

The Senate Floor Amendment No. 1 Title to **HB 337** is as follows:

HB 337, Amend the title to read as follows:

"AN ACT relating to health care."

Representative Stacy moved that the House refuse to concur in the Senate Amendments to **HB 337**. Agreed.

HB 418, with Senate Committee Substitute and Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 418** is as follows:

HB 418, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

- (1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;
- (2) "Board" means the board of trustees of the Kentucky Retirement Systems;
- (3) "Employer" or "State Police" means the Department of State Police, or its successor;
- (4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided;
- (5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

- (6) "Service" means the total of current service and prior service;
- (7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;
- (8) "Creditable compensation" means all salary and wages, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);
- (9) "Final compensation" ~~at any time~~ means:
 - (a) For a member participating before July 1, 2008, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used; and
 - (b) For a member who begins participating on or after July 1, 2008, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;
- (10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;
- (11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (12) "Retirement allowance" means the retirement payments to which a retired member is entitled;
- (13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;
- (14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;
- (15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959;
- (16) "Disability retirement date" means the first day of the month following the last day of paid employment;
- (17) "Dependent child" means a child in the womb and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);
- (18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;
- (19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;
- (20) (a) "Early retirement date" for a member who begins participating before July 1, 2008, means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service,
 (b) "Early retirement date" for a member who begins participating on or after July 1, 2008, means the retirement

date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1);

- (21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;
- (22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;
- (23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;
- (27) "Person" means a natural person;
- (28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (29) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;
- (30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (31) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;
- (33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543; and
- (34) "Month" means a calendar month.

Section 2. KRS 16.545 is amended to read as follows:

- (1) **(a)** Except for members over age fifty-five (55) on July 1, 1958, who shall not be required to contribute, each member shall, commencing on July 1, 1998, contribute for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation. *The provisions of this paragraph shall apply to a member who begins participating before July 1, 2008.*
- (b)** *Each member who begins participating on or after July 1, 2008, shall contribute for each pay period for which he receives compensation, four percent (4%) of his creditable compensation.*
- (2) The employer shall cause to be deducted from the compensation of each member for each and every payroll period subsequent to July 1, 1958, the contributions payable by such member as provided in KRS 16.510 to 16.652.
- (3) Every member shall be deemed to consent to deductions made as provided herein; and the payment of salary or compensation less such deduction shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 16.510 to 16.652.
- (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). These contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee.

The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 16.510 to 16.652 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

Section 3. KRS 16.576 is amended to read as follows:

- (1) (a) Any member *who begins participating before July 1, 2008, who has*~~[with]~~ at least five (5) years of service credit may retire at his normal retirement date, or subsequent thereto, upon written notification to the system, setting forth at what time the retirement is to become effective, if the effective date shall be after his last day of service and subsequent to the filing of the notice at the retirement office.
- (b) *Any member who begins participating on or after July 1, 2008, who has at least ten (10) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) may retire at his normal retirement date, or subsequent thereto, upon written notification to the system, setting forth at what time the retirement is to become effective, if the effective date shall be after his last day of service and subsequent to the filing of the notice at the retirement office.*
- (2) The member shall have the right to elect to have his retirement allowance payable under subsection (3), (4), or (6) of this section or any one (1) of the plans set forth in KRS 61.635.
- (3) (a) Effective August 1, 1990, a member of the Kentucky State Police Retirement System may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and five-tenths percent (2.5%) of final compensation for each year of service credit. Effective August 1, 1988, a member of the County Employees Retirement System covered by this section may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and five-tenths percent (2.5%) of final compensation for each year of service credit. Effective August 1, 1988, a member of the Kentucky Employees Retirement System covered by this section may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and forty-nine hundredths percent (2.49%) of final compensation for each year of service credit. The annual retirement allowance for a member covered by this section shall not exceed the maximum benefit as set forth in the Internal Revenue Code.
- (b) *A member of the State Police Retirement System, a member of the Kentucky Employees Retirement System covered by this section, or a member of the County Employees Retirement System covered by this section, whose participation begins on or after July 1, 2008, shall receive an annual retirement allowance, payable monthly during his lifetime, equal to one and twenty-five hundredths percent (1.25%) of final compensation for each year of service credit. The annual retirement allowance for a member covered by this section shall not exceed the maximum benefit as set forth in the Internal Revenue Code.*
- (4) The member may elect to receive a monthly retirement allowance payable for ten (10) years certain, actuarially equivalent to the retirement allowance payable under subsection (3) of this section. If the member should become deceased prior to the expiration of ten (10) years, his beneficiary shall receive the remaining payments monthly for the duration of the ten (10) years. The provisions of KRS 61.702 notwithstanding, the member who retired on June 17, 1978, or thereafter, and his spouse and dependents or beneficiary shall continue to receive the insurance benefits to which they are entitled pursuant to KRS 61.702 after the expiration of ten (10) years. Effective with any insurance contract procured, or self-insurance plan instituted, after July 15, 1990, a member who retired prior to June 17, 1978, and his spouse and dependents or beneficiary shall receive insurance benefits pursuant to KRS 61.702 upon payment by the member or beneficiary of the entire cost of the required insurance premium.
- (5) Notwithstanding any other provisions of this section, upon written notification to the system, a member shall have the option to defer his election to receive his retirement allowance. The retirement allowance payable under a deferred option shall be increased to reflect the deferred receipt of benefits.
- (6) In lieu of any other benefits due under KRS 16.505 to 16.652, a member *who began participating before July 1, 2008*, who has attained age fifty-five (55) and who has attained at least one (1) month of service credit but no more than fifty-nine (59) months of service credit may elect to receive an annual retirement allowance, payable monthly or less frequently as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

Section 4. KRS 16.577 is amended to read as follows:

- (1) Upon retirement at early retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date, with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.
- (2) For a member who begins participating before July 1, 2008, there shall be no reduction in the retirement allowance if ~~the~~~~[of a]~~ member~~[who]~~ has twenty (20) or more years of service credit, at least fifteen (15) of which are current service.
- (3) For a member who begins participating on or after July 1, 2008, there shall be no reduction in the retirement allowance if the member is at least fifty (50) years of age and has at least twenty-five (25) or more years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1).

Section 5. KRS 16.578 is amended to read as follows:

- (1) If a member, eligible to retire as provided in KRS 16.576, dies at any time before the first benefit payment has been issued by the State Treasurer and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly which shall be equal to the benefit that would have been paid had the member retired immediately prior to his date of death and elected to receive payments under subsection (2) of KRS 61.635 or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635 or the beneficiary may elect the actuarial equivalent refund.
- (2) (a) If a member ~~who begins participating before July 1, 2008, is~~ in active employment or on authorized leave of absence, ~~has~~~~[with]~~ five (5) or more years of service, dies at any time before his normal retirement date, and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection (2) of KRS 61.635 or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635 or the beneficiary may elect the actuarial equivalent refund.
- (b) If a member who begins participating on or after July 1, 2008, is in active employment or on authorized leave of absence, has ten (10) or more years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1), dies at any time before his normal retirement date, and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection (2) of KRS 61.635, or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain, or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635, or the beneficiary may elect the actuarial equivalent refund.
- (3) (a) If a member ~~who begins participating before July 1, 2008, is~~ not in active employment nor on authorized leave of absence, ~~has~~~~[with]~~ twelve (12) or more years of service, dies at any time before his normal retirement date, and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection (2) of KRS 61.635 or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635 or the beneficiary may elect the actuarial equivalent refund.
- (b) If a member who begins participating on or after July 1, 2008, is not in active employment nor on authorized leave of absence, has fifteen (15) or more years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1), dies at any time before his normal retirement date, and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection (2) of KRS 61.635, or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain, or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635, or the beneficiary may elect the actuarial equivalent refund.
- (4) An alternative calculation of benefits payable to the beneficiary under subsection (1), (2) or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4), then reduced by fifty percent (50%) and the actuarial equivalent payable for one hundred twenty (120) months certain shall be determined, or the beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635.
- (5) If the member, subject to subsection (1), (2), (3), or (4) of this section had on file a written designation of multiple beneficiaries, or his estate, trust, or trustee, the multiple beneficiaries by consensus or the administrator or executor of the

estate or trustee may elect to receive the actuarial equivalent to the benefit allowable under subsection (1), (2), (3), or (4) of this section given the assumptions that the beneficiary's age is the same as the member's, and that the member had chosen benefits payable monthly for sixty (60) months certain, or one hundred and twenty (120) months certain, or an actuarial equivalent refund.

- (6) The beneficiary may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2) for a period of sixty (60) months. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the multiple beneficiaries by consensus, trustee, executor, or administrator of the estate may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2), assuming the beneficiary's age to be the same as the member's, for a period of sixty (60) months.
- (7) In the case of a single beneficiary who is a person, the highest monthly benefit determined under subsection (1), (2), (3), (4), or (6) of this section for a life annuity, for payments for sixty (60) months certain, for payments for one hundred twenty (120) months certain, for the actuarial equivalent refund or for the beneficiary Social Security payment shall be tendered to the beneficiary. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the highest monthly benefit determined under subsection (1), (2), (3), (4), (5), or (6) of this section for payments for sixty (60) months certain or one hundred and twenty (120) months certain or the actuarial equivalent refund shall be tendered to the multiple beneficiaries, trustee, administrator, or executor of the estate.

Section 6. KRS 16.582 is amended to read as follows:

- (1)
 - (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent.
 - (b) Hazardous disability means a disability which results in the member's total incapacity to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit.
 - (c) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.
 - (d) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.
- (2) Any person may qualify to retire on disability, subject to the following:
 - (a) For persons who were members participating before July 1, 2008, the person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). For persons who were members participating on or after July 1, 2008, the person shall have one hundred twenty (120) months of service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;
 - (b) For a person whose membership date is prior to August 1, 2004, the person shall not be eligible for an unreduced retirement allowance;
 - (c) The person's application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment, as defined in KRS 16.505, as a regular full-time officer or in a regular full-time hazardous position under KRS 61.592;
 - (d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and
 - (e) A person's disability application based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment as a regular full-time officer or in a regular full-time hazardous position.
- (3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:
 - (a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;
 - (b) The incapacity is deemed to be permanent; and
 - (c) The incapacity does not result directly or indirectly from:
 - 1. Injury intentionally self-inflicted while sane or insane;
 - 2. Injury or disease resulting from military service; or
 - 3. Bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent, unless:
 - a. The disability results from bodily injury, mental illness, disease, or a condition which has been

substantially aggravated by an injury or accident arising out of or in the course of employment; or

- b. The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

For purposes of this subparagraph, "reemployment" shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

- (4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as regular full-time officer or a hazardous position.
2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.
- (b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.
- (c) The person's physical exertion requirements shall be determined based on the following standards:
1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.
2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.
3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.
4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.
5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.
- (5) (a) The disability retirement allowance shall be determined as provided in KRS 16.576, except if the member's total service credit on his last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his last date of paid employment and continuing to his fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his last day of paid employment, and the maximum service credit for calculating his retirement allowance, including his total service and service added under this section, shall not exceed twenty (20) years.
- (b) For a member whose participation begins on or after August 1, 2004, the disability retirement allowance shall be the higher of twenty-five percent (25%) of the member's monthly final rate of pay or the retirement allowance determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability.
- (6) If the member receives a satisfactory determination of total and permanent disability or hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty, the member's retirement allowance shall be calculated as follows:
- (a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and
- (b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay;

however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system.

- (7) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or older.
- (8) If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the system's medical examiner.
- (9) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) or (6) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he is qualified.

Section 7. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

- (1) Cessation of membership, as provided for by KRS 61.535;
- (2) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- (3) Actuarial bases, as provided for by KRS 61.670;
- (4) Duties of the employer, as provided for by KRS 61.675;
- (5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;
- (6) Retirement allowance increase, as provided for by KRS 61.691;
- (7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);
- (8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;
- (9) Year of service credit, as provided for by KRS 61.545;
- (10) Refund of contributions, death after retirement, as provided by KRS 61.630;
- (11) Custodian of fund, payments made, when, as provided for by KRS 61.660;
- (12) Credit for service prior to membership date, as provided for by KRS 61.526;
- (13) Transfer of dormant accounts, as provided for by KRS 61.626;
- (14) Member's account, confidential, as provided for by KRS 61.661;
- (15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
- (16) Correction of errors in records, as provided for by KRS 61.685;
- (17) Maximum disability benefit, as provided for by KRS 61.607;
- (18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
- (19) Employer contributions, as provided for by KRS 61.565;
- (20) Reinstatement of lost service credit, purchase of service credit, interest paid, and delayed contribution and installment payments, as provided for by KRS 61.552;
- (21) Reciprocal arrangement between systems, as provided by KRS 61.680;
- (22) Refund of contributions, conditions, as provided by KRS 61.625;
- (23) Hospital and medical insurance plan, as provided by KRS 61.702;
- (24) Death benefit, as provided by KRS 61.705;
- (25) Disability retirement allowance, reduction, and discontinuance, as provided by KRS 61.615;
- (26) Service credit, Armed Forces, as provided by KRS 61.555;
- (27) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;
- (28) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;
- (29) Retirement of persons in hazardous positions, as provided for by KRS 61.592;
- (30) Direct deposit of recipient's retirement allowance as provided in KRS 61.623;
- (31) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525;
- (32) Payment of small amounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703;
- (33) Suspension of retirement payments on reemployment, reinstatement, recomputation of allowance, waiver of provisions in certain instances, reemployment in a different position, as provided for by KRS 61.637; ~~and~~

- (34) Medical examination and financial review after disability retirement, staff review, as provided in KRS 61.610; *and*
(35) *Option for irrevocable election for contributions and benefits applicable to employees participating on or after July 1, 2008, as provided in Section 23 of this Act.*

Section 8. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

- (1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;
- (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;
- (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- (5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;
- (6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;
- (7) "State" means the Commonwealth of Kentucky;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;
- (12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;
- (13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall mean all amounts which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);

(14) "Final compensation" of a member means:

- (a) For a member who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or
- (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or
- (c) For a member who is not employed in a hazardous position, as provided in Section 12 of this Act, whose total service credit on or before December 31, 2008, is at least twenty-seven (27) years, whose age and years of service total on or before December 31, 2008, is at least seventy-five (75), and who would be eligible to retire between August 1, 2001, and January 1, 2009, final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. For purposes of this paragraph, a member's total service credit shall mean:
 - 1. All service creditable for retirement as of December 31, 2008; and
 - 2. Service being purchased under an installment payment program established pursuant to KRS 61.552(16) and (28) for installment purchase of service agreements executed by the employee on or before December 31, 2008. The provisions of this subparagraph shall not apply to service being purchased under the provisions of KRS 61.552(25) unless the employee has attained two hundred forty (240) months of service as of December 31, 2008, not including the service being purchased under KRS 61.552(25); or

- (d) For a member who begins participating before July 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used; or

- (e) For a member who begins participating on or after July 1, 2008, who is employed in a hazardous position, as provided in Section 12 of this Act, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

- (16) "Retirement allowance" means the retirement payments to which a member is entitled;

- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

- (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

- (20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The

term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;

- (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:
- (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
 - (b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;
 - (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and
 - (e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;
- (22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;
- (24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;
- (28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;
- (29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;
- (30) "Person" means a natural person;
- (31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543; and
- (35) "Month" means a calendar month.

Section 9. KRS 61.546 is amended to read as follows:

- (1) Any member of the Kentucky Employees Retirement System or the State Police Retirement System whose retirement date

is July 14, 1984, or thereafter, shall receive credit for unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid in accordance with this section.

- (2) Upon the member's notification of retirement as prescribed in KRS 16.576 or 61.590, the employer shall certify the retiring member's unused, accumulated sick leave balance to the system. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in the state service and rounded to the nearest number of whole months. The member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.705 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.705. All months of accumulated sick leave[~~in excess of six (6) months~~] shall be added to the member's service credit, and the last participating Kentucky Employees Retirement Systems employer shall pay to the retirement system the value of all months of[the additional] service credit based on the formula adopted by the board. All of a state policeman's sick leave balance, expressed in months, shall be added to his service credit for the purposes of determining his annual retirement allowance and whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652, and the Department of State Police shall pay to the retirement system the value of all service credit based on the formula adopted by the board.
- (3) The provisions of this section shall not apply to a participating agency whose employees are not employed by the Commonwealth until the agency certifies to the system that a sick leave program has been formally adopted and is universally administered within the agency.

Section 10. KRS 61.559 is amended to read as follows:

- (1) In lieu of any other benefits due under KRS 61.510 to 61.705 and KRS 78.520 to 78.852, a member who begins participating before July 1, 2008, who has attained the age of sixty-five (65) and who has obtained at least one (1) month of service credit but no more than forty-seven (47) months of service may elect to receive an annual retirement allowance payable monthly or less frequently, as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.
- (2) A member who begins participating before July 1, 2008, who is sixty-five (65) years of age or older is eligible for a retirement allowance determined under KRS 61.595 provided such member has forty-eight (48) months of service, at least twelve (12) of which are current service, or a retirement allowance determined under KRS 61.595 prior to age sixty-five (65) provided:
 - (a) The member has attained age fifty-five (55) and has service of sixty (60) months at least twelve (12) of which are current service; or
 - (b) The member is a retired member of the State Police Retirement System, has attained age fifty-five (55), and has service of forty-eight (48) months at least twelve (12) of which are current service; or
 - (c) The member is less than age fifty-five (55) and has twenty-five (25) or more years of service, at least fifteen (15) of which are current service; or
 - (d) The member has thirty (30) or more years of service at least fifteen (15) of which are current service, or the member of the Kentucky Employees Retirement System or the County Employees Retirement System has twenty-seven (27) or more years of service, at least fifteen (15) of which are current service; or
 - (e) The member of the Kentucky Employees Retirement System has, at least, twenty-six (26) years of service credit, at least sixteen (16) of which are current consecutive years of service as a cabinet secretary or administrative head of one (1) of the three (3) branches of government; or
 - (f) The member has attained age fifty-five (55) and was an employee of a parted employer at the time his employer became ineligible to continue participation in the system, and his service in the system when added to his service with the parted employer subsequent to his separation from state government equals the early retirement service eligibility requirement of the system on the date his employer became ineligible to continue participation in the system.

- (3) A member who begins participating on or after July 1, 2008, is eligible for a retirement allowance determined under Section 13 of this Act if:

- (a) The member is sixty-five (65) years of age or older and has at least ten (10) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1); or
- (b) The member is fifty-five (55) years of age or older and has at least thirty-two (32) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1); or
- (c) The member is fifty-five (55) years of age or older and has at least fifteen (15) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1).

Section 11. KRS 61.560 is amended to read as follows:

- (1) (a) Each employee shall, commencing on August 1, 1986, contribute for each pay period for which he receives

compensation five percent (5%) of his creditable compensation, unless he did not elect membership pursuant to KRS 61.545(3), and except that members of the General Assembly, who elect the survivorship option provided in subsections (13) and (14) of KRS 61.635, shall each contribute six and six-tenths percent (6.6%) of creditable compensation commencing with the payroll period immediately following his election of the option. Any other provisions of KRS 61.515 to 61.705 notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute five percent (5%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the Federal Social Security Act, in compensation as a result of reemployment during the calendar year. The provisions of this paragraph shall apply to employees who begin participating before July 1, 2008.

(b) Each employee who begins participating on or after July 1, 2008, shall contribute for each pay period for which he receives compensation two and one-half percent (2.5%) of his creditable compensation.

- (2) Each employer shall cause to be deducted from the creditable compensation of each employee for each and every payroll period the contribution payable by each such employee as provided in KRS 61.515 to 61.705.
- (3) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided herein; and payment of salary or compensation less such deductions shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 61.515 to 61.705.
- (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). These contributions shall not be included as gross income of the employee until such time as the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 61.515 to 61.705 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

Section 12. KRS 61.592 is amended to read as follows:

- (1) (a) "Hazardous position" means:
 1. Any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet and paramedics and emergency medical technicians, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning; and
 2. Positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.
 - (b) The effective date of participation under hazardous duty coverage for positions in the Office of Alcoholic Beverage Control shall be April 1, 1998. The employer and employee contributions shall be paid by the employer and forwarded to the retirement system for the period not previously reported.
- (2) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.
 - (3) (a) 1. An employee who begins participating in the Kentucky Employees Retirement System before July 1, 2008, who is determined by the system to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation. An employee who begins participating in the County Employees Retirement System before July 1, 2008, who is determined by the system to be working in a hazardous duty position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation.
2. An employee who begins participating in the Kentucky Employees Retirement System or the County Employees Retirement System on or after July 1, 2008, who is determined by the system to be working in

a hazardous duty position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, four percent (4%) of his creditable compensation;

- (b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565;
- (c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost of converting the nonhazardous service to hazardous service from the date of participation to the date the payment is made, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.
- (4) The normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652.
- (5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.
- (6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

Section 13. KRS 61.595 is amended to read as follows:

- (1) Effective July 1, 1990, upon retirement at normal retirement date or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:
 - (a) Effective February 1, 1999, a member of the Kentucky Employees Retirement System who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two percent (2%) of final compensation multiplied by the number of years of service credit. Any Kentucky Employees Retirement System member whose effective date of retirement is between February 1, 1999, and January 31, 2009, and who has at least twenty (20) years of service credit in one of the state-administered retirement systems and who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;
 - (b) Any Kentucky Employees Retirement System member who has at least twenty (20) years of service credit in one (1) of the state-administered retirement systems as of December 31, 2008, and who was participating in one (1) of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, and who would be eligible to retire between February 1, 1999, and January 1, 2009, shall receive an annual retirement allowance, payable monthly during his or her lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. For purposes of this paragraph, a member's total service credit shall mean:
 - 1. All service creditable for retirement as of December 31, 2008; and
 - 2. Service being purchased under an installment payment program established pursuant to KRS 61.552(16) and (28) for installment purchase of service agreements executed by the employee on or before December 31, 2008. The provisions of this subparagraph shall not apply to service being purchased under the provisions of KRS 61.552(25) unless the employee has attained two hundred forty (240) months of service as of December 31, 2008, not including the service being purchased under KRS 61.552(25);
 - (c) For a member of the County Employees Retirement System whose participation begins on or after August 1, 2004, the annual retirement allowance upon retirement at normal retirement date or later shall be equal to two percent

(2%) of final compensation multiplied by the number of years of service credit and shall be payable monthly during his lifetime;

(d) For a member of the Kentucky Employees Retirement System or the County Employees Retirement System whose participation begins on or after July 1, 2008, the annual retirement allowance upon retirement at normal retirement date or later shall be equal to one percent (1%) of final compensation multiplied by the number of years of service credit and shall be payable monthly during his lifetime;

(e) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars (\$240) multiplied by the number of years of service as a member of the General Assembly;

(d)(d) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(g)(e) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 Regular Session are eligible for an increased retirement allowance of two hundred forty dollars (\$240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the system, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(h)(f) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars (\$512); and

(i)(g) The annual retirement allowance for a member of the Kentucky employees retirement system or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(b) A member of the Kentucky Employees Retirement System or the County Employees Retirement System who begins participating before July 1, 2008, who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who begins participating before July 1, 2008, who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority, may count the vested service toward attaining the necessary years of service credit as provided in KRS 61.559(2)(c) and (d) to qualify for a retirement allowance. The credit from a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority shall not be used toward the minimum fifteen (15) years of current service required by KRS 61.559(2)(c) and (d) or to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).

(c) A member of the Kentucky Employees Retirement System or the County Employees Retirement System who begins participating on or after July 1, 2008, who is at least fifty-five (55) years of age and has at least thirty-two (32) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) may retire with no reduction in the retirement allowance.

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the State Treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is two dollars (\$2) greater or less than the amount of the initial retirement payment. If the member or beneficiary chose an actuarial equivalent refund payment option, the amount of estimated retirement allowance shall be the official retirement allowance

unless the new calculation produces an amount which is one hundred dollars (\$100) greater or less than the amount of the initial retirement payment.

Section 14. KRS 61.600 is amended to read as follows:

- (1) Any person may qualify to retire on disability, subject to the following conditions:
 - (a)
 1. For persons who were members who began participating before July 1, 2008, the person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1).
 2. For persons who were members who began participating on or after July 1, 2008, the person shall have one hundred twenty (120) months of service credited under KRS 16.543(1), 61.543(1), or 78.615(1);
 - (b) For a person whose membership date is prior to August 1, 2004, the person shall not be eligible for an unreduced retirement allowance;
 - (c) The person's application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment, as defined in KRS 61.510, in a regular full-time position, as defined in KRS 61.510 or 78.510; and
 - (d) The person shall receive a satisfactory determination pursuant to KRS 61.665.
- (2) A person's disability reapplication based on the same claim of incapacity shall be accepted and reconsidered for disability if accompanied by new objective medical evidence. The reapplication shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment in a regular full-time position.
- (3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:
 - (a) The person, since his last day of paid employment, has been mentally or physically incapacitated to perform the job, or jobs of like duties, from which he received his last paid employment. In determining whether the person may return to a job of like duties, any reasonable accommodation by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered;
 - (b) The incapacity is a result of bodily injury, mental illness, or disease. For purposes of this section, "injury" means any physical harm or damage to the human organism other than disease or mental illness;
 - (c) The incapacity is deemed to be permanent; and
 - (d) The incapacity does not result directly or indirectly from bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent. For purposes of this subsection, reemployment shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.
- (4) Paragraph (d) of subsection (3) of this section shall not apply if:
 - (a) The incapacity is a result of bodily injury, mental illness, disease, or condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or
 - (b) The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.
- (5)
 - (a)
 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a regular full-time position.
 2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.
 - (b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.
 - (c) The person's physical exertion requirements shall be determined based on the following standards:
 1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.
 2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is

infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.
4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.
5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

Section 15. KRS 61.640 is amended to read as follows:

- (1) (a) If an employee who begins participating before July 1, 2008, is of normal retirement age or greater, is in the active employment of a participating agency[,] or on official leave from the agency[,] if the leave has been granted in accordance with the policy of the state Personnel Cabinet, has[with] service credit of forty-eight (48) months or more, at least twelve (12) of which are current service[,] or if an employee who begins participating before July 1, 2008, is of less than normal retirement age, is in the active employment of a participating agency or on official leave from the agency[,] if the leave has been granted in accordance with the policy of the state Personnel Cabinet, has[with] service credit of sixty (60) months, at least twelve (12) of which are current service, dies at any time before the first retirement allowance payment has been issued by the State Treasurer, and has on file at the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.
- (b) If an employee who begins participating on or after July 1, 2008, is in active employment of a participating agency or on official leave from the agency if the leave has been granted in accordance with the policy of the state Personnel Cabinet, has ten (10) or more years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1), dies at any time before the first retirement allowance payment has been issued by the State Treasurer, and has on file at the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.
- (2) If a member not in the active employment of a participating agency, nor on official leave from the agency, with the service and age prescribed in KRS 61.559(2), dies before the first retirement allowance payment has been issued by the State Treasurer and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.
- (3) (a) If a member who begins participating before July 1, 2008, is not in the active employment of a participating agency nor on official leave from the agency, has[with] twelve (12) or more years of service credit at least one (1) of which is current service, dies at any time before the first retirement allowance payment has been issued by the State Treasurer, and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent

payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

(b) If a member who begins participating on or after July 1, 2008, is not in the active employment of a participating agency nor on official leave from the agency, has fifteen (15) or more years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1), dies at any time before the first retirement allowance payment has been issued by the State Treasurer, and has on file in the retirement office at the time of his death a written designation of a beneficiary, the beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or the beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the beneficiary may elect the actuarial equivalent refund.

- (4) An alternative calculation of benefits payable to the beneficiary under subsection (1), (2), or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4) then reduced by fifty percent (50%), and the actuarial equivalent payable for sixty (60) months certain and one hundred twenty (120) months certain and the actuarial equivalent refund shall be determined.
- (5) If the member, subject to subsection (1), (2), (3), or (4) of this section had on file in the retirement office a written designation of multiple beneficiaries, his estate, trust, or trustee, the multiple beneficiaries by consensus, the administrator, or executor of the estate, or trustee may elect to receive the actuarial equivalent to the benefit allowable under subsections (1), (2), (3), or (4) of this section given the assumptions that the beneficiary's age is the same as the member's, and that the member had chosen benefits payable monthly for sixty (60) months certain, or one hundred and twenty (120) months certain, or an actuarial equivalent refund.
- (6) Actuarial equivalent refund. The beneficiary may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent to the amount payable under KRS 61.635(2) for a period of sixty (60) months. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the multiple beneficiaries by consensus, trustee, executor, or administrator of the estate may elect to receive a one (1) time lump-sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2), assuming the beneficiary's age to be the same as the member's for a period of sixty (60) months.
- (7) In the case of a single beneficiary, who is a person, the highest monthly benefit determined under subsection (1), (2), (3), (4), or (6) of this section for a life annuity or for payments for sixty (60) months certain or for payments for one hundred twenty (120) months certain or for the actuarial equivalent refund or for the Social Security adjustment option shall be tendered to the beneficiary. In the case of designation of multiple beneficiaries, an estate, trust, or trustee, the highest monthly benefit determined under subsection (1), (2), (3), (4), (5), or (6) of this section for payments for sixty (60) months certain or one hundred and twenty (120) months certain or the actuarial equivalent refund shall be tendered to the multiple beneficiaries, trustee, administrator, or executor of the estate.
- (8) Payments of taxable distributions made pursuant to this section shall be subject to state and federal income tax as appropriate.

Section 16. KRS 61.680 is amended to read as follows:

- (1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).
- (2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System, except for service prohibited by KRS 161.623(2), shall be consolidated for the purpose of determining eligibility and amount of benefits. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for twenty-seven (27) year retirement for an employee who begins participating before July 1, 2008, but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation, excluding compensation earned under KRS 161.155(10), shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.
- (b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the system of his desire to

maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System.

- (c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.
- (3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System.
- (4)
 - (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.
 - (b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.
 - (c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(5).
- (5) Effective July 1, 1974, any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.
- (6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).
- (7) Notwithstanding the provisions of subsection (2) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his actual service credit in each system in which he has service credit when his combined service credit in all the systems, plus any service credit he has in the Judicial Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, except that total service in all systems, unless prohibited by KRS 161.623(2), shall be used to determine the reduction for early retirement, if any. Except as provided in

KRS 21.360, the final compensation shall be determined by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems.

- (8) Each retirement system from which the member retires shall pay a retirement allowance upon receipt of required forms and documents, except that no retirement system shall pay a retirement allowance or annuity until all forms and documents are filed at all retirement systems in compliance with each system's requirements.

Section 17. KRS 61.691 is amended to read as follows:

- (1) Effective August 1, 1996, and on July 1 of each year thereafter, a recipient of a retirement allowance under KRS 16.510 to 16.652 and KRS 61.515 to 61.705 and KRS 78.520 to 78.852 shall have his retirement allowance increased by the percentage increase in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the federal Bureau of Labor Statistics, not to exceed five percent (5%). In determining the annual employer contribution rate, only the cost of increases granted as of the most recent valuation date shall be recognized. The benefits of this subsection as provided on August 1, 1996 and thereafter shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in their judgment the welfare of the Commonwealth so demands.
- (2) A reemployed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving the retirement allowance at the time the increase under this section is effective.
- (3) The benefits provided under subsection (1) of this section shall not apply to members who begin participating on or after July 1, 2008. The board is authorized to develop a program whereby retiring members may elect to receive a actuarially reduced retirement allowance that is increased annually after retirement by a fixed percentage.**

Section 18. KRS 61.702 is amended to read as follows:

- (1) (a) The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, except as provided in subsection (8) of this section. The board shall also arrange to provide health care coverage through an insurer licensed pursuant to Subtitle 38 of KRS Chapter 304 and offering a managed care plan as defined in KRS 304.17A-500, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage under a managed care plan shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of the managed care plan coverage and the benefits to which he would be entitled under this section.
- (b) The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status, except as provided in subsection (8) of this section. Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.
- (c) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (7) of this section.
- (2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.
- (3) (a) The premium required to provide hospital and medical benefits under this section shall be paid:
1. Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;
 2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;
 3. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems;
 4. Partly from subparagraphs 1., 2., or 3., except that any premium for hospital and medical insurance over the

amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution.

5. In full from the Kentucky Retirement Systems insurance fund for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. Notwithstanding the foregoing provisions of this subsection, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who becomes disabled in the line of duty as defined in KRS 16.505(19) or KRS 61.621, shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, an employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems who is killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service." For current and former employees of the Council on Postsecondary Education who were employed prior to January 1, 1993, and who earn at least fifteen (15) years of service credit in the Kentucky Employees Retirement System, "months of service" shall also include vested service in another retirement system other than the Kentucky Teachers' Retirement System sponsored by the Council on Postsecondary Education.

- (b) For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one of the other state-administered retirement plans.

1. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance fund, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance fund shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.
2. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.
3. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.

- (4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, each dependent child, and each disabled child, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the hospital and medical insurance for the spouse, each dependent child, and each disabled child, or beneficiary is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

- (b) The other provisions of this section notwithstanding, the insurance fund shall pay a percentage of the monthly contribution for the spouse and for each dependent child of a recipient who was a member of the General Assembly and is receiving a retirement allowance based on General Assembly service, of the Kentucky Employees Retirement System and determined to be in a hazardous position, of the County Employees Retirement System, and

determined to be in a hazardous position or of the State Police Retirement System. The percentage of the monthly contribution paid for the spouse and each dependent child of a recipient who was in a hazardous position shall be based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section, except that for any recipient of a retirement allowance from the County Employees Retirement System who was contributing to the system on January 1, 1998, for service in a hazardous position, the percentage of the monthly contribution shall be based on the total of hazardous service and any nonhazardous service as a police or firefighter with the same agency, if that agency was participating in the County Employees Retirement System but did not offer hazardous duty coverage for its police and firefighters at the time of initial participation.

- (c) The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or each dependent child of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or each dependent child after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent child is not eligible for Medicare coverage.

- (5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.

- (6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

- (7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

- (8) (a) 1. For employees having a membership date on or after July 1, 2003, *and before July 1, 2008*, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least one hundred twenty (120) months of service in the state-administered retirement systems.

2. For an employee having a membership date on or after July 1, 2008, and who is not employed in a hazardous position, as provided by Section 12 of this Act, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least twenty-seven (27) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.

3. For an employee having a membership date on or after July 1, 2008, who is a member of the State Police Retirement System or who is employed in a hazardous position, as provided by Section 12 of this Act, participation in the insurance benefits provided under this section shall not be allowed until the employee has earned at least twenty (20) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system.

(b){(a)} An employee having a membership date on or after July 1, 2003, and before July 1, 2008, who earns at least one hundred twenty (120) months of service in the state-administered retirement systems; an employee having a membership date on or after July 1, 2008, who is not employed in a hazardous position, as defined by Section 12 of this Act, who earns at least twenty-seven (27) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system; and an employee having a membership date on or after July 1, 2008, who is a member of the State Police Retirement System or who is employed in a hazardous position, as defined by Section 12 of this Act, who earns at least twenty (20) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1) or another state-administered retirement system, shall be eligible for benefits as follows:

1. For employees who are not in a hazardous position, a monthly insurance contribution of ten dollars (\$10) for each year of service as a participating employee.
2. For employees who are in a hazardous position or who participate in the State Police Retirement System, a

monthly insurance contribution of fifteen dollars (\$15) for each year of service as a participating employee in a hazardous position or as a participating member of the State Police Retirement System.

3. Upon the death of ~~a{the retired}~~ member who retired from the State Police Retirement System or a hazardous position, as defined in Section 12 of this Act, the beneficiary, if the beneficiary is the member's spouse, shall be entitled to a monthly insurance contribution of ten dollars (\$10) for each year of service the member attained as a participating employee in a hazardous position or as a participating member of the State Police Retirement System. The provisions of this subparagraph shall not apply to an employee whose membership date is on or after July 1, 2008.

~~(c){(b)}~~ The ~~one hundred twenty (120) months of~~ service requirement under paragraphs (a) and (b) of this subsection, shall be waived for a member who is disabled or killed in the line of duty as defined in KRS 16.505(19) or KRS 61.621, and the member or his beneficiary shall be entitled to the benefits payable under this subsection as though the member had twenty (20) years of service in a hazardous position.

~~(d){(c)}~~ The monthly insurance contribution amount shall be increased July 1 of each year by the percentage change in the annual average of the consumer price index for all urban consumers for the most recent calendar year as published by the federal Bureau of Labor Statistics, not to exceed five percent (5%). The increase shall be cumulative and shall continue to accrue after the member's retirement for as long as a monthly insurance contribution is payable to the retired member or beneficiary. The provisions of this paragraph shall not apply to an employee whose membership date is on or after July 1, 2008.

~~(e){(d)}~~ The benefits of this subsection provided to a member whose participation begins on or after July 1, 2003, shall not be considered as benefits protected by the inviolable contract provisions of KRS 61.692, 16.652, and 78.852. The General Assembly reserves the right to suspend or reduce the benefits conferred in this subsection if in its judgment the welfare of the Commonwealth so demands.

Section 19. KRS 61.705 is amended to read as follows:

- (1) (a) Upon the death of a retired member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System who began participating before July 1, 2008, and who was receiving a monthly retirement allowance based on a minimum of forty-eight (48) months of service or whose retirement allowance based on a minimum of forty-eight (48) months was suspended in accordance with KRS 61.637, a death benefit of five thousand dollars (\$5,000) shall be paid.
- (b) Upon the death of a retired member of the Kentucky Employees Retirement System or the County Employees Retirement System who began participating on or after July 1, 2008, who was not employed in a hazardous position, as defined in Section 12 of this Act, and who was receiving a monthly retirement allowance based on a minimum of twenty-seven (27) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1), a death benefit of five thousand dollars (\$5,000) shall be paid.
- (c) Upon the death of a retired member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System who began participating on or after July 1, 2008, who was a member of the State Police Retirement System or who was employed in a hazardous position, as defined in Section 12 of this Act, and who was receiving a monthly retirement allowance based on a minimum of twenty (20) years of service credited under KRS 16.543(1), 61.543(1), or 78.615(1), a death benefit of five thousand dollars (\$5,000) shall be paid.

If the retired member had more than one (1) account in the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System, the system shall pay only one (1) five thousand dollar (\$5,000) death benefit. Application for the death benefit made to the Kentucky Retirement Systems shall include acceptable evidence of death and of the eligibility of the applicant to act on the deceased retired member's behalf.

- (2) The death benefit shall be paid to a beneficiary named by the retired member. Upon retirement or any time thereafter, the retired member may designate on the form prescribed by the board, death benefit designation, an individual, his estate, a trust or trustee as the beneficiary of the death benefit. The beneficiary for the death benefit may or may not be the same beneficiary designated in accordance with KRS 61.590(1). If the beneficiary designated under this section dies prior to the member or if the beneficiary was the spouse and they were divorced on the date of the retired member's death, the retired member's estate shall become the beneficiary, unless the retired member has filed a subsequent death benefit designation.

Section 20. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

- (1) "System" means the County Employees Retirement System;
- (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- (3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being

hereby granted the authority to determine the eligibility of the agency to participate;

- (4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- (6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;
- (7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;
- (12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;
- (13) "Creditable compensation" means all salary, wages, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board shall be excluded. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);
- (14) "Final compensation" means:
 - (a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or
 - (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or
 - (c) For a member who is not employed in a hazardous position, as provided in Section 12 of this Act, whose total service credit on or before December 31, 2008, is at least twenty-seven (27) years, whose age and years of service total on or before December 31, 2008, is at least seventy-five (75), and who would be eligible to retire between August 1, 2001, and January 1, 2009, final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number

of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. For purposes of this paragraph, a member's total service credit shall mean:

1. All service creditable for retirement as of December 31, 2008; and
2. Service being purchased under an installment payment program established pursuant to KRS 61.552(16) and (28) for installment purchase of service agreements executed by the employee on or before December 31, 2008. The provisions of this subparagraph shall not apply to service being purchased under the provisions of KRS 61.552(25) unless the employee has attained two hundred forty (240) months of service as of December 31, 2008, not including the service being purchased under KRS 61.552(25); or

(d){(e)} For a member who begins participating before July 1, 2008, who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used; or

(e) For a member who begins participating on or after July 1, 2008, who is employed in a hazardous position, as provided in Section 12 of this Act, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.520 to 78.852;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;
- (20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;
- (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:
 - (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;
 - (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or
 - (d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;
- (22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);
- (23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at

the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;
- (27) "Person" means a natural person;
- (28) "School term or year" means the twelve (12) months from July 1 through the following June 30;
- (29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615; and
- (32) "Month" means a calendar month.

Section 21. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

- (1) Cessation of membership, conditions, as provided for by KRS 61.535;
- (2) Statement of member and employer, as provided for by KRS 61.540;
- (3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;
- (4) Service credit determination, as provided for by KRS 61.545;
- (5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
- (6) Service credit, Armed Forces, as provided for by KRS 61.555;
- (7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;
- (8) Retirement allowance increases as provided for by KRS 61.691;
- (9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
- (10) Disability retirement, conditions, as provided for by KRS 61.600;
- (11) Disability retirement, allowance, as provided for by KRS 61.605;
- (12) Medical examination after disability retirement, as provided for by KRS 61.610;
- (13) Disability retirement allowance, reduction, as provided for by KRS 61.615;
- (14) Determination of retirement allowance, as provided for by KRS 61.595;
- (15) Refund of contributions, conditions, as provided for by KRS 61.625;
- (16) Refund of contributions, death after retirement, as provided for by KRS 61.630;
- (17) Optional retirement plans, as provided for by KRS 61.635;
- (18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;
- (19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;
- (20) Board of trustees, conflict of interest, as provided for by KRS 61.655;
- (21) Custodian of funds, payments made, when, as provided for by KRS 61.660;
- (22) Medical examiners and hearing procedures, as provided for by KRS 61.665;
- (23) Actuarial bases, as provided for by KRS 61.670;
- (24) Employer's administrative duties, as provided for by KRS 61.675;
- (25) Correction of errors in records, as provided for by KRS 61.685;
- (26) Exemptions of retirement allowances, as provided for by KRS 61.690;
- (27) Credit for service prior to membership date, as provided for by KRS 61.526;
- (28) Creditable compensation of fee officers, as provided for by KRS 61.541;

- (29) Transfer of dormant accounts, as provided for by KRS 61.626;
- (30) Members' account, confidential, as provided for by KRS 61.661;
- (31) Retirement plan for employees determined to be in a hazardous position, as provided for by KRS 61.592;
- (32) Maximum disability benefit, as provided for by KRS 61.607;
- (33) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;
- (34) Employer contributions, as provided for by KRS 61.565;
- (35) Recontribution and delayed contribution payments, purchase of service credit, interest, and installment payments, as provided for by KRS 61.552;
- (36) Hospital and medical insurance plan, as provided by KRS 61.702;
- (37) Death benefit, as provided by KRS 61.705;
- (38) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;
- (39) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;
- (40) Disability procedure for members in hazardous positions as provided for in KRS 16.582;
- (41) Direct deposit of recipient's retirement allowance as provided for in KRS 61.623;
- (42) Death or disability from a duty-related injury as provided in KRS 61.621;
- (43) Purchase of service credit effective July 1, 2001, as provided in KRS 61.5525; ~~and~~
- (44) Payment of small accounts upon death of member, retiree, or recipient without formal administration of the estate as provided in KRS 61.703; and
- (45) Option for irrevocable election for contributions and benefits applicable to employees participating on or after July 1, 2008, as provided in Section 23 of this Act.

Section 22. KRS 78.610 is amended to read as follows:

- (1) (a) Each employee shall, commencing on August 1, 1990, contribute, for each pay period for which he receives compensation, five percent (5%) of his creditable compensation unless he did not elect membership pursuant to KRS 61.545(3). *The provisions of this paragraph shall apply to employees who begin participating before July 1, 2008.*
- (b) Each employee who begins participating on or after July 1, 2008, shall contribute, for each pay period for which he receives compensation, two and one-half percent (2.5%) of his creditable compensation.
- (2) The agency reporting official of a participating county shall cause to be deducted from the "creditable compensation" of each employee for each and every payroll period subsequent to the date the county participated in the system the contribution payable by the member as provided in KRS 78.510 to 78.852. The agency reporting official shall promptly pay the deducted employee contributions to the system in accordance with KRS 78.625.
- (3) The deductions provided for in subsection (2) of this section shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided in subsection (2) of this section; and payment of salary or compensation less the deductions shall be a full and complete discharge of all claims for services rendered by the person during the period covered by the payment, except as to any benefits provided by KRS 78.510 to 78.852.
- (4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). These contributions shall not be included as gross income of the employee until the contributions are distributed or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked-up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employee contributions made prior to August 1, 1982.

SECTION 23. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

- (1) (a) Any regular full-time employee who begins participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems before July 1, 2008, and has less than ten (10) years of service as of July 1, 2008, may elect to receive the benefits provided to a regular full-time employee who begins participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems on or after July 1, 2008.
- (b) The election shall be made in writing and on a form prescribed by the board.
- (c) Eligible employees who begin participating before July 1, 2008, who wish to make an election to receive the benefits applicable to employees who begin participating on or after July 1, 2008, may notify the board of their

election beginning July 1, 2008, but no later than December 31, 2008.

(d) Before accepting an election from an employee, the board shall provide the employee with information detailing the potential consequences of the employee's election.

(e) On the first day of the month, following acceptance of a valid election form at the retirement systems office as provided in this section:

1. The employee shall be considered an employee participating on or after July 1, 2008, and all service credit of the employee before July 1, 2008, shall be considered as service earned on or after July 1, 2008, for purposes of determining eligibility and computation of benefits under KRS 16.505 to 16.652, 61.510 to 61.705, and 78.510 to 78.852;

2. The employee shall pay the employee contribution rate applicable to employees participating on or after July 1, 2008; and

3. Subject to the board obtaining a favorable ruling from the Internal Revenue Service, the employee may transfer fifty percent (50%) of the employee's accumulated balance in the member contribution account, as provided in KRS 16.560, 61.575, and 78.640, to the Kentucky Public Employees Deferred Compensation System or a plan administered by the employer as provided in Section 24 of this Act.

(2) An election made pursuant to this section by an employee who begins participating before July 1, 2008, shall be irrevocable.

(3) The board shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish the process and procedures necessary to carry out the provisions of this section.

SECTION 24. A NEW SECTION OF KRS 18A.230 TO 18A.275 IS CREATED TO READ AS FOLLOWS:

(1) (a) Employers participating in the Kentucky Employees Retirement System or the State Police Retirement System, and each local school district participating in the County Employees Retirement System, shall contribute an amount to a defined contribution plan administered by the Kentucky Public Employees Deferred Compensation System, for each employee who begins participating in the systems on or after July 1, 2008, and for each employee who makes an irrevocable election as provided in Section 23 of this Act if:

1. The employee has been participating in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System for a period of at least (12) months; and

2. The employee elects to make a voluntary employee contribution to the plan administered by the Board of Trustees of the Kentucky Public Employees Deferred Compensation System.

(b) The amount of the employer contribution paid to the defined contribution plan administered by the Kentucky Public Employees Deferred Compensation System shall not exceed three percent (3%) of the employee's creditable compensation as defined in Sections 1, 8, and 20 of this Act and shall be based upon the following formula:

1. The employer shall contribute an amount equivalent to the amount contributed by the employee, up to one percent (1%) of the employee's creditable compensation as defined by Sections 1, 8, and 20 of this Act; and

2. The employer shall contribute an amount equivalent to one-half (1/2) the amount contributed by the employee, up to two percent (2%) of the employee's creditable compensation as defined by Sections 1, 8, and 20 of this Act.

(2) Employers participating in the County Employees Retirement System, who are not required to contribute to the Kentucky Public Employees Deferred Compensation System as provided by subsection (1) of this section, may elect to participate in the Kentucky Public Employees Deferred Compensation System or establish a separate defined contribution plan for their employees. The employer shall pay the same employer contribution to the system or plan as provided in subsection (1) of this section for employees who begin participating on or after July 1, 2008, and for employees who make an irrevocable election as provided in Section 23 of this Act.

(3) The benefits provided in this section shall not constitute an inviolable contract of the Commonwealth. The General Assembly reserves the right to suspend or reduce the benefits conferred in this section if, in its judgment, the welfare of the Commonwealth so demands.

Section 25. KRS 18A.245 is amended to read as follows:

(1) The authority shall be administered by a board of trustees composed of seven (7) members, who shall be as follows:

(a) Secretary, Finance and Administration Cabinet, ex officio;

(b) Secretary of personnel, ex officio;

(c) The state controller, ex officio; and

(d) Four (4) at-large members appointed by the Governor, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall be a representative of a nonstate government

employer.

- (2) The members of the board appointed by the Governor shall serve for a period of four (4) years and the ex officio members of the board shall serve only for the period of their term of office.
- (3) Any vacancy which may occur shall be filled in the same manner provided for the selection of the particular member for a full term. Vacancies shall be filled for the unexpired term only.
- (4) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists, and no member shall be subject to removal from office, except upon conviction of a felony, or of a misdemeanor involving moral turpitude.
- (5) Board members who do not otherwise receive a salary or compensation from the State Treasury shall receive a per diem of one hundred dollars (\$100) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards applicable to state employees.
- (6) The board shall meet at least once in each quarter of the year, and may meet in special session upon the call of the chairman. It shall elect a chairman and a vice chairman. A majority of the members shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the members present.
- (7) The authority shall be attached to the Personnel Cabinet for administrative purposes only. The board may take but is not limited to the following actions:
 - (a) Appoint such employees as it deems necessary and fix the compensation for all employees of the board, subject to the approval of the secretary. The executive director of the authority and employees appointed by the board shall serve at its will and pleasure. All other staff of the authority shall be employed under KRS 18A.005 to 18A.200;
 - (b) Require such employees as it thinks proper to execute bonds for the faithful performance of their duties;
 - (c) Establish a system of accounting;
 - (d) Contract for such services as may be necessary for the operation or administration of deferred compensation plans authorized in KRS 18A.230 to 18A.275, including annual audits;
 - (e) Do all things, take all actions, and adopt plans for participation consistent with federal law and with the provisions of KRS 18A.230 to 18A.275, including but not limited to:
 1. Amending the board's plan for the Kentucky Public Employees 401(k) Deferred Compensation Plan or the Kentucky Employees 457 Deferred Compensation Plan, or both such plans, to adopt, maintain, and terminate a deemed IRA program under Internal Revenue Code Section 408;
 2. Amending the board's plan for the Kentucky Public Employees 401(k) Deferred Compensation Plan to adopt, maintain, and terminate a qualified Roth contribution program under Internal Revenue Code Section 402A; ~~and~~
 3. Adopting, maintaining, and terminating an Internal Revenue Code Section 403(b) plan for qualified employees; and
 4. Establishing, maintaining, amending, and terminating a defined contribution plan for purposes of carrying out the provisions of Sections 23 and 24 of this Act.
- (8) The Attorney General, or an assistant designated by him, may act as legal adviser and attorney for the board. The board may also appoint legal counsel in accordance with KRS Chapter 12.
- (9) The board shall prepare an annual financial report showing all receipts, disbursements, assets, and liabilities and shall submit a copy to the Governor and the Legislative Research Commission. All board meetings and records shall be open for inspection by the public.
- (10) The board may establish a new plan or utilize a plan previously established under KRS 18A.230 to 18A.275 to carry out the provisions of Sections 23 and 24 of this Act. In addition, the board may establish a separate trust fund to hold and invest plan assets which may be commingled with other assets of plans administered by the board. The board shall have the authority to construe, interpret, and amend the plans to the extent necessary to maintain its tax qualified status under the Internal Revenue Code and the Kentucky Revised Statutes.
- (11) The board shall have the authority to promulgate administrative regulations in accordance with KRS Chapter 13A that are necessary to carry out Sections 23 and 24 of this Act.
- (12) Notwithstanding the provisions of KRS 61.661, the Kentucky Retirement Systems shall provide all information requested by the Kentucky Public Employees Deferred Compensation System to carry out Sections 23 and 24 of this Act.

Section 26. KRS 61.701 is amended to read as follows:

- (1) There is hereby created and established a trust fund to be known as the "Kentucky Retirement Systems Insurance Fund." All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in this section.
- (2) The fund is created pursuant to 26 U.S.C. secs. 105 and ~~sec. 106~~ for the purpose of providing a fund separate from the retirement funds. Fund assets are dedicated to providing ~~and is to be used to provide fringe~~ benefits in accordance with the plan described ~~as provided~~ in KRS 61.702 to retired recipients and employees of employers participating in the

Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, and to certain of their dependents or beneficiaries.

- (3) The fund shall be administered by the board of trustees of the Kentucky Retirement Systems, and the board shall serve as trustees of the insurance fund. The board shall manage the assets of the fund in the same manner in which it administers the retirement funds. However, separate accounting and financial reporting must be maintained for the insurance fund.

SECTION 27. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

- (1) There is created a permanent subcommittee of the Legislative Research Commission to be known as the Public Retirement Systems Oversight Committee. The subcommittee shall be composed of eight (8) members appointed as follows: three (3) members of the Senate appointed by the President of the Senate; one (1) member of the minority party in the Senate appointed by the Minority Floor Leader in the Senate; three (3) members of the House of Representatives appointed by the Speaker of the House of Representatives; and one (1) member of the minority party in the House of Representatives appointed by the Minority Floor Leader in the House of Representatives. The members of the subcommittee shall serve for terms of two (2) years, and the members appointed from each chamber shall elect one (1) member from their chamber to serve as co-chair. Any vacancy which may occur in the membership of the subcommittee shall be filled by the appointing authority who made the original appointment.
- (2) On an alternating basis, each co-chair shall have the first option to set the quarterly meeting date. A quarterly meeting may be canceled by agreement of both co-chairs. The co-chairs shall have joint responsibilities for subcommittee meeting agendas and presiding at subcommittee meetings. The members of the subcommittee shall be compensated for attending meetings as provided in KRS 7.090(3).
- (3) Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with KRS 7.090(4) and (5).
- (4) A majority of the entire membership of the Public Retirement Systems Oversight Committee shall constitute a quorum, and all actions of the subcommittee shall be by vote of a majority of its entire membership.
- (5) The Public Retirement Systems Oversight Committee shall be charged with:
- (a) Examining the financial and actuarial status of the plans administered by the Kentucky Retirement Systems and the Kentucky Teachers Retirement System on an ongoing basis; and
- (b) Provide an annual report and additional information and recommendations as determined by the subcommittee to the Speaker of the House of Representatives, the President of the Senate, the Minority Floor Leader of the House of Representatives, and the Minority Floor Leader of the Senate.

Section 28. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; J. Personnel Cabinet, at pages 1201 and 1202, is amended to read as follows:

1. GENERAL OPERATIONS

	2006-07	2007-08
General Fund	1,805,600	932,200
Restricted Funds	19,569,900	20,785,200
TOTAL	21,375,500	21,717,400

(1) **Flexible Benefit Account:** Notwithstanding KRS 18A.225(2)(g), any funds from the calendar year 2005 and calendar year 2006 public employee health insurance program accruing to the Flexible Benefit Account, not otherwise appropriated in fiscal year 2006-2007 and in fiscal year 2007-2008, and in excess of the amount reflected in Part V, Funds Transfer, of this Act shall be credited to the General Fund Surplus Account.

(2) **Public Employees Self-Insured Health Insurance Premiums:** Beginning with the employer premium due for coverage effective July 1, 2006, under the Public Employees Self-Insured Health Insurance Program, the employer rate shall be reduced by 12 percent for the balance of Plan Year 2006. For Plan Year 2007, the increase in employer and employee premiums for coverage under the Public Employees Self-Insured Health Insurance Program shall not exceed 10.4 percent for the Essential Plan and 9 percent for the Enhanced and Premier Plan over the Plan Year 2006 rates as adjusted by this Act.

2. PUBLIC EMPLOYEES DEFERRED COMPENSATION AUTHORITY

	2006-07	2007-08
Restricted Funds	6,009,200	6,172,400

3. WORKERS' COMPENSATION BENEFITS AND RESERVE

	2006-07	2007-08
Restricted Funds	24,798,500	26,204,400

4. STATE SALARY AND COMPENSATION FUND

	2006-07	2007-08
General Fund	8,000,000	24,000,000

- (1) **Employee Compensation:** The above General Fund appropriation provides a pool of funds to be allocated in

accordance with the procedures contained in Part IV, State Salary/Compensation and Employment Policy, of this Act. Included in the above \$8,000,000 General Fund appropriation in fiscal year 2006-2007 is \$3,842,500 which shall not be allocated, transferred, or expended and shall continue into fiscal year 2007-2008 and shall only be expended in that fiscal year for this same purpose.

5. STATE GROUP HEALTH INSURANCE FUND

	2006-07	2007-08
General Fund	2,476,000	2,476,000

(1) **Group Health Insurance:** The above General Fund appropriation is provided to support a dependent subsidy for full-time employees of quasi-governmental employers, excluding state agencies, participating in the State Group Health Insurance program. To participate in this fund, each quasi-governmental employer must certify to the Secretary of the Personnel Cabinet that no funds received from the pool are being utilized to fund any benefits for persons other than full-time employees.

6. RETIREMENT CONTRIBUTION SUPPLEMENT TRUST FUND

	2006-07	2007-08
<u>General Fund</u>	<u>38,024,700</u>	<u>39,279,400</u>
<u>Agency Funds</u>	<u>-0-</u>	<u>53,967,100</u>
<u>TOTAL</u>	<u>38,024,700</u>	<u>93,246,500</u>

(1) Retirement Contribution Supplement Trust Fund: The Retirement Contribution Supplement Trust Fund is hereby created in the Personnel Cabinet. The above General Fund appropriation for the Retirement Contribution Supplement Trust Fund shall be utilized to supplement existing state agency budgets to implement the employer retirement contribution rates from July 1, 2007, through June 30, 2008, as set forth in Part IV, State Salary/Compensation and Employment Policy, of this Act and to service the debt of a \$537,800,000 Pension Funds Bond to be issued prior to July 1, 2008. The Retirement Contribution Supplement Trust Fund shall be supplemented by Restricted Funds, Federal Funds, the Road Fund, and other General Fund amounts otherwise appropriated to state agencies to implement the employer retirement contribution rates from July 1, 2007, through June 30, 2008. Included in this appropriation is \$3,694,800 in fiscal year 2007-2008 for state agencies with employees covered by the State Police Retirement System. Included in this appropriation is \$5,505,500 in fiscal year 2007-2008 for state agencies with hazardous duty employees covered by the Kentucky Employees Retirement Systems. Included in this appropriation in fiscal year 2007-2008 is \$6,230,000 for the budget units of the Council on Postsecondary Education to be transferred at least quarterly to the affected budget units, \$7,931,800 for local and district health departments, and \$12,632,400 for regional MH/MR boards with nonhazardous duty employees covered by the Kentucky Employees Retirement Systems. Included in this appropriation in fiscal year 2007-2008 is \$41,309,600, which shall be allocated to state agencies and other governmental units not mentioned above with nonhazardous duty employees covered by the Kentucky Employees Retirement Systems.

Included in the above appropriation is \$53,967,100 for debt service in fiscal year 2007-2008.

The State Budget Director shall notify the Secretary of the Finance and Administration Cabinet of the respective amount of General Fund moneys from the Retirement Contribution Supplement Trust Fund to transfer to each affected budget unit and such funds shall be transferred. Funds allocated to local and district health departments, regional MH/MR boards, and other nonstate governmental entities shall be transferred from the Personnel Cabinet directly to those individual entities, no later than the first day of the second month of each calendar quarter of fiscal year 2007-2008, based on their share of the increased cost incurred as a result of the implementation of the employer retirement contribution rates from July 1, 2007, through June 30, 2008. The Secretary of the Personnel Cabinet shall report to the Interim Joint Committee on Appropriations and Revenue on the implementation of the revised employer retirement contribution rates from July 1, 2007, through June 30, 2008, and the receipts and disbursements from the Retirement Contribution Supplement Trust Fund at the end of each calendar quarter, no later than 45 days from the end of the quarter.

Notwithstanding KRS 45.229, any balance remaining in the Retirement Contribution Supplement Trust Fund at the end of a fiscal year shall not lapse. Any balance remaining at the end of a fiscal year shall be utilized solely for the purpose of retiring the Pension Funds Bond that is directed to be issued by Part II, Capital Projects Budget, and other provisions of this Act. Any balances of the Retirement Contribution Supplement Trust Fund shall be invested by the Office of Financial Management consistent with the provisions of KRS Chapter 42, and interest income shall be credited to the trust fund.

Notwithstanding KRS 45.229(2), any state agency that received a transfer from the Retirement Contribution Supplement Trust Fund in fiscal year 2006-2007 or 2007-2008 and has General Fund moneys at the end of fiscal year 2006-2007 or 2007-2008 shall transfer the General Fund moneys to the Retirement Contribution Supplement Trust Fund, not to exceed the amount that was transferred to the agency from the Retirement Contribution Supplement Trust Fund during that fiscal year.

For agencies where the payroll is processed through the Personnel Cabinet, that part of the employer retirement contribution designated for the Retirement Contribution Supplement Trust Fund in Part IV, State Salary/Compensation and Employment Policy, of the Act, shall be transferred from the agency to the Retirement Contribution Supplement Trust Fund as each payroll is processed.

For agencies where the payroll is not processed through the Personnel Cabinet, that part of the employer retirement contribution designated for the Retirement Contribution Supplement Trust Fund in Part IV, State Salary/Compensation and

Employment Policy, of this Act shall be transferred from the Kentucky Employees Retirement System to the Retirement Contribution Supplement Trust Fund as each employer contribution payment is made and processed by the retirement system.

Section 29. 2006 Kentucky Acts Chapter 252, Part IV, State Salary/Compensation and Employment Policy; 8. Employer Retirement Contribution Rates, at page 1403, is amended to read as follows:

8. **Employer Retirement Contribution Rates:** Notwithstanding KRS 61.565, the employer contribution rates for the Kentucky Employees Retirement Systems from July 1, 2006, through June 30, 2007, shall be 7.75 percent, consisting of 4.83 percent for pension and 2.92 percent for insurance, for nonhazardous duty employees and 22.0 percent, consisting of 8.75 percent for pension and 13.25 percent for insurance, for hazardous duty employees; for the same period the employer contribution for employees of the State Police Retirement System shall be no more than 25.5 percent, consisting of 12.44 percent for pension and 13.06 percent for insurance. Notwithstanding KRS 61.565, the employer contribution rates for the Kentucky Employees Retirement Systems from July 1, 2007, through June 30, 2008, shall be 14.0[8.5] percent, consisting of 8.22[5.47] percent for pension, 3.03 percent for insurance, and 2.75 percent to the Retirement Contribution Supplement Trust Fund, for nonhazardous duty employees and 28.20[24.25] percent, consisting of 12.54[9.79] percent for pension, 14.46 percent for insurance, and 1.2 percent to the Retirement Contribution Supplement Trust Fund, for hazardous duty employees; for the same period the employer contribution for employees of the State Police Retirement System shall be no more than 35.63[28.0] percent, consisting of 16.98[14.23] percent for pension, 13.77 percent for insurance, and 4.88 percent to the Retirement Contribution Supplement Trust Fund.

Section 30. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; J. Personnel Cabinet; 1. General Operations, at page 1229, is amended to read as follows:

001. Franklin County - Lease

002. Retirement Contribution Supplement Trust Fund - Pension Funds Bond

<u>Bond Funds</u>	<u>537,800,000</u>	<u>-0-</u>
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(1) Retirement Contribution Supplement Trust Fund: The proceeds from these Bond Funds shall be directed as follows:

(a) \$498,100,000 to the pension fund of the Kentucky Employees Nonhazardous Retirement System;

(b) \$15,900,000 to the pension fund of the Kentucky Employees Hazardous Retirement System; and

(c) \$23,800,000 to the pension fund of the State Police Retirement System.

Section 31. Any General Fund moneys directed to be appropriated by 2006 Ky. Acts ch. 252, Part VII, General Fund Surplus Expenditure Plan, prior to the effective date of this Act during the 2006-2008 biennium to the Kentucky Retirement Systems to address a portion of the actuarially unfunded liability shall be appropriated to the Kentucky Retirement Systems insurance fund, as established in KRS 61.701, and shall be allocated in proportion to the contributions required according to KRS 61.702(2) for the Kentucky Employees Retirement System insurance fund and the State Police Retirement System insurance fund.

Section 32. Additional General Fund moneys in the amount of \$3,259,200 are hereby appropriated to the Judicial Branch in fiscal year 2007-2008 to implement the employer retirement contribution rates from July 1, 2007, through June 30, 2008, as set forth in 2006 Ky. Acts ch 252, Part IV, State Salary/Compensation and Employment Policy, as amended by Section 27 of this Act.

Section 33. Additional General Fund moneys in the amount of \$115,600 are hereby appropriated to the Legislative Branch in fiscal year 2007-2008 to implement the employer retirement contribution rates from July 1, 2007, through June 30, 2008, as set forth in 2006 Ky. Acts ch. 252, Part IV, State Salary/Compensation and Employment Policy, as amended by Section 27 of this Act.

Section 34. Whereas the funding of public employee retirement systems are imperative to the public employees of the Commonwealth of Kentucky, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Senate Committee Amendment 2 to **HB 418** is as follows:

HB 418, On page 87, after line 15, by inserting the following:

"Section 28. KRS 161.553 is amended to read as follows:

- (1) The cost of providing statutory benefit improvements for annuitants may be funded by annual appropriations from the state on an actuarial amortized basis over the lifetime of the annuitants. The schedules in subsections (1)(a), (1)(b), and (1)(c) of this section are the annual appropriations which shall be made by the state for benefit improvements approved in the respective fiscal years or bienniums prior to July 1, 2008:

(a)	Cost-of-Living Allowance	2006-2007	Each Succeeding Fiscal Year	.
	1992-1994	\$2,229,400	\$1,125,700 in 2007-2008	
	1994-1996	\$6,142,000	\$6,142,000 through 2010-2011	

	1996-1998	\$4,459,000	\$4,459,000 through 2010-2011	
	1998-2000	\$15,333,900	\$15,333,900 through 2012-2013	
			and	
			\$7,938,600 through 2013-2014	
	2000-2002	\$12,511,400	\$12,511,400 through 2014-2015	
			and	
			\$7,227,700 in 2015-2016	
	2002-2004	\$21,405,700	\$21,405,700 through 2021-2022	
			and	
			\$11,204,100 in 2022-2023	
	2004-2006	\$15,413,700	\$15,413,700 through 2023-2024	
			and	
			\$7,421,400 in 2024-2025	
(b)	Minimum Value 2006-2007		Each Succeeding Fiscal Year	
	Annuities			
	1992-1994	\$2,217,700		
	1994-1996	\$2,126,000	\$2,126,000 through 2008-2009	
	2002-2004	\$3,375,900	\$3,375,900 through 2016-2017	
			and	
			\$2,027,800 in 2017-2018	
(c)	Sick Leave 2006-2007		Each Succeeding Fiscal Year	
	Allowance			
	1998-2000	\$4,660,300	\$4,660,300 through	2012-2013
			and	
			\$2,425,900 through	2013-2014
	2000-2002	\$6,167,100	\$6,167,100 through	2014-2015
			and	
			\$3,579,100 in 2015-2016	
	2002-2004	\$5,337,000	\$5,337,000 through	2021-2022
			and	
			\$3,968,300 in 2022-2023	
	2004-2006	\$7,261,100	\$7,261,100 through	2023-2024
			and	
			\$4,339,500 in 2024-2025	
	2006-2008	\$4,293,800	\$9,211,000 through 2025-2026	
			and	
			\$4,917,200 in 2026-2027	

- (2) The cost of providing the transitional funding for the state medical insurance fund stabilization contribution as provided by KRS 160.550(2) may be funded by annual appropriations from the state on an amortized basis. ~~[The schedule in this subsection is the annual appropriation which shall be made by the state in the respective fiscal years or biennium prior to July 1, 2008:]~~

Amortization of	2006-2007	Each Succeeding Fiscal Year
Transitional Funding	\$13,325,100	\$13,325,100 through 2014-2015

and

\$9,075,500 in 2015-2016}

- (3) The Kentucky Teachers' Retirement System is directed to study the feasibility of stabilizing the employer contribution rate set forth in KRS 161.550 should the state use the funding provided under this section to issue pension obligation bonds, the proceeds of which would be deposited with the Kentucky Teachers' Retirement System for investment and payment of retirement benefits. The cost of the feasibility study shall be paid by the Kentucky Teachers' Retirement System.
- (4) The present values of providing statutory cost-of-living increases for annuitants not included in subsection (1) of this section are to be assigned to the unfunded obligations of the retirement system and are identified as follows:
- | | |
|-----------|---------------|
| 1986-1988 | \$34,689,893 |
| 1990-1992 | \$68,107,473 |
| 1992-1994 | \$15,749,976" |

On page 87, after line 15, by inserting the following:

"Section 29. 2006 Kentucky Acts Chapter 252, Part I, Operating Budget; A. General Government; 30. Teachers' Retirement System, at pages 1160 and 1161, is amended to read as follows:

30. TEACHERS' RETIREMENT SYSTEM

	2006-07	2007-08
General Fund	157,326,100	183,323,100
<u>Restricted Funds</u>	<u>299,409,300</u>	<u>10,361,500</u>
~~{Restricted Funds~~	~~9,409,300~~	~~10,361,500}~~
<u>Total</u>	<u>456,735,400</u>	<u>193,684,600</u>
~~{TOTAL~~	~~166,735,400~~	~~193,684,600}~~

(1) **State Retirement Obligations:** Notwithstanding KRS 161.550, General Fund moneys are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 to 161.716.

(2) **Administrative Costs:** In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund moneys are provided in fiscal year 2006-2007 or fiscal year 2007-2008 for the cost of administration.

(3) **Amortization of Sick Leave:** Included in the above General Fund appropriation is \$4,293,800 in fiscal year 2006-2007 and \$9,211,000 in fiscal year 2007-2008 to provide the cost of amortizing the requirements of KRS 161.155 (sick leave) for members retiring during the 2006-2008 fiscal biennium.

(4) **Cost-of-Living Increase for Retirees:** Included in the above General Fund appropriation is \$4,312,800 in fiscal year 2006-2007 and \$7,865,100 in fiscal year 2007-2008 to provide, when combined with the annual one and one-half percent retirement allowance increase as provided for under KRS 161.620, a total increase in retirement allowances of eligible system members and beneficiaries of two and three-tenths percent in fiscal year 2006-2007 and an additional two and one-tenths in fiscal year 2007-2008.

(5) **Supplemental Health Insurance Funding:** Notwithstanding KRS 161.675(4)(a) included in the above General Fund appropriation is \$50,000 in each fiscal year to enable the retirement system to provide a subsidy from July 1, 2006, through December 31, 2007, for those retired state members over age 65 that insure their spouses under age 65 through the state health insurance plan. The amount of the subsidy for those over age 65 shall not exceed the amount of the subsidy for members under age 65 that choose couple, family, or parent plus coverage. The spousal subsidy is not subject to KRS 161.714.

(6) **State Medical Insurance Fund Stabilization Contribution:** Notwithstanding KRS 161.420 and 161.550, a portion of the state employer contribution in a sufficient amount shall be allocated to the Teachers' Retirement System Medical Insurance Fund instead of the State Accumulation Fund. Included in the above Restricted Funds is \$290,000,000, from new bonds as set forth in Section 32 of this Act, in fiscal year 2006-2007 to provide the full present value of all amortization payments to the State Accumulation Fund scheduled in KRS 161.553(2) with the remainder to provide the projected State Medical Insurance Fund Stabilization Contribution for fiscal year 2006-2007 and for fiscal year 2007-2008. Also included in the above General Fund appropriation is \$14,133,200 in fiscal year 2007-2008 to amortize the cost of the State Medical Insurance Fund Stabilization Contribution with the remainder to be amortized under the schedule set forth in KRS 161.553.

(7) **Dependent Subsidy for Retirees under age 65:** Notwithstanding KRS 161.675(4)(a), from July 1, 2006, through December 31, 2007, for all retirees under the age of 65 who participate in the Kentucky Group Health Insurance Program through the Kentucky Teachers' Retirement System, the Kentucky Teachers' Retirement System shall pay the same dependent subsidy that Executive Branch agencies pay for their active employees who have similar coverage. The dependent subsidy is not subject to KRS 161.714.

(8) **Ad Hoc State Contribution:** Included in the above General Fund appropriation is \$12,974,100 in fiscal year 2006-2007 and \$29,444,100 in fiscal year 2007-2008 for an ad hoc contribution to the State Accumulation Fund.

(9) **Highly Skilled Educators Retirement Benefits:** Salary supplements received by persons selected as highly skilled educators on or after July 1, 2000, shall not be included in the total salary compensation for any retirement benefits to which the employee may be entitled."; and

by renumbering the subsequent sections accordingly; and

On page 89, line 9, delete "39,279,400" and insert in lieu thereof "68,279,400", and adjust the total accordingly; and

On page 89, line 10, delete the word "Agency" and insert in lieu thereof the word "Restricted"; and

On page 89, line 11, delete "93,246,500" and insert in lieu thereof "122,246,500"; and

On page 90, line 8, delete "53,967,100" and insert in lieu thereof "82,967,100"; and

On page 92, line 21, delete "537,800,000" and insert in lieu "827,800,000";

On page 93, after line 1, insert the following:

(d) \$290,000,000 to the Kentucky Teachers Retirement System.

The Senate Committee Amendment 1 Title to **HB 418** is as follows:

HB 418, Amend the title to read "AN ACT relating to retirement, making an appropriation therefor, and declaring an emergency.".

Representative Graham moved that the House refuse to concur in the Senate Amendments to **HB 418**. Agreed.

HB 207, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 207** is as follows:

HB 207, AN ACT relating to mine safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.025 is amended to read as follows:

The department shall:

- (1) Promulgate administrative regulations that establish comprehensive criteria for the imposition and enforcement of sanctions against certified and noncertified personnel and owners and part-owners of licensed premises whose intentional violation of, or order to violate, mine safety laws places miners in imminent danger of serious injury or death. These criteria shall include but not be limited to the following:
 - (a) In the case of individuals that are certified miners, the Mine Safety Review Commission may revoke or suspend an individual's certification, or probate an individual's certification~~[for up to ten (10) working days]~~ for first offenses, and the Mine Safety Review Commission shall establish a maximum penalty for subsequent offenses;
 - (b) In the case of individuals that are owners or part-owners of licensed premises, the Mine Safety Review Commission may impose civil monetary penalties against individuals not to exceed ten thousand dollars (\$10,000); and
 - (c) In the case of noncertified personnel, the Mine Safety Review Commission may impose civil monetary fines equivalent to the value of the wages they receive for up to ten (10) working days for first offenses and the commission shall establish maximum penalties for subsequent offenses;
- (2) Notwithstanding KRS 351.070(15), promulgate administrative regulations that establish comprehensive criteria for the Mine Safety Review Commission's imposition of penalties against licensed premises for violations of mine safety laws that place miners in imminent danger of serious injury or death. These penalties shall include but not be limited to the revocation or suspension of the mine's license, the probation of a mine's license~~[for a first offense]~~, or the imposition of a penalty against the licensee not to exceed the gross value of the production of the licensed premise for up to ten (10) working days;
- (3) Direct that an employer shall not directly or indirectly reimburse a sanctioned miner or mine supervisor for days of work lost as a result of sanctions imposed by the Mine Safety Review Commission;
- (4) Establish procedures by which the department shall communicate with the Federal Mine Safety and Health Administration (MSHA) concerning allegations of mine safety violations against Kentucky coal operators and miners **and for reports made to the Office of Mine Safety and Licensing under KRS 351.193;**
- (5) Jointly with the Mine Safety Review Commission establish a process for referring allegations of mine safety violations to the Mine Safety Review Commission for adjudication and for the hearing of appeals from penalties imposed by the Office of Mine Safety and Licensing, and the underlying violation, authorized under KRS 351.070(15); and

- (6) Establish procedures to distribute quarterly reports to every licensed entity describing mine fatalities, serious mine accidents, and penalties imposed on certified and noncertified personnel and licensed premises and to require the report to be distributed to every certified working miner employed by the licensed entity, posted at work sites, and reviewed at regular mine safety meetings.

Section 2. KRS 351.030 is amended to read as follows:

- (1) All administrative hearings conducted by the department shall be conducted in accordance with KRS Chapter 13B and this section. Following the hearing, the department shall decide each matter in controversy. No person shall be discharged or otherwise discriminated against by his or her employer for testifying, or for his failure to testify, at these hearings.
- (2) The executor or administrator of a deceased miner's estate, or his or her designee, in the case of a fatality, miners that are injured as a result of an accident, and miners that are significantly affected by the conduct that gave rise to a disciplinary proceeding shall be granted the right of intervention in the penalty phase of that proceeding. The petition for intervention shall be made in accordance with KRS 13B.060(3). All hearings before the Mine Safety Review Commission shall be open proceedings. Any party with pertinent information regarding a mine accident may submit that information directly to the Office of Mine Safety and Licensing's chief accident investigator.

Section 3. KRS 351.070 is amended to read as follows:

- (1) The commissioner shall have full authority over the department and shall superintend and direct the activities of the mine inspectors and other personnel of the department. There is created within the Department for Natural Resources an Office of Mine Safety and Licensing.
- (2) The secretary shall appoint an executive director to the Office of Mine Safety and Licensing in accordance with KRS 224.10-020(2) and prescribe his powers and duties.
- (3) The commissioner may, whenever necessary, divide the coal fields of the state into as many inspection districts as necessary, so as to equalize as nearly as practicable the work of each inspector, and may assign to the inspectors their respective districts.
- (4) The commissioner may, whenever he or she deems it necessary in the interest of efficient supervision of the mines, temporarily employ the services of additional mine inspectors or change inspectors from one (1) district to another.
- (5) The commissioner shall superintend and direct the inspection of mines and cause to be investigated the character and quality of air in mines whenever conditions indicate the necessity of doing so.
- (6) The commissioner shall collect statistics relating to coal mining in the state and make an annual report of the statistics.
- (7) The commissioner shall see that maps, plans, projections, and proposed developments of all underground coal mines are made and filed in his office.
- (8) The commissioner shall keep a properly indexed, permanent record of all inspections made by himself and the personnel of the department.
- (9) The commissioner shall exercise general supervision over the training of officials and workmen in safety and first aid and mine rescue methods, and may conduct demonstrations in safety whenever he deems it advisable.
- (10) The commissioner shall exercise general supervision over the dissemination of information among officials and employees concerning mine ventilation, mining methods, and mine accidents and their prevention, and shall assume full charge in the event of mine fire or explosion or other serious accident at any mine in the state.
- (11) The commissioner may assist in the resumption of operations of any mine or gather data for the development of any coal seams that would be of any benefit to the state or create new employment.
- (12) The commissioner may prescribe reasonable safety standards governing the use of explosives, and electrical and mechanical equipment in the operation of open-pit or surface mines.
- (13) The secretary of the Environmental and Public Protection Cabinet shall have the power and authority to promulgate, amend, or rescind any administrative regulations he or she deems necessary and suitable for the proper administration of this chapter. Administrative regulations may be promulgated, amended, or rescinded by the secretary only after public hearing or an opportunity to be heard thereon of which proper notice by publication pursuant to KRS Chapter 424, has been given. Administrative regulations so promulgated shall carry the full force and effect of law.
- (14) The commissioner shall ascertain the cause or causes of any coal mining fatality and any accidents involving serious physical injury and, within sixty (60) days of completion of the investigation, shall report his or her findings and recommendations to the Governor, the Mine Safety Review Commission, the Mining Board, and the Legislative Research Commission. Accident interviews conducted by the Office of Mine Safety and Licensing shall be closed proceedings. The recommendations may include without being limited to the need to promulgate or amend administrative regulations to prevent the recurrence of the conditions causing the fatality. Effective January 1, 2009, the Office of Mine Safety and Licensing shall appoint an existing full-time employee to act as a family liaison. The family liaison shall have the responsibility during an accident investigation to keep the families of miners informed of the progress and findings of the accident investigation. The family liaison shall be trained in mining and in grief counseling.
- (15) The commissioner shall assess civil monetary penalties against licensed facilities for violations of laws in this chapter and KRS Chapter 352 pertaining to roof control plans, mine seal construction plans, unsafe working conditions, and mine

ventilation plans that could lead to imminent danger or serious physical injury. The Environmental and Public Protection Cabinet shall promulgate administrative regulations within ninety (90) days of July 12, 2006, providing for the manner and method of the assessment of the penalties and appeals therefrom. In no event shall the civil penalty assessed pursuant to this subsection for the violation exceed five thousand dollars (\$5,000). Nothing contained in this subsection shall be construed to impair or contravene the authority granted under KRS 351.025(2) for imposing penalties against licensed facilities.

Section 4. KRS 351.090 is amended to read as follows:

- (1) The Governor shall appoint an adequate number of mine inspectors to ensure at least two (2) inspections annually at all surface mines, provided the mine is in operation the entire year or the proportionate thereof, of all mines in the Commonwealth and sufficient additional inspectors to enable the commissioner to provide adequate surveillance of coal mines where conditions or management policy dictate that more inspections are needed to ensure the safety of miners; except the commissioner shall inspect all underground coal mines not less than ~~six (6)~~~~{three (3)}~~ times annually. Two (2) of the six (6) general inspections of underground mines shall additionally include a full electrical inspection. One (1) or more of the appointees ~~shall~~~~may~~ be designated as electrical mine inspectors. The Governor shall also appoint an adequate number of mine safety analysts and mine safety instructors. The term of office of each mine inspector, each mine safety analyst, each electrical inspector, and each mine safety instructor shall be during the period of capable, efficient service and good behavior.
- (2) All mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall have a thorough knowledge of first aid and mine rescue and be able to instruct in first aid and mine rescue, and shall possess thoroughly the knowledge required of the commissioner by KRS 351.060, and shall have a thorough and practical knowledge of mining gained by at least five (5) years' experience in coal mines in the Commonwealth. All surface mine safety analysts shall have at least five (5) years' experience in surface mines in the Commonwealth. For the purposes of this subsection, a degree in mining engineering from a recognized institution shall be deemed equivalent to two (2) years of practical experience in coal mines or an associate degree in mining technology from a recognized institution shall be deemed equivalent to one (1) year practical experience in coal mines. A person desiring to use a mining engineering or technology degree for practical experience credit shall file proof of having received a degree prior to examination.
- (3) No person shall be appointed to the office of mine inspector, underground mine safety analyst, electrical inspector, or mine safety instructor unless he holds a current mine foreman's certificate. No person shall be appointed to the office of surface mine safety analyst unless he holds a current surface mine foreman's certificate. A person appointed as mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall pass an examination administered by the board. The commissioner may recommend to the Governor applicants for the positions of mine inspector, mine safety analyst, electrical inspector, or mine safety instructor who have successfully passed the examination and are proved by worth, training, and experience to be the most competent of the applicants.
- (4) Mine inspectors, mine safety analysts, electrical inspectors, and mine safety instructors shall be of good moral character and temperate habits and shall not, while holding office, act in any official capacity in operating any coal mine.
- (5) No reimbursement for traveling expenses shall be made except on an itemized accounting for the expenses submitted by inspectors, analysts, and safety instructors who shall verify upon oath that the expenses were incurred in the discharge of their official duties.
- (6) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall take oath, which shall be certified by the officer administering it. The oath, in writing, and the certificate, shall be filed in the office of the Secretary of State.
- (7) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall give bond with surety approved by the Governor.
- (8) Each mine inspector, mine safety analyst, electrical inspector, and mine safety instructor shall provide authorization to the Office of Mine Safety and Licensing to perform a criminal background check by means of a fingerprint check by the State Police. The results of the state criminal background check shall be sent to the executive director of the Office of Mine Safety and Licensing. Any fee charged by the Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

Section 5. KRS 351.1041 is amended to read as follows:

- (1) The Mine Safety Review Commission is created as an independent governmental entity attached to the Environmental and Public Protection Cabinet, Office of the Secretary, for administrative purposes. The commission shall:
 - (a) Conduct hearings and issue orders regarding a licensee, coal operation, or other person involved in the mining of coal in accordance with KRS 351.194;
 - (b) Jointly with the department establish a process for the department's referral of allegations of mine safety violations, allegations of unsafe working conditions, violation of a miner's drug- and alcohol-free condition of certification, or supervisory personnel's failure to immediately report a fatal accident or an accident involving serious physical injury to the commission for adjudication;
 - (c) Make any recommendations to the department that it believes appropriate upon its review, consideration, and

analysis of:

1. All reports of coal mining fatalities and serious physical injuries provided by the commissioner under KRS 351.070(14);
 2. Any case in which a miner or a mine owner or operator, in the professional opinion of the department has a history of significant and substantial safety violations even though there has been no serious physical injury or death resulting from the violations;
 3. Any case in which a miner or a mine owner or operator has been convicted of a criminal charge for a violation of a federal mine safety standard or standards; and
 4. Any case in which the Federal Mine Safety and Health Administration has made a recommendation relating to certification of an individual certified under this chapter.
- (2) The Mine Safety Review Commission shall consist of three (3) members appointed by the Governor subject to the consent of the Senate and the House of Representatives in accordance with KRS 11.160. Of the members of the Mine Safety Review Commission first appointed under this section, one (1) shall be appointed for a term of one (1) year; one (1) shall be appointed for a term of two (2) years; and one (1) shall be appointed for a term of three (3) years. After the initial appointments, members of the board shall be appointed for terms of four (4) years. A member may be reappointed at the expiration of his or her previous term. Members shall continue to serve until a successor is appointed and qualified.
 - (3) The members of the Mine Safety Review Commission shall have the qualifications required of Judges of the Court of Appeals, except for residence in a district, and shall be subject to the same standards of conduct made applicable to a part-time judge by the Rules of the Kentucky Supreme Court. The members shall receive the per diem equivalent of the salary of a Judge of the Court of Appeals for each day spent in conducting the business of the commission.
 - (4) The Governor shall designate a member of the Mine Safety Review Commission to serve as chair and shall fill any vacancy in the office of chair.
 - (5) The Governor may remove any member for good cause, including violation of the Code of Judicial Conduct and repeated failure to perform satisfactorily the specific duties assigned in this chapter or KRS Chapter 352. The Governor may remove the member only after furnishing him or her with a written copy of the charges against that member and holding a public hearing if requested by the member.
 - (6) The commission shall meet on the call of the chair or a majority of the members of the commission.
 - (7) The Environmental and Public Protection Cabinet shall provide administrative services to the Mine Safety Review Commission. If the commission deems it necessary to employ hearing officers to assist it, the Environmental and Public Protection Cabinet shall employ hearing officers to assist the commission in accordance with KRS Chapter 13B and this chapter, notwithstanding the provisions of KRS 13B.030(2)(b).
 - (8) The commission may conduct hearings, compel the attendance of witnesses, administer oaths, and conduct oversight activities as may be required to ensure the full implementation of its duties.
 - (9) The department shall provide the Mine Safety Review Commission with all information requested by the commission for the fulfillment of its responsibilities under this chapter and KRS Chapter 352.
 - (10) The secretary of the Environmental and Public Protection Cabinet shall effectuate the hiring of any staff deemed necessary and affordable for the efficient operations of the Mine Safety Review Commission. This may include an executive director, general counsel, or other administrative support positions, to be appointed in accordance with KRS 12.010 and 12.050.

Section 6. KRS 351.1055 is amended to read as follows:

- (1) There is hereby established a Mine Equipment Review Panel attached to the Department for Natural Resources in the Environmental and Public Protection Cabinet.
- (2) The Mine Equipment Review Panel shall be a permanent panel of recognized experts who shall review and make recommendations annually to the executive director of the Office of Mine Safety and Licensing and the Interim Joint Committee on Agriculture and Natural Resources regarding best available mine safety technologies, including but not limited to wireless tracking and communications devices for use by miners in underground mines. Subject to budgetary constraints and approval by the United States Mine Safety and Health Administration (MSHA), if there is no existing law to the contrary, the commissioner may implement the recommendations of the panel. Based on the recommendations provided by the panel, the executive director shall comprise a list of commercially available mine safety equipment, including wireless tracking and communications devices that may be approved for use by coal miners.
- (3) The panel shall meet at the call of the chair. The chair of the panel shall be the executive director of mine safety and licensing. Members of the panel shall serve without pay, but shall be entitled to reimbursement of travel-related expenses.
- (4) The Mine Equipment Review Panel shall be composed of the following members, who shall be appointed by the commissioner not less than thirty (30) days after July 12, 2006:
 - (a) One (1) member shall represent the National Institute of Occupational Safety and Health;
 - (b) One (1) member shall represent the federal Mine Safety and Health Administration;
 - (c) One (1) member shall represent the coal industry;

- (d) One (1) member shall be appointed from the membership of the United Mine Workers of America and shall represent mine labor, preferably a member of a Kentucky mine rescue team;
 - (e) One (1) member shall represent the Department of Mining Engineering at the University of Kentucky; and
 - (f) One (1) member shall be the executive director of the Office of Mine Safety and Licensing.
- (5) The Mine Equipment Review Panel shall provide initial recommendations to the executive director of the Office of Mine Safety and Licensing not more than one hundred twenty (120) days after the panel members have been appointed and the panel is duly constituted to conduct business. Periodically, the panel shall review and make recommendations to the executive director on changes to or innovations in mine safety equipment that could be deployed in coal mines.

Section 7. KRS 351.106 is amended to read as follows:

- (1) The Mining Board shall establish criteria and standards for a program of education and training to be required of prospective miners, miners, and all certified persons. This education and training shall be provided in a manner determined by the commissioner to be adequate to meet the standards established by the board, which shall include as a minimum the requirements of KRS 351.102 and the requirements of the federal government for the training of miners for new work assignments, and at least sixteen (16) hours of annual retraining and reeducation for all certified persons, of which thirty (30) minutes annually shall be dedicated to alcohol and substance abuse education. Effective January 1, 2009, in addition, six (6) hours of annual training on changes in mine safety laws, safe retreat mining practices, disciplinary cases litigated before the Mine Safety Review Commission, changes in mine safety technology, and ways to improve safe working procedures shall be required for all mine foremen. This annual training for mine foremen shall be provided exclusively by the Office of Mine Safety and Licensing.
- (2) One (1) hour of initial substance abuse training and education shall be required as part of the certified miner's first annual retraining conducted in a classroom that occurs after August 1, 2006. This requirement shall not apply to certified persons who received the one (1) hour initial substance abuse training and education as part of their forty (40) hour or twenty-four (24) hour new miner training.
- (3) In addition to the thirty (30) minutes of annual alcohol and substance abuse education required for certified miners, supervisory personnel shall be required to receive an additional thirty (30) minutes of alcohol and substance abuse awareness training annually.
- (4) Beginning with the first full calendar year after the effective date established by the board and during each calendar year thereafter, each certified miner shall receive at least sixteen (16) hours of retraining and reeducation.
- (5) Newly hired experienced miner training shall satisfy the miner's annual retraining requirement if a time lapse occurs between the miner's last training anniversary date and the next scheduled training anniversary date for the mine where he is newly employed, if the miner has complied with the annual retraining requirements within the last twelve (12) months from the date of his newly hired experienced miner training.
- (6) Retraining and reeducation sessions shall be conducted at times and in numbers to reasonably assure each certified miner an opportunity to attend.
- (7) The licensee shall pay all certified miners their regular wages and benefits while they receive training required by the department.
- (8) Willful failure of a working miner to complete annual retraining and reeducation requirements shall constitute grounds for revocation, suspension, or probation of his certificate.
- (9) If the department discovers a miner working without proper training or the licensee cannot provide proof of training, the miner shall be withdrawn immediately from the mine and the licensee shall pay the miner his regular wages until the training is administered and properly documented.
- (10) When employment is terminated, the licensee shall provide the employee a copy of his training records, upon request. If the employee does not request his training records immediately, the licensee shall, within fifteen (15) days, provide the employee with those training records.
- (11) The board may, upon its own motion or whenever requested to do so by the commissioner, deem applicable certificates issued by other states to be proof of training and education equal to the requirements of KRS 351.102 or deem training provided by appropriate federal agencies to be adequate to meet training and education requirements established by the board, if the training and education meet the minimum requirements of this chapter.
- (12) The secretary may promulgate administrative regulations necessary to establish a program to implement the provisions of this chapter according to the criteria and standards established by the board. This program shall include but not be limited to implementation of a program of instruction and the conduct of examinations to test each applicant's knowledge and understanding of the training and instruction.
- (13) The commissioner shall keep and maintain current records on all certified miners, all of which shall be maintained by computer for ready access. The commissioner shall not grant certification to any person that, at the time of application, had his or her miner certification, foreman certification, electrician certification, or any other mining specialty certification suspended or revoked by another state. If a person has his or her miner certification, foreman certification, electrician certification, or other mining specialty certification probated in another state, the

commissioner or the Mining Board may, at his or its discretion, grant the equivalent certification. However, that certification shall be placed on probation in Kentucky until the probationary period in the other state has expired.

- (14) The commissioner is authorized and directed to utilize state mine inspectors, mine safety instructors, the state mine foreman examiner, private and public institutions of education, and other qualified persons available to him in implementing the program of instruction and examination.
- (15) The commissioner may make recommendations to the board as he may deem appropriate. The commissioner shall provide information to the board at the board's request. The commissioner is authorized and directed to utilize state and federal moneys and personnel that may be available to the department for educational and training purposes in the implementation of the provisions of this chapter.
- (16) All training and education required by this section may be conducted in classrooms, on the job, or in simulated mines.

Section 8. KRS 351.127 is amended to read as follows:

- (1) ~~[A-]~~Certified emergency medical ~~technicians~~~~[technician]~~ or mine emergency ~~technicians~~~~[technician]~~ shall be employed at every licensed coal mine whose employees are actively engaged in the extraction, production, or preparation of coal. Persons employed as mine emergency technicians shall be trained in a manner established in an administrative regulation promulgated by the department. Persons seeking certification as a mine emergency medical technician or mine emergency technician shall be subject to the following additional requirements:
 - (a) All persons seeking certification as a mine emergency technician shall demonstrate drug- and alcohol-free status in accordance with KRS 351.182 and 351.183;
 - (b) The drug and alcohol testing for those seeking certification as mine emergency technicians shall be administered prior to the examination for the certification, in accordance with KRS 351.182 and 351.183; and
 - (c) Certification as a mine emergency technician shall not be issued until the results of the drug and alcohol testing have been obtained. Notification shall be given to the person in accordance with KRS 351.184.
- (2) These emergency medical technicians or mine emergency technicians shall be employed in the following manner:
 - (a) At least two (2)~~[One (1)]~~ emergency medical~~[technician]~~ or mine emergency ~~technicians~~~~[technician]~~ shall be employed on every shift engaged in the production of coal, and at least one (1) emergency medical or mine emergency technician shall be employed on every nonproduction shift~~with a workforce of up to fifty (50) employees~~;
 - (b) For underground mines, at least one (1) of the two (2) emergency or mine emergency technicians shall be underground at all times while miners are working in the mines. An additional emergency medical technician or mine emergency technician shall be employed for every additional fifty (50), or any portion thereof, employees per shift who are actively engaged in the extraction, production, or preparation of coal.
- (3) If these emergency medical technicians or mine emergency technicians are also employed in other capacities at the coal mine, they shall be available for quick response to emergencies and shall have available to them at all times the equipment necessary to respond to emergencies, as prescribed by the commissioner.
- (4) If the licensee selects existing employees to be trained as emergency medical technicians or mine emergency technicians, the employees selected shall be paid their regular wages during training.
- (5) Certified emergency medical technicians and mine emergency technicians shall receive annual retraining in the manner established in an administrative regulation promulgated by the department, during which they shall receive their regular wages.

Section 9. KRS 351.140 is amended to read as follows:

Each mine inspector shall give his entire time and attention to the duties of his office, which shall consist of the following:

- (1) Inspecting mines and aiding, under the direction of the commissioner, in carrying out and enforcing the provisions of the law relating to the inspection of mines;
- (2) Training officials and workmen in and about the mines in first aid and mine rescue methods;
- (3) Advising officials and workmen in methods pertaining to safety in all its phases and in methods pertaining to the prevention of mine fires and explosions;
- (4) Taking charge of mine rescue and recovery work whenever a mine fire, mine explosion or other serious accident occurs within his district, and the commissioner is not present, and assisting in such work in other districts when so directed by the commissioner;
- (5) Reopening mines or portions of mines that have been sealed on account of fire or any other cause, when directed by the commissioner to do so;
- (6) Inspecting each underground coal mine in his district at least six (6)~~[three (3)]~~ times a year and all other mines once every six (6) months. For underground coal mines, two (2) of the six (6) general inspections conducted annually shall additionally include a full electrical inspection. The commissioner may cause inspections more often if practicable and if funds permit, and whenever any danger to the workmen may exist; making a personal examination of the interior of each mine with respect to ventilation, drainage, roof control, blasting, electricity, escapeways, and general security, and also a

personal examination of the outside facilities of the mine; and in gassy mines below the water table, inspections shall be more frequent, and as often as practical whenever any danger to workmen is indicated by a previous inspection. Such inspections shall involve at least two (2) inspectors. The inspectors shall locate themselves in different sections of the mine in order to determine the effectiveness and reliability of the ventilation system. Each section of the mine shall be so inspected;

- (7) It shall be permissible for a mine inspector to inspect any coal preparation plant or surface facility of any mining operation of coal including any overland coal belts; and
- (8) A mine inspector shall have the express authority to enter upon the premises of and inspect any coal mine, including any overland coal belts, at any reasonable time.

Section 10. KRS 351.175 is amended to read as follows:

- (1) The operation of a coal mine in Kentucky is a privilege granted by the Commonwealth of Kentucky to a licensee who satisfies the requirements of this section and demonstrates that the mine is or will be operated in a safe manner and in accordance with the laws of this Commonwealth.
- (2) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the owner, operator, lessee, or licensee of each mine shall procure from the department a license to operate the mine, and the license shall not be transferable. Any owner, operator, lessee, or licensee who assumes control of a mine, opens a new mine, or reopens an abandoned mine during any calendar year shall procure a license before mining operations are begun.
- (3) The license shall be in printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.
- (4) Requests for a license shall be made to the department and shall be accompanied by a United States postal money order or cashier's check drawn in favor of the State Treasurer in an amount established by administrative regulations of a minimum of one hundred dollars (\$100) and a maximum of fifteen hundred dollars (\$1,500). The license shall be issued when the following are properly submitted to the commissioner:
 - (a) The annual report of the licensee and the annual mine map required in KRS 351.170 and 352.450;
 - (b) A certification from the executive director of the Office of Workers' Claims that the licensee has provided positive proof of compliance with the provisions of KRS Chapter 342;
 - (c) A certification from the commissioner of the Department of Revenue that the licensee is not a "delinquent taxpayer" as defined in KRS Chapter 131;
 - (d) Mine seal construction plan;
 - (e) Roof control plan;
 - (f) The ventilation plan required in KRS 352.020; and
 - (g) ~~(e)~~ An approved emergency action plan required by KRS 352.640.
- (5) The department shall immediately revoke any license if the department receives:
 - (a) Withdrawal of the certification of compliance with KRS Chapter 342 issued by the executive director of the Office of Workers' Claims; or
 - (b) Notice from the commissioner of the Department of Revenue that the licensee is a "delinquent taxpayer" as defined in KRS Chapter 131.
- (6) The commissioner, the executive director of the Office of Mine Safety and Licensing, or the mine inspector shall have the authority to stop production or close any mine whose operator fails to procure a license or fails to furnish a certification of workers' compensation coverage as required under this section.
- (7) The department shall be authorized to seek injunctive relief for any violation of this section. Revocation of a license by the department shall be an administrative function of the department. Appeals from revocation by the department shall be brought in Franklin Circuit Court.
- (8) A license which has been revoked under the "delinquent taxpayer" provision shall not be reissued until a written tax clearance has been received from the commissioner of revenue.
- (9) No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval of the cemetery's governing body. This subsection applies only to those cemeteries with governing bodies.

Section 11. KRS 351.194 is amended to read as follows:

- (1) The Mine Safety Review Commission shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish administrative hearings procedures to be followed in determining if violations of mine safety laws, including, but not limited to, violations that meet the criteria established in KRS 351.025(1) or (2), have occurred and to establish a process to review recommended orders from any hearing officers acting on behalf of the commission. The procedures shall follow the requirements of KRS Chapter 13B and this chapter.
- (2) The chair or a majority of the Mine Safety Review Commission may convene a meeting of the commission at which it shall

consider whether to schedule a hearing regarding any licensee, coal operation, or other person involved in the mining of coal.

- (3) If the commission determines that there is probable cause to believe that the licensee, coal operation, or other person against whom the department has made allegations of unsafe work practices or other violation of applicable law is guilty of an alleged violation, the commission shall schedule a hearing at which the department shall offer evidence in support of the allegations made by it. The licensee, coal operation, or other person against whom the allegations are made shall be given not less than twenty (20) days' written notice of the charges against him, together with the date, time, and place at which the charges shall be heard, and of his opportunity to be represented by counsel, produce evidence and witnesses on his behalf, and examine the evidence and documents that may be produced against him. The commission may also be represented by counsel and shall not be bound by the technical rules of evidence, but its order shall be based upon competent evidence. Any licensee or other person summoned to appear at a hearing in the manner established in this subsection may, in writing, waive the notice required to be given to him.
- (4) The commission may proceed with its hearing of charges made by the department against any licensee, coal operation, or other person who, after being duly notified in accordance with the requirements of this section, fails to appear at or participate in the hearing and who fails to assert any legitimate basis for the failure.
- (5) Within ninety (90) days after hearing, the commission shall issue an order in which it sets out its determinations concerning each matter coming before it. Copies of the order shall be provided to all parties to the hearing. The department shall carry out or enforce, as appropriate, the order of the commission, which may include, though not be limited to, the imposition of civil penalties, revocation, suspension, or probation of the mine license or the miner's certification.
- (6) The commission may modify a civil penalty or fine established under this chapter, under criteria established by the commission by administrative regulations.
- (7) In assessing monetary penalties within the limits provided in KRS 351.025, the commission shall consider the operator's history of previous violations, the appropriateness of the penalty to the size of the operator charged, whether the operator was negligent, the effect on the operator's ability to continue in business, the gravity of the violation, the demonstrated good faith of the person charged in attempting to achieve rapid compliance after notification of a violation, and whether a penalty has been imposed by the Federal Mine Safety and Health Act for a violation that arose out of the same set of facts or circumstances.
- (8) An appeal of an order of the commission shall be filed in the Franklin Circuit Court within thirty (30) days of entry of the order.

Section 12. KRS 352.020 is amended to read as follows:

- (1) A mine ventilation plan and any revision of an existing mine ventilation plan shall be suitable to the ventilation conditions and mining system of each mine. The mine ventilation plan and any revisions to the mine ventilation plan approved by the United States Mine Safety and Health Administration shall be submitted to the executive director or his or her authorized representative and incorporated into the license. All mine ventilation plans shall be set forth in printed form. The mine ventilation plan shall require the air quality throughout the mine to contain at least nineteen and one-half percent (19.5%) oxygen and not more than one-half of one percent (0.5%) of carbon dioxide, and the volume and velocity of the air current shall be sufficient to dilute, render harmless, and carry away flammable, explosive, noxious, and harmful gases and dust, smoke, and fumes. A copy of the mine ventilation plan and any revisions to that plan shall be available to the miners and their representatives.
- (2) The ventilation of all underground coal mines shall be produced by means of mechanically operated fans located outside the mine in fireproof housing and offset at least fifteen (15) feet to one (1) side or above the opening, protected by explosion doors or weak walls and arranged so that ventilating current may be reversed if necessary. The fan shall be installed so as to prevent recirculation of mine air. The main fan shall be operated from a power circuit independent from the mine circuit. If inside auxiliary fans are required to ventilate working places the commissioner must first approve the installation.
- (3) The licensee, superintendent, or foreman of every coal mine worked by shaft, slope, or drift shall provide and maintain for every mine two (2) separate and distinct escapeways, one (1) of which is vented by the intake air. However, if a mine was originally licensed prior to January 1, 1990, the commissioner may approve an alternate ventilation plan. Each active working section shall be ventilated by a separate split of intake air. In all mines the quantity of air passing through the last open crosscut between the intake and return in any pair or sets of entries shall be not less than nine thousand (9,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. All working faces from which coal is being cut, mined, or loaded in a working section between the intake and return airway entries shall be ventilated with a minimum quantity of three thousand (3,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. The quantity of air reaching the last crosscut in pillar sections may be less than nine thousand (9,000) cubic feet of air per minute if at least nine thousand (9,000) cubic feet of air per minute is being delivered to the intake of the pillar line. The air current shall under any conditions have a sufficient volume and velocity to reduce and carry away smoke from blasting and any flammable or harmful gases.
- (4) All mines shall maintain at least nine thousand (9,000) cubic feet of air per minute at the points mentioned in subsection

- (3) of this section. The commissioner shall have the authority to require additional air in any mine when he deems it necessary for the safety of the employees.
- (5) When the air from a split has passed through and has ventilated all the working places in an air split of a mine it shall then be designated as return air. Return-air courses shall not be designated as primary escapeways.
- (6) As working places advance, breakthroughs for air shall be made not more than ninety (90) feet apart, except that where longwall or modern systems of mining are used the commissioner or his authorized representative may approve a greater distance between breakthroughs or the method of ventilating such longwall or modern systems of mining. If any breakthroughs between intake and return airways are not required for the passage of air or the travel of equipment, they shall be closed with stoppings. All permanent stoppings shall be substantially built with suitable incombustible or fire resistant material subject to the approval of the mine inspector so as to keep the working places well ventilated. All brattice cloth and ventilation tubing shall be flame resistant. Doors on the main haulways shall be avoided where practicable, and overcasts, built of concrete or other suitable material and of ample strength, shall be adopted. Where doors are used they shall be built in a substantial manner, and shall be hung so as to close automatically when unobstructed.
- (7) In a mine where methane can be found to an extent of one percent (1%) or more on the return of any one (1) split, the inspector, with the approval of the commissioner may require the mine to be ventilated by the exhaust system, requiring the haulage roads and all feed wires to be located on the intake air and the electrical system to be so arranged that no wires carrying electrical current shall be on return air. A period of not more than ninety (90) days from date of notification shall be allowed to make the changes required.
- (8) The ventilation plan shall require all fans utilized in the ventilation plan to be in operation unless the fan must be turned off for repairs or maintenance, during which time all persons must be withdrawn from the mine. After the mine fan is restarted following the completion of repairs or maintenance, it must be in operation for a sufficient period to ensure air quality and the equalization of the mine atmosphere~~for a sufficient period to ensure air quality and equalization of the mine atmosphere prior to the entry of workers into underground areas~~.

Section 13. KRS 352.090 is amended to read as follows:

- (1) All unused workings and abandoned parts of mines shall be protected by safeguards that will prevent the accumulation or overflow of gas, and all avenues leading thereto shall be so arranged and conducted as to give warning to all persons of the danger of entering, and notice shall be posted warning all unauthorized persons not to enter these parts of the mine. If the area cannot be adequately ventilated, and examined, or evaluated it shall be sealed in a timely manner.
- (2) No person, except persons authorized to make examination thereof, shall enter any unused or abandoned part of a mine after the warning has been posted.
- (3) Where the practice is to seal abandoned workings, the sealing shall be done in accordance with a mine seal construction plan submitted to the Office of Mine Safety and Licensing. Seal construction shall be done immediately in an effective manner with noncombustible material. In every sealed area, one (1) or more of the seals shall be fitted with a pipe and cap or valve to permit the gases behind the seals to be sampled and also to provide a means of determining any existing hydrostatic pressure. When required by the mine inspector and commissioner, drill holes shall be extended from the surface to the sealed area, or vent pipes shall be extended from the sealed area to a return air course. Sufficient ventilation shall be provided at each seal to prevent dangerous gases from accumulating.

Section 14. KRS 352.133 is amended to read as follows:

- (1) All underground miners shall be provided with an approved self-contained self-rescuer device and shall have that device within twenty-five (25) feet of them at all times. The self-contained self-rescuer shall be provided to the miners by the licensee at no cost to the miners.
- (2) In addition to the requirements for self-contained self-rescuers set forth in this section, all licensed premises shall maintain caches of self-contained self-rescuer devices which shall be stored in locations readily accessible to the primary and secondary escapeways or provide proof of an order for self-contained self-rescuers through the submission of a valid purchase order that clearly names the vendor, contact information for the vendor, the number of devices purchased, and the date of the order, which shall not be later than thirty (30) days after July 12, 2006. In all cases, the self-contained self-rescuers shall be in place by July 1, 2007, or shall be extended by the commissioner upon substantiated proof of unavailability.
- (a) The caches shall be maintained in sufficient numbers and locations determined in accordance with the most recent rules, standards, and regulations issued by the United States Mine Safety and Health Administration and this section.
- (b) The caches shall be maintained in storage units capable of protecting the self-contained self-rescuers from water, dust, and any other condition which will cause deterioration of the self-contained self-rescuers.
- (c) The storage unit locations shall have reflective signs that read "SELF-RESCUERS" conspicuously posted as to be visible from the primary and secondary escapeways. ~~Intrinsically safe strobe light devices also shall be attached to the storage unit. The strobe light devices may operate continuously or shall be capable of activation in the event of a mine emergency.~~
- (d) In addition to the requirements set forth in this section for self-contained self-rescuers, the mine operator shall

provide for each person who is underground at least one (1) additional self-contained self-rescuer device which provides protection for a period of one (1) hour or longer, to cover all persons in the mine.

- (e) If a mantrip or mobile equipment is used to enter or exit the mine, additional self-contained self-rescuer devices, each of which provides protection for a period of one (1) hour or longer, shall be available for all persons who use the transportation from portal to portal.
- (3) It shall be a Class D felony for any person to remove a self-rescuer from the cache for purposes other than use during an emergency, or for repair, maintenance, or replacement or as authorized by the licensee.

Section 15. KRS 352.135 is amended to read as follows:

In all designated escapeways, each operator shall provide lifeline cords, with attached reflective material at not to exceed twenty-five (25) foot intervals and devices indicating the direction to the surface at not to exceed one hundred (100) foot intervals, from outby the loading point; provided, that in case of a shaft mine, such lifeline cords shall extend from outby to the loading point to the bottom of the designated escape shaft. Such lifeline cord shall be of flame resistant material~~[durable construction]~~ sufficient to allow miners to see and to use effectively to guide themselves out of the mine in the event of an emergency. All lifeline cords shall be made of flame resistant material within one hundred eighty (180) days of the effective date of this section.

Section 16. KRS 352.145 is amended to read as follows:

- (1) No employee of a surface coal mining operation shall be assigned, allowed, or required to perform work alone in any area where hazardous conditions exist that would endanger his safety unless he can communicate with others, can be heard, or can be seen.
- (2) At stockpiles with underground feeders or draw-off tunnels, the licensee shall install and maintain a visible warning device that shall be activated when the feeders are in operation.
- (3) The operator's cab of all equipment being operated on or in the immediate area of a stockpile with underground feeders or draw-off tunnels shall be enclosed by a compartment and shall be furnished with a self-contained self-rescuer that is capable of providing oxygen for a period of not less than one (1) hour.
- (4) On all haulage roadways, berms, guardrails, concrete barriers, or other suitable devices shall be installed in such a manner that they extend to at least the mid-wheel height of the highest vehicle or equipment that regularly travels that type of roadway.
- (5) A surface preshift examination shall be conducted within three (3) hours prior to men working. A certified foreman shall check the areas where men are required to work or travel during the shift. Roadways, pit areas, highwalls, and dumping points shall be checked. If any hazardous conditions are found, they shall be corrected prior to men working in the area. A suitable record book shall be kept in the control of the mine foreman. Immediately after the examination of the mine or portion thereof, the mine foreman shall enter and sign a record of the examination in the book with ink. The record shall clearly show any danger discovered at the mine, and the action taken to correct the dangerous conditions. The record book shall, at all times during the working hours, be accessible to the mine inspector or analyst and the miner or his representative.
- (6) All equipment operators shall conduct a preoperational check of their equipment. All preoperational checks shall be recorded by the equipment operator and kept with the equipment and, if a hazard is found to exist on any piece of equipment that would render it unsafe to operate, the hazardous condition shall be reported to the mine foreman or mine superintendent. All appropriate repairs shall be made before the equipment is put back into operation, except for moving the equipment to a safe place for repairs. The record book of all hazardous conditions and repairs made shall be kept in the control of the mine foreman or mine superintendent at all times.

Section 17. KRS 352.170 is amended to read as follows:

- (1) All underground mines shall be worked exclusively by the use of approved electric lamps for personal lighting.
- (2) A mine operator shall provide an MSHA-approved, handheld, multi-gas detector that can measure methane, oxygen, and carbon monoxide to each group of underground miners and to each person who works alone, such as pumpers, examiners, and outby miners. Miners shall be trained in the proper use and calibration of the multi-gas detectors and shall document that the training has been provided. Signs shall be prominently posted at places miners gather with instructions on the proper use of multi-gas detectors~~[All mine foremen and fire bosses employed in mines shall carry approved gas detection devices for the purpose of detecting the presence of explosive and dangerous gases and deficiencies of oxygen].~~
- (3) No person shall at any time carry into any mine any intoxicants. No person shall at any time enter any underground mine with matches, pipes, cigars, cigarettes, or any device for making lights or fire not authorized or approved, and the licensee shall at frequent intervals search, or cause to be searched, any person entering or about to enter the mine or inside the mine, to prevent the person from taking, carrying, or using the articles therein.

Section 18. KRS 352.180 is amended to read as follows:

- (1) Whenever a serious physical injury or loss of life occurs in a mine or in the machinery connected therewith or whenever a fire, explosion, entrapment of an individual for more than thirty (30) minutes, inundation of a mine by water or gases~~], or other serious accident]~~ occurs, the superintendent of the mine, or, if he is absent, the mine manager, or if he is absent, the

mine foreman in charge of the mine or his designee, shall within fifteen (15) minutes of having actual knowledge of the occurrence and access to the communication system as required under KRS 352.630(3) give notice to the department and to the representative of the miner, stating the particulars of the accident. No person shall alter the scene of a mining accident in a manner that will interfere with the department's investigation of the accident, except to the extent necessary to rescue an individual or to eliminate an imminent danger.

- (2) Upon receipt of notification of an occurrence set forth in subsection (1) of this section, the mine inspector shall immediately go to the scene of the accident and make an investigation and suggestions and render the assistance as he deems necessary for the future safety of the employees, investigate the cause of the fire, explosion, or accident, make a record thereof, and forward it to the commissioner.
- (3) The record of the investigations shall be preserved with the other records of the commissioner's office. To aid in making the investigations, the commissioner or the mine inspector may compel the attendance of witnesses and administer oaths.
- (4) Failure to comply with the reporting requirements set forth in this section shall create a rebuttable presumption of an intentional order to violate mine safety laws that places miners in imminent danger of serious physical injury or death and shall be subject to revocation, suspension, or probation of the mine license and a civil monetary penalty of not less than ten thousand dollars (\$10,000) nor more than one hundred thousand dollars (\$100,000).
- (5) The Office of Mine Safety and Licensing may require testing of certified persons to determine whether the presence of intoxicants or controlled or illicit substances are a contributing factor in any mine accident in which serious physical injury or loss of life occurs or which was reported under this section. The executive director or his designee may order the testing of certified persons who:
 - (a) Were working in the immediate area of the accident; or
 - (b) In the judgment of the executive director or his designee, may reasonably have contributed to or witnessed the accident or fatality.
- (6) The post-accident testing permitted by subsection (5) of this section shall:
 - (a) Meet all guidelines set forth in KRS 351.182, 351.183, 351.184, and 351.185;
 - (b) Be paid for by the Office of Mine Safety and Licensing; and
 - (c) Be performed on samples obtained within eight (8) hours of the accident.
- (7) Toxicology screens and eleven-panel drug testing shall be performed on victims when death occurs on mine property. The testing pursuant to this subsection may be performed on specimens of either blood, saliva, or other appropriate bodily fluids.

Section 19. KRS 352.180 is amended to read as follows:

- (1) Whenever a serious physical injury or loss of life occurs in a mine or in the machinery connected therewith or whenever a fire, explosion, entrapment of an individual for more than thirty (30) minutes, inundation of a mine by water or gases, or other serious accident occurs, the superintendent of the mine, or, if he is absent, the mine manager, or if he is absent, the mine foreman in charge of the mine or his designee, shall within fifteen (15) minutes of having actual knowledge of the occurrence and access to the communication system as required under KRS 352.630(3) give notice to the department and to the representative of the miner, stating the particulars of the accident. No person shall alter the scene of a mining accident in a manner that will interfere with the department's investigation of the accident, except to the extent necessary to rescue an individual or to eliminate an imminent danger.
- (2) Upon receipt of notification of an occurrence set forth in subsection (1) of this section, the mine inspector shall immediately go to the scene of the accident and make an investigation and suggestions and render the assistance as he deems necessary for the future safety of the employees, investigate the cause of the fire, explosion, or accident, make a record thereof, and forward it to the commissioner.
- (3) The record of the investigations shall be preserved with the other records of the commissioner's office. To aid in making the investigations, the commissioner or the mine inspector may compel the attendance of witnesses and administer oaths.
- (4) Failure to comply with the reporting requirements set forth in this section shall create a rebuttable presumption of an intentional order to violate mine safety laws that places miners in imminent danger of serious physical injury or death and shall be subject to revocation, suspension, or probation of the mine license and a civil monetary penalty of not less than ten thousand dollars (\$10,000) nor more than one hundred thousand dollars (\$100,000).
- (5) The Office of Mine Safety and Licensing may require testing of certified persons to determine whether the presence of intoxicants or controlled or illicit substances are a contributing factor in any mine accident in which serious physical injury or loss of life occurs or which was reported under this section. The executive director or his designee may order the testing of certified persons who:
 - (a) Were working in the immediate area of the accident; or
 - (b) In the judgment of the executive director or his designee, may reasonably have contributed to or witnessed the accident or fatality.
- (6) The post-accident testing permitted by subsection (5) of this section shall:

- (a) Meet all guidelines set forth in KRS 351.182, 351.183, 351.184, and 351.185;
 - (b) Be paid for by the Office of Mine Safety and Licensing; and
 - (c) Be performed on samples obtained within eight (8) hours of the accident.
- (7) Toxicology screens and eleven-panel drug testing shall be performed on victims when death occurs on mine property. The testing pursuant to this subsection may be performed on specimens of either blood, saliva, or other appropriate bodily fluids.
- (8) The commissioner or his or her authorized representative may compel the attendance of witnesses and administer oaths to investigate allegations of unsafe mining conditions or violations of mining laws even if no accident or injury has occurred.**

Section 20. KRS 352.201 is amended to read as follows:

- (1) The roof and ribs of all active underground roadways, travelways, and working places shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof control plan and revision thereof suitable to the roof conditions and mining system of each mine and approved by the commissioner or his authorized representative shall be adopted and set out in printed form within six (6) months after June 16, 1972, and shall be kept on file in the district office of the district where the mine is located. The plan shall show the type of support and spacing approved by the commissioner. No person shall proceed beyond the last permanent support unless adequate temporary support is provided. A copy of the plan shall be furnished the commissioner or his authorized representative and shall be available to the miners and their representatives.
- (2) The method of mining followed in any mine shall not expose the miner to unusual dangers from roof falls caused by excessive widths of rooms and entries or faulty pillar recovery methods.
- (3) The licensee, in accordance with the approved plan, shall provide at or near each working face and at other locations in the mine as the commissioner or his authorized representative may prescribe an ample supply of suitable materials of proper size with which to secure the roof of all working places in a safe manner. Safety posts, jacks, or other approved devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof bolt holes are being drilled, roof bolts are being installed, and in other circumstances that may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. Except in the case of recovery work, supports knocked out shall be replaced promptly.
- (4) Roof bolt recovery for reuse shall not be permitted.
- (5) Where workmen are exposed to danger from falls of roof, face, and ribs they shall examine and test the roof, face, and ribs before any other work is performed or machinery is started, and as frequently thereafter as may be necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately.
- (6) Within forty-eight (48) hours before the commencement of any retreat mining or pillaring operations, the mine operator shall notify the Office of Mine Safety and Licensing of its intention of beginning or resuming retreat mining or pillaring. The Office of Mine Safety and Licensing shall document such notification in writing. Upon such notification from a mine operator, and before retreat mining or pillaring operations can begin, the office shall ensure that every person who will be participating in the retreat mining operations is trained in the operator's pillar removal plan.**

Section 21. KRS 352.220 is amended to read as follows:

For purposes of this section, "approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department of Mines and Minerals or accepted by a nationally or federally recognized testing laboratory or the Department of Labor Mine Safety and Health Administration; "suitable" means a design, material, or installation that meets the requirements of its intended use or that is accepted by a nationally or federally recognized testing laboratory or the Department of Labor Mine Safety and Health Administration.

- (1) The following shall apply to underground installations:
 - (a) Nonconductive or insulated materials shall be used when trailing cables or high voltage feeder cables are suspended;
 - (b) Suitable circuit-interrupting devices shall be provided for all power circuits and equipment at the mine;
 - (c) All power wires and cables shall be properly insulated and protected by proper installation or guarding;
 - (d) Ground wires for circuits shall have a total cross-sectional area of not less than one-half (1/2) the power conductor;
 - (e) Extra length or long trailing cables shall be spread out in long open loops or in a figure-eight configuration on a clean, well rock-dusted floor where the cable can be protected against mechanical injury, but cables suspended in long open loops shall be acceptable;
 - (f) One (1) temporary splice may be made in any trailing cable. No temporary splice shall be made in a trailing cable within twenty-five (25) feet of the machine except cable reel equipment. Splices in trailing cables shall be made in a workmanlike manner and shall be mechanically strong and well insulated. Splices made in cables shall provide continuity of all components;

2007 Regular Session

- (g) Three-phase alternating-current circuits used underground shall contain either a direct or derived neutral which shall be grounded through a suitable resistor at the power center, and a grounding circuit, originating at the grounded side of the grounding resistor, shall extend along with the power conductors and serve as a grounding conductor for the frames of all the electrical equipment supplied power from that circuit;
- (h) The frames of hand-held electrically driven tools shall be properly grounded or double-insulated by design. The frames of all pumps shall be properly grounded. Hand-held tools and all pumps shall be properly protected by suitable fuses, circuit breakers, or other no less effective devices to provide the minimum overload and shortcircuit protection required by the department;
- (i) All underground high-voltage transmission cables shall be installed only in regularly inspected air courses and haulageways, and shall be covered, buried, or placed so as to afford protection against damage, guarded where men regularly work under or pass under them unless they are six and one-half (6-1/2) feet or more above the floor or rail, securely anchored, properly insulated, and guarded at ends, and covered, insulated, or placed to prevent contact with other circuits. Underground high-voltage cables used in resistance grounded systems shall be equipped with metallic shields around each power conductor, with one (1) or more ground conductors having a total cross-sectional area of not less than one-half (1/2) the power conductor, and with an insulated internal conductor not smaller than No. 10 (AWG) or an insulated external conductor not smaller than No. 8 (AWG) for the ground continuity check circuit. All cables shall be suitable for the current and voltage and shall be properly maintained;
- (j) Power circuits shall have suitable disconnecting devices and short-circuit protective devices at or near the supply end of the circuit. Suitable disconnecting devices shall be provided at the beginning of all branch circuits;
- (k) Underground transformer stations, battery charging stations, substations, rectifiers, and water pumps shall be housed in noncombustible structures or areas or be equipped with a suitable fire suppression system.
 - 1. When a noncombustible structure or area is used, these installations shall be:
 - a. Ventilated with intake air that is coursed into a return air course or to the surface and that is not used to ventilate working places; or
 - b. Ventilated with intake air that is monitored for carbon monoxide or smoke by an atmospheric monitoring system (AMS) installed and operated in a suitable manner. Monitoring of intake air ventilating battery charging stations shall be done with sensors not affected by hydrogen; or
 - c. Ventilated with intake air and equipped with sensors to monitor for heat, carbon monoxide, or smoke.
 - 2. The sensors used for monitoring shall de-energize power to the installation, activate a visual and audible alarm located outside of and on the intake side of the enclosure, and activate doors that will automatically close when any of the following occurs:
 - a. The temperature in noncombustible structure reaches one hundred sixty-five (165) degrees Fahrenheit;
 - b. The carbon monoxide concentration reaches ten (10) parts per million above the ambient level for the area; or
 - c. The optical density of smoke reaches 0.022 per meter.
 - 3. At least every thirty (30) days, sensors installed to monitor for carbon monoxide shall be calibrated with a known concentration of carbon monoxide and air sufficient to activate the closing door, or each smoke sensor shall be tested to determine that it functions correctly.
 - 4. When a fire suppression system is used, the installation shall be:
 - a. Ventilated with intake air that is coursed into a return air course or to the surface and that is not used to ventilate working places; or
 - b. Ventilated with intake air that is monitored for carbon monoxide or smoke by an atmospheric monitoring system installed and operated in a suitable manner.
 - 5. All monitoring systems used to monitor intake air ventilating battery charging stations under subparagraphs 1. and 4. of this paragraph shall be done with sensors not affected by hydrogen.
 - 6. This paragraph shall not apply to:
 - a. Rectifiers and power centers with transformers that either are dry-type or contain nonflammable liquid, if they are located at or near the section and are moved as the working section advances or retreats;
 - b. Submersible pumps;
 - c. Permissible pumps, and associated permissible switchgear;
 - d. Pumps located on or near the section that are moved as the working section advances or retreats; or
 - e. Small portable pumps. Underground stations containing transformers or circuit breakers filled with flammable oil shall be provided with door sills or their equivalent, which will confine the oil if

leakage or rupture occurs, and shall be of fireproof construction. Underground transformers purchased after June 16, 1972, shall be air cooled or cooled with nonflammable liquid or inert gas. Portable power centers, portable transformers, and distribution centers which are essentially fireproof are not required to be placed on separate splits of air but shall be stationed in well ventilated places outby the last open crosscuts;

- (l) Electrically powered locomotives shall be provided with suitable electrical protective devices;
 - (m) Suitable firefighting equipment shall be located at strategic points along the belt conveyor, and proper fire extinguishers shall be provided at the transfer points. The commissioner may prescribe any other safety measures for the prevention and combating of mine fires as they pertain to conveyor belts. Only approved flame resistant belting shall be taken into and used inside any mine, and all underground belt conveyors shall be provided with slippage and sequence switches and with start and stop controls at intervals not to exceed one thousand (1000) feet. The controls shall be properly installed and positioned so as to be readily accessible;
 - (n) Communication wires and cables shall be adequately insulated and protected by proper installation or guarding;
 - (o) Telephone wires shall be provided with lightening arresters where the wires enter the mine and at the buildings on the surface;
 - (p) Insulating mats shall be placed in front of disconnecting devices and all electrical installations where required;
 - (q) Ground wires in trailing cables shall be tested weekly for open circuit and high resistance;
 - (r) Power circuits in tipples, buildings, cleaning plants, etc., and all underground electrical circuits shall be deenergized when not in use over a long period;
 - (s) All underground power circuits and electrical equipment shall be de-energized before work is done on the circuits and equipment except when necessary for troubleshooting or testing. When electrical work or major mechanical work is performed, a suitable disconnect providing visible evidence that the power is disconnected shall be locked open and a tag shall be posted by the individuals performing the work. Locks and tags shall be removed only by the persons who installed them, or if those persons are unavailable, by a person authorized by the operator. Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except where machinery motion is necessary to make adjustment;
 - (t) Where electric circuits cross over or pass under belt conveyors the wiring shall be suitably protected; and
 - (u) Switch boxes, contactors, controllers, and all other similar devices shall be kept free of significant accumulations of combustible dust.
- (2) The following shall apply to trolley wires and trolley feeder wires:
- (a) On all haulage roads, landings, and partings where persons are required to regularly work or pass under bare power wires placed less than six and one-half (6-1/2) feet above the top of the rail, suitable protection shall be provided. This protection shall consist of channeling the roof, placing boards along the wires and extending below them, or the use of some other approved device that affords protection;
 - (b) All machine feed conductors shall be placed on suitable insulators which shall be so placed as to prevent the conductors coming in contact with combustible or conductive materials;
 - (c) When the machine or feed wires are carried in the same entry as the trolley wire, they shall be placed on the same side as the trolley wire, between the trolley wire and rib, and shall be protected from contact therewith. Positive feed wires crossing places where persons are required to travel shall be safely guarded or protected against persons coming in contact therewith, as required by paragraph (a) of this subsection;
 - (d) All trolley and positive feed wires shall be placed on opposite sides of track from refuge holes or necks of rooms when so ordered by the department, but wires, when protected as required by paragraph (a) of this subsection, may be placed across the necks of rooms. Switches or circuit breakers shall be provided to control the current at the mine and all important sections in the mine;
 - (e) Where track is used for the return circuit, at least one (1) side shall be bonded to the full length of the trolley wire installation. Cross-bonds shall be installed not to exceed two hundred (200) foot intervals along the track; and
 - (f) All mine locomotives shall be fused or otherwise protected at the switch or at the nip.
- (3) The following shall apply to surface installations:
- (a) High-voltage lines shall be at least twenty (20) feet above the ground where there is a possibility of contact by traffic passing underneath;
 - (b) Electrical circuits, wires, and cables shall be supported on insulators except when cables, which are of a design that can be safely used without insulators, are used;
 - (c) Lightning arresters shall be installed on all ungrounded, exposed power conductors and telephone wires entering a mine, regardless of voltage. Overload protection and disconnect switches of suitable sizes and ratings approved by the department shall also be provided, except that they shall not be required of telephone wires;
 - (d) Every metallic building in which electricity is used or connected with any circuit shall be effectively grounded;

- (e) All transformer tanks shall be effectively grounded;
 - (f) Switch boxes, contactors, controllers, and all other similar devices shall be kept free of significant accumulations of combustible dust that create a fire hazard;
 - (g) Surface transformer stations shall be housed or fenced in when lower than fifteen (15) feet above the earth, and the fences shall be a minimum of six (6) feet in height; and
 - (h) All surface power circuits and electrical equipment shall be de-energized before work is done on the circuits and equipment except when necessary for troubleshooting or testing. When electrical work or major mechanical work is performed, a suitable disconnect providing visible evidence that the power is disconnected shall be locked open and a tag shall be posted by the individuals performing the work. Locks and tags shall be removed only by persons who installed them or, if those persons are unavailable, by a person authorized by the operator. Repairs or maintenance shall not be performed on machinery until the power is off and the machinery is blocked against motion, except where machinery motion is necessary to make adjustments. When disconnects for stationary low and medium voltage equipment that do not provide visual evidence that the power is disconnected are used, an adequately rated voltage detector shall be used to test each phase conductor or circuit part to verify they are de-energized before any work is performed. When practical, confirmation that the voltage detector is operating satisfactorily shall be made before each test.
- (4) (a) Notwithstanding any provisions of subsections (1), (2), or (3) of this section, the department may authorize the construction, maintenance, operation, or conducting of any activity regulated by this section, to be constructed, maintained, operated, or conducted in a different manner than specified in any provision of subsections (1), (2), or (3) of this section, when scientific or engineering information is made available to the department substantially indicating that the different manner would afford equal or greater protection and safety than the manner required in subsections (1), (2), or (3) of this section; and
- (b) The department may prescribe administrative regulations with respect to the aboveground or underground installations in connection with any mine operation when information is made available indicating that regulation is reasonably necessary to prevent injury to, or loss of, life and property.

(5) If electrical work is to be performed, at least one (1) certified electrician shall be employed on the working shift where the work is to be performed at all underground mines and surface mines operating draglines or highwall miners.

Section 22. Sections 4 and 9 of this Act take effect January 1, 2009.

Section 23. Section 17 of this Act takes effect January 1, 2008.

Representative Yonts moved that the House concur in the Senate Committee Substitute to **HB 207**. Agreed.

Representative Yonts moved that **HB 207**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 12, 2007, roll call on **HB 207** - Appendix.)

HB 207, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 207**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker announced the appointment a Conference Committees on the following:

HB 337 - Representative Stacy, Chair; Representatives Marzian, Nesler, Turner, and Keene

HB 418 - Representative Richards, Chair; Representatives Adkins, Clark, Wilkey, Hoffman, Graham, and Hoover

Representative Hoover moved that the rules be suspended and that **HB 177** with Senate Floor Amendments attached thereto be taken from the Clerk's desk and placed back in the Orders of the Day.

On the roll call the vote was: **Yeas 91, Nays 1**. (See March 12, 2007, roll call on **HB 177** - Appendix.)

HB 177 was taken from the Clerk's desk and placed back in the Orders of the Day.

Representative Hoover moved that the rules be suspended to reconsider the vote on Senate Floor Amendment No. 3 to **HB 177**.

On the roll call the vote was: **Yeas 92, Nays 1**. (See March 12, 2007, roll call on **HB 177** - Appendix.)

The vote by which the House concurred in Senate Floor Amendment No. 3 to **HB 177** was reconsidered.

Representative Hoover moved that the House refuse to concur with Senate Floor Amendment No. 3 to **HB 177**.

On the roll call the vote was: **Yeas 89, Nays 3.** (See March 12, 2007, roll call on **HB 177** - Appendix.)

The House refused to concur in Senate Floor Amendment No. 3 to **HB 177**.

Representative Hoover moved that the House reconsider the vote on Senate Floor Amendment No. 2 Title to **HB 177**.

On the roll call the vote was: **Yeas 93, Nays 3.** (See March 12, 2007, roll call on **HB 177** - Appendix.)

The vote by which the House concurred in Senate Floor Amendment No. 2 Title to **HB 177** was reconsidered.

Representative Draud moved that the House refuse to concur in Senate Floor Amendment No. 2 Title to **HB 177**. Agreed.

SJR 6 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **SJR 6** be adopted.

On the roll call the vote was: **Yeas 98, Nays 0.** (See March 12, 2007, roll call on **SJR 6** - Appendix.)

SJR 6 was adopted.

Representative Burch moved that the vote by which **SJR 6** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 14, with House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Owens moved the adoption of House Floor Amendment No. 1 to **SB 14**. Agreed.

Representative Owens moved that **SB 14**, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 1.** (See March 12, 2007, roll call on **SB 14** - Appendix.)

SB 14, as amended, was passed and the title agreed to.

Representative Owens moved that the vote by which **SB 14**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 59, with House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved that **SB 59** be placed back in the Orders of the Day. Agreed.

The Speaker announced the appointment the following additional members to the Conference Committee on **HB 418**: Representatives Rollins and Dedman.

SB 171 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **SB 171** be passed.

On the roll call the vote was: **Yeas 65, Nays 28.** (See March 12, 2007, roll call on **SB 171** - Appendix.)

SB 171 was passed and the title agreed to.

Representative Wilkey moved that the vote by which **SB 171** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 50, 225, 296, 305, 355, 386, 394, 514, 536, HJR 84, HB 280, 287 and 367** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:55 p.m.)

Representative Adkins moved that the House recess until 5:30 p.m. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Message received in regard to **HB 262**: The Senate has passed **HB 262** by way of Senate Committee Substitute with Senate Committee Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body. (5:12 p.m.)

Message received in regard to **HB 549**: The Senate has passed **HB 549** by way of Senate Committee Substitute with Senate Committee Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body. (5:42 p.m.)

Announcing passage of **SCR 218**. (5:56 p.m.)

Representative Adkins moved that the rules be suspended to move **HB 549, 380, and 125** from the Committee on Rules and post them for passage in the Orders of the Day. Agreed.

Orders of the Day (Continued)

HB 380, with Senate Committee Substitute and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 380** is as follows:

HB 380, AN ACT relating to high school athletics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.070 is amended to read as follows:

- (1) The Kentucky Board of Education shall have the management and control of the common schools and all programs operated in these schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.
- (2) The Kentucky Board of Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that any administrative hearing conducted by the designated managing organization or agency shall be conducted in accordance with KRS Chapter 13B.
 - (a) The state board or its designated agency shall assure through promulgation of administrative regulations that if a secondary school sponsors or intends to sponsor an athletic activity or sport that is similar to a sport for which National Collegiate Athletic Association members offer an athletic scholarship, the school shall sponsor the athletic activity or sport for which a scholarship is offered. The administrative regulations shall specify which athletic activities are similar to sports for which National Collegiate Athletic Association members offer scholarships.
 - (b) Beginning with the 2003-2004 school year, the state board shall require any agency or organization designated by the state board to manage interscholastic athletics to adopt bylaws that establish as members of the agency's or organization's board of control one (1) representative of nonpublic member schools who is elected by the nonpublic school members of the agency or organization from regions one (1) through eight (8) and one (1) representative of nonpublic member schools who is elected by the nonpublic member schools of the agency or organization from regions nine (9) through sixteen (16). The nonpublic school representatives on the board of control shall not be from classification A1 or D1 schools. Following initial election of these nonpublic school representatives to the agency's or organization's board of control, terms of the nonpublic school representatives shall be staggered so that only one (1) nonpublic school member is elected in each even-numbered year.
 - (c) The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate

rules, administrative regulations, or bylaws that prohibit pupils in grades seven (7) to eight (8) from participating in any high school sports except for high school varsity soccer and football, or from participating on more than one (1) school-sponsored team at the same time in the same sport. The Kentucky Board of Education, or an agency designated by the board to manage interscholastic athletics, may promulgate administrative regulations restricting, limiting, or prohibiting participation in high school varsity soccer and football for students who have not successfully completed the eighth grade.

- (d) Every local board of education shall require an annual medical examination performed and signed by a physician, physician assistant, advanced registered nurse practitioner, or chiropractor, if performed within the professional's scope of practice, for each student seeking eligibility to participate in any high school athletic activity or sport. The Kentucky Board of Education or any organization or agency designated by the state board to manage interscholastic athletics shall not promulgate administrative regulations or adopt any policies or bylaws that are contrary to the provisions of this paragraph.
- (e) Any student who turns nineteen (19) years of age prior to August 1 shall not be eligible for high school athletics in Kentucky. Any student who turns nineteen (19) years of age on or after August 1 shall remain eligible for that school year only. **An exception to the provisions of this paragraph shall be made and the student shall be eligible for high school athletics in Kentucky if the student:**

- 1. Qualified for exceptional children services and had an individual education program developed by an admissions and release committee (ARC) while the student was enrolled in the primary school program;**
- 2. Was retained in the primary school program because of an ARC committee recommendation; and**
- 3. Has not completed four (4) consecutive years or eight (8) consecutive semesters of eligibility following initial promotion from grade eight (8) to grade nine (9).**

- (f) If the state board or any agency designated by the state board to manage interscholastic athletics promulgates administrative regulations that permit a school district to employ or assign nonteaching personnel to serve in a coaching position, those administrative regulations shall apply to all sports and sports activities, including basketball and football. The administrative regulations shall give preference to the hiring or assignment of certified personnel over nonteaching personnel in coaching positions.

- (3) (a) The Kentucky Board of Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then-current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums, July 1 in each even year to June 30 in the next ensuing even year; and the rentals may be fixed at the sums in each biennium, if renewed, sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on, and provide reserves for, any revenue bonds which the State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities, with appurtenances, and costs as may be incident to the issuance of the bonds.
- (b) Each option of the Kentucky Board of Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission. The option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of the succeeding biennium.
- (c) The Kentucky Board of Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and

may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

- (4) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be enclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.
- (5) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.

The Senate Floor Amendment No. 1 to **HB 380** is as follows:

HB 380, On page 2, line 19 after "(d)" by inserting the following:

"The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or bylaws that prohibit or restrict the participation of students in high school sports based on the public or nonpublic middle school the student attended."

~~(e)~~; and

On page 2, line 27 by inserting "~~(f)~~" in front of "(e)" and placing brackets around and striking through "(e)"; and

On page 3, line 14 by inserting "~~(g)~~" in front of "(f)" and placing brackets around and striking through "(f)".

Representative Dedman moved that the House refuse to concur in the Senate Amendments to **HB 380**. Agreed.

HB 125, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Floor Amendment No. 1 to **HB 125** is as follows:

HB 125, On page 1, line 1, after "KRS" delete "CHAPTER 243" and insert in lieu thereof "243.020 to 243.670"; and

On page 10, lines 6 through 11, delete the same.

The Senate Floor Amendment No. 2 to **HB 125** is as follows:

HB 125, On page 10, after line 11, by inserting the following:

"Section 4. KRS 189A.010 is amended to read as follows:

- (1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:
 - (a) Having an alcohol concentration of 0.08 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle;
 - (b) While under the influence of alcohol;
 - (c) While under the influence of any other substance or combination of substances which impairs one's driving ability;
 - (d) **While the presence of a controlled substance is detected in the blood, as measured by a scientifically reliable test, or tests, taken within two (2) hours of cessation of operation or control of a motor vehicle;**
 - ~~(e)~~ While under the combined influence of alcohol and any other substance which impairs one's driving ability; or
 - ~~(f)(e)}~~ Having an alcohol concentration of 0.02 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle, if the person is under the age of twenty-one (21).
- (2) With the exception of the results of the tests administered pursuant to KRS 189A.103(7), if the sample of the person's blood or breath that is used to determine the alcohol concentration thereof was obtained more than two (2) hours after cessation of operation or physical control of a motor vehicle, the results of the test or tests shall be inadmissible as evidence in a prosecution under subsection (1)(a) or ~~(f)(e)}~~ of this section. The results of the test or tests, however, may be admissible in a prosecution under subsection (1)(b) or ~~(e)(d)}~~ of this section.

- (3) In any prosecution for a violation of subsection (1)(b) or ~~(e)(d)~~ of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood or breath shall give rise to the following presumptions:
- (a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and
 - (b) If there was an alcohol concentration of 0.05 or greater but less than 0.08 based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.
- The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or ~~(e)(d)~~ of this section.
- (4) The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section, provided, however, it shall be a defense to subsection (1)(d) of this section if the accused consumed the controlled substance under a valid prescription from a practitioner, as defined in KRS 218A.010, acting in the course of his or her professional practice, and complied with the dosage restrictions.
- (5) Any person who violates the provisions of paragraph (a), (b), (c), ~~(d)~~, or (e) of subsection (1) of this section shall:
- (a) For the first offense within a five (5) year period, be fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500), or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days, or both. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both. If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be four (4) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.
 - (b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars (\$350) nor more than five hundred dollars (\$500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be fourteen (14) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.
 - (c) For a third offense within a five (5) year period, be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be sixty (60) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.
 - (d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be two hundred forty (240) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release.
 - (e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state or jurisdiction, for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)~~(d)(e)~~ of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.
- (6) Any person who violates the provisions of subsection (1)~~(d)(e)~~ of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars (\$100) and no more than five hundred dollars (\$500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this subsection shall not be subject to the penalties established in subsection (5) of this section or any other penalty established pursuant to KRS Chapter 189A, except those established in KRS 189A.040(1).
- (7) If the person is under the age of twenty-one (21) and there was an alcohol concentration of 0.08 or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to

subsection (5) of this section.

- (8) For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.
- (9) When sentencing persons under subsection (5)(a) of this section, at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.
- (10) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.
- (11) For purposes of this section, aggravating circumstances are any one (1) or more of the following:
 - (a) Operating a motor vehicle in excess of thirty (30) miles per hour above the speed limit;
 - (b) Operating a motor vehicle in the wrong direction on a limited access highway;
 - (c) Operating a motor vehicle that causes an accident resulting in death or serious physical injury as defined in KRS 500.080;
 - (d) Operating a motor vehicle while the alcohol concentration in the operator's blood or breath is 0.15~~[0.18]~~ or more as measured by a test or tests of a sample of the operator's blood or breath taken within two (2) hours of cessation of operation of the motor vehicle;
 - (e) Refusing to submit to any test or tests of one's blood, breath, or urine requested by an officer having reasonable grounds to believe the person was operating or in physical control of a motor vehicle in violation of subsection (1) of this section; and
 - (f) Operating a motor vehicle that is transporting a passenger under the age of twelve (12) years old.

Section 5. KRS 189A.040 is amended to read as follows:

- (1) In addition to any other penalty prescribed by KRS 189A.010(5)(a) or (6), the court shall sentence the person to attend an alcohol or substance abuse education or treatment program subject to the following terms and conditions for a first offender or a person convicted under KRS 189A.010(1)~~(d)(e)~~:
 - (a) The treatment or education shall be for a period of ninety (90) days and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program;
 - (b) Each defendant shall pay the cost of the education or treatment program up to his ability to pay but no more than the actual cost of the treatment;
 - (c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant shall be released prior to the expiration of the ninety (90) day period; and
 - (d) Failure to complete the education or treatment program or to pay the amount specified by the court for education or treatment shall constitute contempt, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the education or treatment program.
- (2) In addition to any other penalty prescribed by KRS 189A.010(5)(b), the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a second offender:
 - (a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program;
 - (b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment;
 - (c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the one (1) year period; and
 - (d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.
- (3) In addition to any other penalty prescribed by KRS 189A.010(5)(c) or (d), the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender:
 - (a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. The program may be an inpatient or residential-type program;
 - (b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost

of the program;

- (c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year period; and
 - (d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.
- (4) Costs of treatment or education programs which are paid from the service fee established by KRS 189A.050, or from state or federal funds, or any combination thereof, shall be deducted from the amount which the defendant must pay.
 - (5) For the purposes of this section, "treatment" means service in an alcohol or substance abuse education or treatment program or facility licensed, regulated, and monitored by the Cabinet for Health and Family Services for services as required under this section.
 - (6) The Cabinet for Health and Family Services shall promulgate administrative regulations for the licensure of education and treatment facilities and programs for offenders receiving education or treatment under this section. The criteria developed by the Cabinet for Health and Family Services shall include:
 - (a) Manner of assessment;
 - (b) Appropriate education and treatment plans; and
 - (c) Referrals to other treatment providers.
 - (7) The participating facilities and programs shall be required to abide by these standards and shall report completion to the Transportation Cabinet. Upon request, the facility or program shall report to the courts regarding the progress of offenders being treated pursuant to this section.
 - (8) Administrative decisions regarding the licensure of education and treatment facilities and programs may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 6. KRS 189A.050 is amended to read as follows:

- (1) All persons convicted of violation of KRS 189A.010(1)(a), (b), (c), ~~(d)~~, or (e) shall be sentenced to pay a service fee of three hundred twenty-five dollars (\$325), which shall be in addition to all other penalties authorized by law.
- (2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.
- (3) The revenue collected from the service fee imposed by this section shall be utilized as follows:
 - (a) Twelve percent (12%) of the amount collected shall be transferred to the Kentucky State Police forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;
 - (b) Twenty percent (20%) of the service fee collected pursuant to this section shall be allocated to the Department of Public Advocacy;
 - (c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;
 - (d) Sixteen percent (16%) of the amount collected shall be transferred as follows:
 - 1. Fifty percent (50%) shall be credited to the traumatic brain injury trust fund established under KRS 211.476; and
 - 2. Fifty percent (50%) shall be credited to the Cabinet for Health and Family Services, Department for Mental Health and Mental Retardation Services, for the purposes of providing direct services to individuals with brain injuries that may include long-term supportive services and training and consultation to professionals working with individuals with brain injuries. As funding becomes available under this subparagraph, the cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the services permitted by this subparagraph.
 - (e) Any amount specified by a specific statute shall be transferred as provided in that statute;
 - (f) Forty-six percent (46%) of the amount collected shall be transferred to be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment, and educational programs authorized by this chapter and by the Department of Public Advocacy; and
 - (g) The remainder of the amount collected shall be transferred to the general fund.
- (4) The amounts specified in subsection (3)(a), (b), (c), and (d) of this section shall be placed in trust and agency accounts that shall not lapse.

Section 7. KRS 189A.070 is amended to read as follows:

- (1) Unless the person is under eighteen (18) years of age, in addition to the penalties specified in KRS 189A.010, a person convicted of violation of KRS 189A.010(1)(a), (b), (c), ~~(d)~~, or (e) shall have his license to operate a motor vehicle or motorcycle revoked by the court as follows:
 - (a) For the first offense within a five (5) year period, for a period of not less than thirty (30) days nor more than one hundred twenty (120) days;
 - (b) For the second offense within a five (5) year period, for a period of not less than twelve (12) months nor more than eighteen (18) months;
 - (c) For a third offense within a five (5) year period, for a period of not less than twenty-four (24) months nor more than thirty-six (36) months; and
 - (d) For a fourth or subsequent offense within a five (5) year period, sixty (60) months.
 - (e) For purposes of this section, "offense" shall have the same meaning as described in KRS 189A.010(5)~~(f)~~~~(e)~~.
- (2) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.
- (3) In addition to the period of license revocation set forth in subsection (1) or (7) of this section, no person shall be eligible for reinstatement of his privilege to operate a motor vehicle until he has completed the alcohol or substance abuse education or treatment program ordered pursuant to KRS 189A.040.
- (4) A person under the age of eighteen (18) who is convicted of violation of KRS 189A.010(1)(a), (b), (c), ~~(d)~~, or (e) shall have his license revoked by the court until he reaches the age of eighteen (18) or shall have his license revoked as provided in subsection (1) or (7) of this section, whichever penalty will result in the longer period of revocation or court-ordered driving conditions.
- (5) Licenses revoked pursuant to this chapter shall forthwith be surrendered to the court upon conviction. The court shall transmit the conviction records, and other appropriate information to the Transportation Cabinet. A court shall not waive or stay this procedure.
- (6) Should a person convicted under this chapter whose license is revoked fail to surrender it to the court upon conviction, the court shall issue an order directing the sheriff or any other peace officer to seize the license forthwith and deliver it to the court.
- (7) A person whose license has been revoked pursuant to subsection (1)(b), (c), ~~(d)~~, or (e) of this section may move the court to reduce the applicable minimum period of revocation by one-half (1/2), but in no case less than twelve (12) months. The court may, upon a written finding in the record for good cause shown, order such a period to be reduced by one-half (1/2), but in no case less than twelve (12) months, if the following conditions are satisfied:
 - (a) The person shall not operate a motor vehicle or motorcycle without an ignition interlock device as provided for in KRS 189A.340(2);
 - (b) The person shall not operate a motor vehicle or motorcycle at any other time and for any other purposes than those specified by the court; and
 - (c) The ignition interlock device shall be installed on the motor vehicle or motorcycle for a period of time not less than the applicable minimum period of revocation provided for under subsection (1)(b), (c), ~~(d)~~, or (e) of this section nor for more than the respective maximum period of revocation provided for under subsection (1)(b), (c), ~~(d)~~, or (e) of this section.
- (8) Upon a finding of a violation of any of the conditions specified in subsection (7) of this section or of the order permitting any reduction in a minimum period of revocation that is issued pursuant thereto, the court shall dissolve such an order and the person shall receive no credit toward the minimum period of revocation required under subsection (1)(b), (c), ~~(d)~~, or (e) of this section.

Section 8. KRS 189A.085 is amended to read as follows:

- (1) Unless the court orders installation of an ignition interlock device under KRS 189A.340, upon the conviction of a second or subsequent offense of KRS 189A.010, a person shall have the license plate or plates on all of the motor vehicles owned by him or her, either solely or jointly, impounded by the court of competent jurisdiction in accordance with the following procedures:
 - (a) At the final sentencing hearing, the person who has been convicted of a second or subsequent offense of KRS 189A.010(1)(a), (b), (c), ~~(d)~~, or (e) shall physically surrender any and all license plate or plates currently in force on any motor vehicle owned either individually or jointly by him or her to the court. The order of the court suspending the license plate or plates shall not exceed the time for the suspension of the motor vehicle operator's license of the second or subsequent offender as specified in KRS 189A.070.
 - (b) The clerk of the court shall retain any surrendered plate or plates and transmit all surrendered plate or plates to the Transportation Cabinet in the manner set forth by the Transportation Cabinet in administrative regulations promulgated by the Transportation Cabinet.
- (2) Upon application, the court may grant hardship exceptions to family members or other individuals affected by the

surrender of any license plate or plates of any vehicle owned by the second or subsequent offender. Hardship exceptions may be granted by the court to the second or subsequent offender's family members or other affected individuals only if the family members or other affected individuals prove to the court's satisfaction that their inability to utilize the surrendered vehicles would pose an undue hardship upon the family members or affected other individuals. Upon the court's granting of hardship exceptions, the clerk or the Transportation Cabinet as appropriate, shall return to the family members or other affected individuals the license plate or plates of the vehicles of the second or subsequent offender for their utilization. The second or subsequent offender shall not be permitted to operate a vehicle for which the license plate has been suspended or for which a hardship exception has been granted under any circumstances.

- (3) If the license plate of a jointly owned vehicle is impounded, this vehicle may be transferred to a joint owner of the vehicle who was not the violator.
- (4) If the license plate of a motor vehicle is impounded, the vehicle may be transferred.

Section 9. KRS 189A.090 is amended to read as follows:

- (1) No person shall operate or be in physical control of a motor vehicle while his license is revoked or suspended under KRS 189A.010(6), 189A.070, 189A.107, 189A.200, or 189A.220, or operate or be in physical control of a motor vehicle without a functioning ignition interlock device in violation of KRS 189A.345(1).
- (2) In addition to any other penalty imposed by the court, any person who violates subsection (1) of this section shall:
 - (a) For a first offense within a five (5) year period, be guilty of a Class B misdemeanor and have his license revoked by the court for six (6) months, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), ~~(d)~~, or (e), in which event he shall be guilty of a Class A misdemeanor and have his license revoked by the court for a period of one (1) year;
 - (b) For a second offense within a five (5) year period, be guilty of a Class A misdemeanor and have his license revoked by the court for one (1) year, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), ~~(d)~~, or (e), in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of two (2) years;
 - (c) For a third or subsequent offense within a five (5) year period, be guilty of a Class D felony and have his license revoked by the court for two (2) years, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), ~~(d)~~, or (e), in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of five (5) years.
- (3) The five (5) year period under this section shall be measured in the same manner as in KRS 189A.070.
- (4) After one (1) year of the period of revocation provided for in subsection (2)(b) or (c) of this section has elapsed, a person whose license has been revoked pursuant to either of those subsections may move the court to have an ignition interlock device installed for the remaining portion of the period of revocation. The court may, upon a written finding in the record for good cause shown, order an ignition interlock device installed if the following conditions are satisfied:
 - (a) The person shall not operate a motor vehicle or motorcycle without an ignition interlock device as provided for in KRS 189A.340(2);
 - (b) The person shall not operate a motor vehicle or motorcycle at any other time and for any other purposes than those specified by the court; and
 - (c) The ignition interlock device shall be installed on the motor vehicle or motorcycle for a period of time not less than the period of revocation required for the person under subsection (2)(b) or (c) of this section.
- (5) Upon a finding of a violation of any of the conditions specified in subsection (4) of this section or of the order permitting the installation of an ignition interlock device in lieu of the remaining period of revocation that is issued pursuant thereto, the court shall dissolve such an order and the person shall receive no credit toward the remaining period of revocation required under subsection (2)(b) or (c) of this section.

Section 10. KRS 189A.105 is amended to read as follows:

- (1) A person's refusal to submit to tests under KRS 189A.103 shall result in revocation of his driving privilege as provided in this chapter.
- (2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:
 - 1. That, if the person refuses to submit to such tests, the fact of this refusal may be used against him in court as evidence of violating KRS 189A.010 and will result in revocation of his driver's license, and if the person refuses to submit to the tests and is subsequently convicted of violating KRS 189A.010(1) then he will be subject to a mandatory minimum jail sentence which is twice as long as the mandatory minimum jail sentence imposed if he submits to the tests, and that if the person refuses to submit to the tests he will be unable to obtain a hardship license; and
 - 2. That, if a test is taken, the results of the test may be used against him in court as evidence of violating KRS 189A.010(1), and that if the results of the test are 0.15[0.18] or above and the person is subsequently convicted of violating KRS 189A.010(1), then he will be subject to a sentence that is twice as long as the

mandatory minimum jail sentence imposed if the results are less than 0.15~~[0.18]~~; and

3. That if the person first submits to the requested alcohol and substance tests, the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.

(b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged. However, if the incident involves a motor vehicle accident in which there was a fatality, the investigating peace officer shall seek such a search warrant for blood, breath, or urine testing unless the testing has already been done by consent. If testing done pursuant to a warrant reveals the presence of alcohol or any other substance that impaired the driving ability of a person who is charged with and convicted of an offense arising from the accident, the sentencing court shall require, in addition to any other sentencing provision, that the defendant make restitution to the state for the cost of the testing.

~~(3) During the period immediately preceding the administration of any test, the person shall be afforded an opportunity of at least ten (10) minutes but not more than fifteen (15) minutes to attempt to contact and communicate with an attorney and shall be informed of this right. Inability to communicate with an attorney during this period shall not be deemed to relieve the person of his obligation to submit to the tests and the penalties specified by KRS 189A.010 and 189A.107 shall remain applicable to the person upon refusal. Nothing in this section shall be deemed to create a right to have an attorney present during the administration of the tests, but the person's attorney may be present if the attorney can physically appear at the location where the test is to be administered within the time period established in this section.~~

~~(4)~~ Immediately following the administration of the final test requested by the officer, the person shall again be informed of his right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested. He shall then be asked "Do you want such a test?" The officer shall make reasonable efforts to provide transportation to the tests.

Section 11. KRS 189A.240 is amended to read as follows:

In any judicial review of a pretrial suspension imposed under KRS 189A.200(1)(b), if the court determines by a preponderance of the evidence that:

- (1) The person was charged and arrested by a peace officer with a violation of KRS 189A.010(1)(a), (b), (c), ~~(d), or (e)~~;
- (2) The peace officer had reasonable grounds to believe that the person was operating a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), ~~(d), or (e)~~;
- (3) There is probable cause to believe that the person committed the violation of KRS 189A.010(1)(a), (b), (c), ~~(d), or (e)~~ as charged; and
- (4) The person has been convicted of one (1) or more prior offenses as described in KRS 189A.010(5)(e) or has had his motor vehicle operator's license suspended or revoked on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest, then the court shall continue to suspend the person's operator's license or privilege to operate a motor vehicle. The provisions of this section shall not be construed as limiting the person's ability to challenge any prior convictions or license suspensions or refusals."

The Senate Floor Amendment No. 3 Title to **HB 125** is as follows:

HB 125, By amending the title to read as follows: "AN ACT relating to crimes and punishments."

Representative Westrom moved that the House refuse to concur in the Senate Amendments to **HB 125**. Agreed.

The Speaker announced the appointment of Representative Moberly to the Conference Committee on **HB 418**.

HB 549, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 549** is as follows:

HB 549, AN ACT relating to tax increment financing and urban redevelopment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) The General Assembly finds and declares that the establishment of development areas, local development areas, and projects which result in increased property values, increased employment opportunities, and increased economic activity in communities within the Commonwealth serves a public purpose.
- (2) The General Assembly further finds and declares that the authority prescribed in Sections 1 to 22 of this Act, and the purposes to be accomplished thereunder, are proper.
- (3) A city or county creating or expanding a development area or local development area, shall, to the greatest extent it determines to be reasonably feasible in carrying out the provisions of Sections 1 to 22 of this Act, afford maximum opportunity for the rehabilitation, development, renovation, or improvement of a development area or local development area by private enterprise.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The purposes of Sections 1 to 22 of this Act are as follows:

- (1) Section 4 of this Act provides authority for cities and counties to establish local development areas for the development of previously undeveloped land within their jurisdictional boundaries and devote local resources to support the development of projects in those local development areas. Local development areas established under Section 4 of this Act and projects within local development areas shall not be eligible for participation by the Commonwealth.
- (2) Sections 5, 6, and 7 of this Act provide a framework for cities and counties to establish development areas within their jurisdictional boundaries, and to devote local resources to providing redevelopment assistance and supporting projects in those development areas. Projects within development areas established pursuant to Sections 5, 6, and 7 of this Act shall be eligible for participation by the Commonwealth if such projects meet the requirements for Commonwealth participation established by Sections 1 to 22 of this Act; and
- (3) Sections 16, 17, 18, 19, 20, and 21 of this Act establish the requirements that must be met by a project within a development area for the project to receive participation from the Commonwealth.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 22 of this Act:

- (1) "Activation date" means the date established any time within a two (2) year period after the commencement date. The activation date is the date on which the time period for the pledge of incremental revenues shall commence. The Commonwealth or governing body may extend the two (2) year period to no more than four (4) years upon written application by the agency requesting the extension. To implement the activation date, the agency that is a party to the project grant agreement shall notify the office. The agency that is a party to the local participation agreement or the local development area agreement shall notify the governing body that created the development area or local development area;
- (2) "Agency" means:
 - (a) An urban renewal and community development agency established under KRS Chapter 99;
 - (b) A development authority established under KRS Chapter 99;
 - (c) A nonprofit corporation;
 - (d) A housing authority established under KRS Chapter 80;
 - (e) An air board established under KRS 183.132 to 183.160;
 - (f) A local industrial development authority established under KRS 154.50-301 to 154.50-346;
 - (g) A riverport authority established under KRS 65.510 to 65.650; or
 - (h) A designated department, division, or office of a city or county;
- (3) "Approved public infrastructure costs" means costs associated with the acquisition, installation, construction, or reconstruction of public works, public improvements, and public buildings, including planning and design costs associated with the development of such public amenities. Approved public infrastructure costs includes but is not limited to costs incurred for the following:
 - (a) Land preparation, including demolition and clearance work;
 - (b) Buildings;
 - (c) Sewers and storm drainage;
 - (d) Curbs, sidewalks, promenades, and pedways;
 - (e) Roads;
 - (f) Street lighting;
 - (g) The provision of utilities;
 - (h) Environmental remediation;
 - (i) Floodwalls and flood gates;
 - (j) Public spaces or parks;

- (k) Parking;
- (l) Easements and rights of way;
- (m) Transportation facilities;
- (n) Public landings;
- (o) Amenities, such as fountains, benches, and sculptures; and
- (p) River bank modifications and improvements;
- (4) "Approved signature project costs" means:
 - (a) The acquisition of land for portions of the project that are for infrastructure; and
 - (b) Costs associated with the acquisition, installation, development, construction, improvement, or reconstruction of infrastructure, including planning and design costs associated with the development of infrastructure, including but not limited to parking structures, including portions of parking structures that serve as platforms to support development above;

that have been determined by the commission to represent a unique challenge in the financing of a project such that the project could not be developed without incentives intended by this chapter to foster economic development;
- (5) "Brownfield site" means real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant;
- (6) "Capital investment" means:
 - (a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of a project;
 - (b) The cost of acquiring land or rights in land within the development area on the footprint of the project, and any cost incident thereto, including recording fees;
 - (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of a project which is not paid by the contractor or contractors or otherwise provided;
 - (d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans, specifications, preliminary investigations, supervision of construction, and the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of a project;
 - (e) All costs that are required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of a project; and
 - (f) All other costs of a nature comparable to those described in this subsection;
- (7) "City" means any city, consolidated local government, or urban-county government;
- (8) "Commencement date" means:
 - (a) The date on which a local development area agreement is executed; or
 - (b) The date on which a local participation agreement is executed; or
 - (c) The date on which a project grant agreement is executed;
- (9) "Commission" means the State Tax Increment Financing Commission established by Section 15 of this Act;
- (10) "Commonwealth" means the Commonwealth of Kentucky;
- (11) "County" means any county, consolidated local government, charter county, unified local government, or urban-county government;
- (12) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban consumers, all items, base year computed for 1982 to 1984 equals one hundred (100), published by the United States Department of Labor, Bureau of Labor Statistics;
- (13) "Debt charges" means the principal, including any mandatory sinking fund deposits, interest, and any redemption premium, payable on increment bonds as the payments come due and are payable and any charges related to the payment of the foregoing;
- (14) "Development area" means an area established under Sections 5, 6, and 7 of this Act;
- (15) "Economic development projects" means projects which are approved for tax credits under Subchapter 20, 22, 23, 24, 26, 28, 34, or 48 of KRS Chapter 154;
- (16) "Establishment date" means the date on which a development area or a local development area is created. If the development area, development area plan, or local development area is modified or amended subsequent to the original establishment date, the modifications or amendments shall not extend the existence of the development area or local development area beyond what would be permitted under Sections 1 to 22 of this Act from the original establishment date;

- (17) "Financing costs" means principal, interest, costs of issuance, debt service reserve requirements, underwriting discount, costs of credit enhancement or liquidity instruments, and other costs directly related to the issuance of bonds or debt for approved public infrastructure costs or approved signature project costs for projects approved pursuant to Section 18 of this Act;
- (18) "Footprint" means the actual perimeter of a discrete, identified project within a development area. The footprint shall not include any portion of a development area outside the area for which actual capital investments are made;
- (19) "Governing body" means the body possessing legislative authority in a city or county;
- (20) "Increment bonds" means bonds and notes issued for the purpose of paying the costs of one (1) or more projects, or grant or loan programs as described in paragraph (c) of subsection (35) of this section, in a development area or a local development area;
- (21) "Incremental revenues" means:
- (a) The amount of revenues received by a taxing district, as determined by subtracting old revenues from new revenues in a calendar year with respect to a development area, a project within a development area, or a local development area; or
 - (b) The amount of revenues received by the Commonwealth as determined by subtracting old revenues from new revenues in a calendar year with respect to the footprint of a project within a development area;
- (22) "Issuer" means a city, county, or agency issuing increment bonds;
- (23) "Local development area" means a development area established under Section 4 of this Act;
- (24) "Local development area agreement" means an agreement entered into under Section 4 of this Act;
- (25) "Local participation agreement" means the agreement entered into under Section 12 of this Act;
- (26) "Local tax revenues" means:
- (a) Revenues derived by a city or county from one (1) or more of the following sources:
 - 1. Real property ad valorem taxes; and
 - 2. Occupational taxes, excluding occupational taxes that have already been pledged to support an economic development project within the development area; and
 - (b) Revenues derived by any taxing district other than school districts or fire districts from real property ad valorem taxes;
- (27) "Low-income household" means a household in which gross income is no more than two hundred percent (200%) of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of 42 U.S.C. sec. 9902(2);
- (28) "New revenues" means:
- (a) The amount of local tax revenues received by a taxing district with respect to a development area or a local development area in any calendar year beginning with the year in which the activation date occurred; or
 - (b) The amount of state tax revenues received by the Commonwealth with respect to the footprint of a project in any calendar year beginning with the year in which the activation date occurred;
- (29) "Office" means the Division of Tax Increment Financing within the Office of the Commissioner in the Department of Revenue, established by Section 26 of this Act;
- (30) "Old revenues" means:
- (a) The amount of local tax revenues received by a taxing district with respect to a development area or a local development area during the last calendar year prior to the commencement date; or
 - (b)
 - 1. The amount of state tax revenues received by the Commonwealth from the footprint of a project during the last calendar year prior to the commencement date. If the office determines that the amount of state tax revenues received during the last calendar year prior to the commencement date does not represent a true and accurate depiction of revenues, the office may consider revenues for a period of no longer than three (3) calendar years prior to the commencement date, so as to determine a fair representation of state tax revenues. The amount determined by the office shall be specified in the project grant agreement. If state tax revenues were derived from the footprint of project prior to the commencement date, old revenues shall increase each calendar year by:
 - a. The percentage increase, if any, of the CPI or a comparable index; or
 - b. An alternative percentage increase that is determined to be appropriate by the office.The method for increasing old revenues shall be set forth in the project grant agreement;
 - 2. If state revenues were derived from the footprint of the project prior to the commencement date, the calculation of incremental revenues shall be based on the value of old revenues as increased using the method prescribed in subparagraph 1. of this paragraph to reflect the same calendar year as is used in the determination of new revenues.

- (31) "Outstanding" means increment bonds that have been issued, delivered, and paid for by the purchaser, except any of the following:
- (a) Increment bonds canceled upon surrender, exchange, or transfer, or upon payment or redemption;
 - (b) Increment bonds in replacement of which or in exchange for which other increment bonds have been issued; or
 - (c) Increment bonds for the payment, redemption, or purchase for cancellation prior to maturity, of which sufficient moneys or investments, in accordance with the ordinance or other proceedings or any applicable law, by mandatory sinking fund redemption requirements, or otherwise, have been deposited, and credited in a sinking fund or with a trustee or paying or escrow agent, whether at or prior to their maturity or redemption, and, in the case of increment bonds to be redeemed prior to their stated maturity, notice of redemption has been given or satisfactory arrangements have been made for giving notice of that redemption, or waiver of that notice by or on behalf of the affected bond holders has been filed with the issuer or its agent;
- (32) "Planning unit" means a planning commission established pursuant to KRS Chapter 100;
- (33) "Project" means any property, asset, or improvement located in a development area or a local development area and certified by the governing body as:
- (a) Being for a public purpose; and
 - (b) Being for the development of facilities for residential, commercial, industrial, public, recreational, or other uses, or for open space, including the development, rehabilitation, renovation, installation, improvement, enlargement, or extension of real estate and buildings; and
 - (c) Contributing to economic development or tourism; and
 - (d) Meeting the additional requirements established by Section 17, 18, or 19 of this Act if incremental revenues from the Commonwealth are to be included;
- (34) "Project grant agreement" means an agreement entered into under Section 20 of this Act;
- (35) "Redevelopment assistance," as utilized within a development area, includes the following:
- (a) Technical assistance programs to provide information and guidance to existing, new, and potential businesses and residences;
 - (b) Programs to market and promote the development area and attract new businesses and residents;
 - (c) Grant and loan programs to encourage the rehabilitation of residential, commercial, and industrial buildings; improve the appearance of building facades and signage; and stimulate business start-ups and expansions;
 - (d) Programs to obtain a reduced interest rate, down payment, or other improved terms for loans made by private, for-profit, or nonprofit lenders to encourage the rehabilitation of residential, commercial, and industrial buildings; improve the appearance of building facades and signage; and stimulate business start-ups and expansions;
 - (e) Local capital improvements, including but not limited to the installation, construction, or reconstruction of streets, lighting, pedestrian amenities, public utilities, public transportation facilities, public parking, parks, playgrounds, recreational facilities, and public buildings and facilities;
 - (f) Improved or increased provision of public services, including but not limited to police or security patrols, solid waste management, and street cleaning;
 - (g) Provision of technical, financial, or other assistance in connection with:
 - 1. Applications to the Environmental and Public Protection Cabinet for a brownfields assessment or a No Further Remediation Letter issued pursuant to KRS 224.01-450; or
 - 2. Site remediation by means of the Voluntary Environmental Remediation Program to remove environmental contamination in the development area, or lots or parcels within it, pursuant to KRS 224.01-510 to 224.01-532; and
 - (h) Direct development by a city, county, or agency of real property acquired by the city, county, or agency. Direct development may include one (1) or more of the following:
 - 1. Assembly and replatting of lots or parcels;
 - 2. Rehabilitation of existing structures and improvements;
 - 3. Demolition of structures and improvements and construction of new structures and improvements;
 - 4. Programs of temporary or permanent relocation assistance for businesses and residents;
 - 5. The sale, lease, donation, or other permanent or temporary transfer of real property to public agencies, persons, and entities both for profit and nonprofit; and
 - 6. The acquisition and construction of projects;
- (36) "Service payment agreement" means an agreement between a city, county, or issuer of increment bonds or other obligations and any person, whereby the person agrees to guarantee the receipt of incremental revenues, or the payment of debt charges, or any portion thereof, on increment bonds or other obligations issued by the city, county, or

issuer;

- (37) "Signature project" means a project approved under Section 18 of this Act;
- (38) "Special fund" means a special fund created under Section 11 of this Act in which all incremental revenues shall be deposited;
- (39) "State real property ad valorem tax" means real property ad valorem taxes levied under KRS 132.020(1)(a);
- (40) "State tax revenues" means revenues received by the Commonwealth from one (1) or more of the following sources:
- (a) State real property ad valorem taxes;
 - (b) Individual income taxes levied under KRS 141.020, other than individual income taxes that have already been pledged to support an economic development project within the development area;
 - (c) Corporation income taxes levied under KRS 141.040, other than corporation income taxes that have already been pledged to support an economic development project within the development area;
 - (d) Limited liability entity taxes levied under KRS 141.0401, other than limited liability entity taxes that have already been pledged to support an economic development project within the development area; and
 - (e) Sales taxes levied under KRS 139.200, excluding sales taxes already pledged for:
 - 1. Approved tourism attraction projects, as defined in KRS 148.851, within the development area; and
 - 2. Projects which are approved for sales tax refunds under Subchapter 20 of KRS Chapter 154 within the development area;
- (41) "Taxing district" means any city, county, or special taxing district other than school districts and fire districts; and
- (42) "Termination date" means:
- (a) For a development area, a date established by the ordinance creating the development area that is no more than twenty (20) years from the establishment date, provided that if a project grant agreement for a project within a development area or a local participation agreement relating to the development area has a termination date that is later than the termination date established in the ordinance, the termination date for the development area shall be extended to the termination date of the project grant agreement, or local participation agreement. However, the termination date for the development area shall in no event be more than forty (40) years from the establishment date;
 - (b) For a local development area, a date established by the ordinance creating the local development area that is no more than twenty (20) years from the establishment date, provided that if a local development area agreement relating to the local development area has a termination date that is later than the termination date established in the ordinance, the termination date for the local development area shall be extended to the termination date of the local development area agreement;
 - (c) For a local participation agreement, a date that is no more than twenty (20) years from the activation date. However, the termination date for a local participation agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the local participation agreement relates;
 - (d) For a local development area agreement, a date that is no more than twenty (20) years from the activation date. However, the termination date for a local development area agreement shall in no event be more than forty (40) years from the establishment date of the local development area to which the development area agreement relates;
 - (e) For a project grant agreement satisfying the requirements of Section 17 of this Act or Section 19 of this Act, a date established by the project grant agreement that is no more than twenty (20) years from the activation date. However, the termination date for a project grant agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the project grant agreement relates; and
 - (f) For a project grant agreement satisfying the requirements of Section 18 of this Act, a date established by the project grant agreement that is no more than thirty (30) years from the activation date. However, the termination date for a project grant agreement shall in no event be more than forty (40) years from the establishment date of the development area to which the project grant agreement relates.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) Any city or county may establish a local development area pursuant to this section, subject to the following conditions:
- (a) A local development area shall be a previously undeveloped tract of land;
 - (b) No more than one thousand (1,000) acres shall be approved for a local development area in any twelve (12) month period in any county;
 - (c) The establishment or expansion of the local development area shall not cause the assessed value of taxable real property within all local development areas and development areas of the city or county establishing the local development area to exceed twenty percent (20%) of the assessed value of all taxable real property within its jurisdiction. For the purpose of determining whether the twenty percent (20%) threshold has been met, the assessed value of taxable real property within all of the local development areas and development areas shall be

valued as of the establishment date; and

- (d) Unless the ordinance establishing a local development area requires an earlier termination date, a local development area shall cease to exist on the termination date.

(2) A city or county shall take the following steps to establish or modify a local development area:

- (a) The city or county shall hold a public hearing to solicit input from the public regarding the local development area. The city or county shall advertise the hearing by causing to be published, in accordance with KRS 424.130, notice of the time, place, and purpose of the hearing and a general description of the boundaries of the proposed local development area. The notice shall include a summary of the projects proposed for the local development area;

- (b) After the public hearing, the city or county shall adopt an ordinance which shall include the following provisions:

1. A description of the boundaries of the local development area;
2. The establishment date and the termination date;
3. A name for the local development area for identification purposes;
4. Approval of any agreements relating to the local development area;
5. A provision establishing a special fund for the local development area or any project within the local development area;
6. A requirement that any entity other than the governing body that receives financial assistance under the local development area ordinance, whether in the form of a grant, loan, or loan guarantee, shall make periodic accounting to the governing body;
7. A provision for periodic analysis and review by the governing body of the development activity in the local development area;
8. Designation of the agency or agencies responsible for oversight, administration, and implementation of the local development ordinance; and
9. Any other provisions, findings, limitations, rules, or procedures regarding the proposed local development area or a project within the local development area and its establishment or maintenance deemed necessary by the city or county; and

- (c) If incremental revenues or other resources are to be pledged from taxing districts other than the city or county establishing the local development area, a local development area agreement shall be executed in accordance with the provisions of subsection (4) of this section.

(3) Funding for projects in a local development area shall be provided in accordance with Section 9 of this Act.

- (4) A local development area agreement shall be executed among the agencies and taxing districts involved in administering, providing financing, or pledging incremental revenues within the local development area. The local development area agreement shall be adopted by a city or county by ordinance and by any other taxing district or agency by resolution, and shall include but not be limited to the following provisions:

- (a) Identification of the parties to the local development area agreement and the duties and responsibilities of each entity under the agreement;

- (b) Specific identification of the tax increments released or pledged by type of tax by each taxing district;

- (c) The anticipated benefit to be received by each taxing district for the release or pledge, including:

1. A detailed summary of old revenues collected and projected new revenues for each taxing district on an annual basis for the term of the local development area agreement; and
2. The maximum amount of incremental revenue to be paid by each taxing district and the maximum number of years the payment will be effective;

- (d) A detailed description of the local development area;

- (e) A description of each proposed project, including an estimate of the costs of construction, acquisition, and development;

- (f) A requirement that pledged incremental revenues will be deposited in a special fund pursuant to Section 11 of this Act, including the timing and procedure for depositing incremental revenues and other pledged amounts into the special fund;

- (g) Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the local development area agreement of any incremental revenues pledged to the special fund if increment bonds are outstanding that are secured by a pledge of those incremental revenues;

- (h) The commencement date, activation date, and termination date; and

- (i) Any other provisions not inconsistent with Sections 1 to 22 of this Act deemed necessary or appropriate by the parties to the agreement.

- (5) Any pledge of incremental revenues in a local development area agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date set forth in the local area development agreement, supersede any statute, ordinance, or resolution regarding the application or use of incremental revenues. No ordinance in conflict with a local development area agreement shall be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances or resolutions pledging incremental revenues on a subordinate basis to any existing pledges may be adopted.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any city or county may establish a development area pursuant to Sections 5, 6, and 7 of this Act to encourage reinvestment in and development and reuse of areas of the city or county under the following conditions:

- (1) The area shall be contiguous and shall be no more than three (3) square miles;
- (2) The establishment or expansion of the development area shall not cause the assessed value of taxable real property within all development areas and local development areas of the city or county establishing the development area to exceed twenty percent (20%) of the assessed value of all taxable real property within its jurisdiction. For the purpose of determining whether the twenty percent (20%) threshold has been met, the assessed value of taxable real property within all of the development areas and local development areas shall be valued as of the establishment date;
- (3) The governing body of the city or county shall determine that the development area has two (2) or more of the following conditions:
 - (a) Substantial loss of residential, commercial, or industrial activity or use;
 - (b) Forty percent (40%) or more of the households are low-income households;
 - (c) More than fifty percent (50%) of residential, commercial, or industrial structures are deteriorating or deteriorated;
 - (d) Substantial abandonment of residential, commercial, or industrial structures;
 - (e) Substantial presence of environmentally contaminated land;
 - (f) Inadequate public improvements or substantial deterioration in public infrastructure; or
 - (g) Any combination of factors that substantially impairs or arrests the growth and economic development of the city or county; impedes the provision of adequate housing; impedes the development of commercial or industrial property; or adversely affects public health, safety, or general welfare due to the development area's present condition and use; and
- (4) The governing body of the city or county shall find that all of the following are true:
 - (a) That the development area is not reasonably expected to be developed without public assistance. This finding shall be supported by specific reasons and supporting facts, including a clear demonstration of the financial need for public assistance; and
 - (b) That the public benefits of the development area justify the public costs proposed. This finding shall be supported by specific data and figures demonstrating that the projected benefits outweigh the anticipated costs and shall take into account the positive and negative effects of investment in the development on existing businesses and residents within the community as a whole; and
 - (c)
 1. That the area immediately surrounding the development area has not been subject to growth and development through investment by private enterprise; or
 2. If the area immediately surrounding the development area has been subject to growth and development through investment by private enterprise, the identification of special circumstances within the development area that would prevent its development without public assistance.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) Any city or county seeking to establish a development area shall adopt a development plan. The development plan may be developed by a city, a county, or a city and county jointly, or may be proposed by an agency or by a private entity. The plan shall include the following:
 - (a) Assurances that the proposed development area meets the requirements of subsections (1) and (2) of Section 5 of this Act, identification of the conditions in the proposed development area that meet the criteria set forth in subsection (3) of Section 5 of this Act, and confirmation that the requirements of subsection (4) of Section 5 of this Act have been met;
 - (b) A detailed description of the existing uses and conditions of real property in the development area;
 - (c) A map showing the boundaries of the proposed development area;
 - (d) A map showing proposed improvements and uses therein, including the identification of any proposed projects, along with a narrative description of the proposed improvements, projects, and uses within the development area;
 - (e) A description of the redevelopment assistance proposed to be employed in the development area, including the manner and location of such assistance;

- (f) A detailed financial plan containing projections of the cost of the proposed redevelopment assistance to be provided, proposed projects to be funded, proposed sources of funding for these costs, projected incremental revenues, and the projected time frame during which financial obligations will be incurred;
 - (g) Proposed changes of any zoning ordinance, comprehensive plan, master plan, map, building code, or ordinance anticipated to be required to implement the development plan; and
 - (h) If the city or county is a member of a planning unit, certification of review by the planning commission for compliance with the comprehensive plan of the planning unit pursuant to KRS Chapter 100 after any necessary changes identified in paragraph (g) of this subsection are made.
- (2) Prior to adoption of a development plan, the city or county shall hold a public hearing to solicit input from the public regarding the plan. The city or county shall advertise the hearing by causing to be published, in accordance with KRS 424.130, notice of the time, place, and purpose of the hearing and a general description of the boundaries of the proposed development area. The notice shall include a summary of the redevelopment assistance proposed to be employed, identification of projects proposed for the development area, and a statement that a copy of the development plan is available for inspection at the business office of the city or county.
- (3) Prior to publication of a hearing notice pursuant to subsection (2) of this section, a copy of the development plan shall be filed with the city clerk of each city having jurisdiction within the proposed development area, and with the county fiscal court.
- (4) A city or county having jurisdiction within the proposed development area not initially participating in a proposed development plan shall have the opportunity to determine whether it will participate in the plan. The city or county shall determine and notify the entity proposing the development plan in writing within thirty (30) days after the public hearing whether it will participate in the plan.
- (5) At the end of the time period established in subsection (4) of this section, the city or county may adopt an ordinance establishing a development area in accordance with Section 7 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) An ordinance establishing a development area shall include the following provisions:
 - (a) A description of the boundaries of the development area;
 - (b) The establishment date;
 - (c) The termination date, including a provision that allows the termination date to be extended as provided in subsection (42) of Section 3 of this Act;
 - (d) A name for the development area for identification purposes;
 - (e) A finding that the conditions in the development area meet the criteria described in Section 5 of this Act;
 - (f) A finding supporting the need to employ redevelopment assistance in the development area;
 - (g) A provision adopting the development plan required by subsection (1) of Section 6 of this Act;
 - (h) Approval of any agreements relating to the development area, including any local participation agreements;
 - (i) A provision establishing a special fund for the development area or any project within the development area;
 - (j) A requirement that any entity other than the governing body that receives financial assistance under the development area ordinance, whether in the form of a grant, loan, or loan guarantee, shall make periodic accounting to the governing body;
 - (k) A provision for periodic analysis and review by the governing body of the development activity in the development area, a review of the progress in meeting the stated goals of the development area, and a requirement that the review and analysis be forwarded to the office if the development activity includes projects subject to a project grant agreement;
 - (l) Designation of the agency or agencies responsible for oversight, administration, and implementation of the development ordinance; and
 - (m) Any other provisions, findings, limitations, rules, or procedures regarding the proposed development area or a project within the development area and its establishment or maintenance deemed necessary by the city or county.
- (2) An ordinance establishing a development area may designate an existing agency to oversee and administer implementation of a development area ordinance or a portion thereof.
- (3) Unless the ordinance establishing a development area requires an earlier date, a development area shall cease to exist on the termination date.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any amendment, change, or revision to a development plan adopted as part of a development area established pursuant to Sections 5, 6, and 7 of this Act, including the addition of a project, use of new or different redevelopment assistance within the development area, or amendment of the development area boundaries shall be made as follows, provided that any amendment adopted shall not extend the existence of development area beyond the termination date:

- (1) An amendment to the development plan shall be adopted by the city or county. The proposed development plan amendment shall include the following:
 - (a) Identification of the development area to which the amendment applies;
 - (b) A copy of the development plan as revised by the amendment;
 - (c) A narrative description of the proposed changes to the original development area plan and how those changes will impact the original development plan;
 - (d) If the amendment changes the boundaries, or in any way amends maps filed with the original development plan, a revised map identifying the new boundaries, improvements, or projects proposed in the amendment;
 - (e) A description of the redevelopment assistance proposed to be employed, including the manner and location of such assistance relating to the proposed amendment;
 - (f) A financial plan relating to the proposed amendment, including the proposed cost of providing any redevelopment assistance and proposed projects to be funded, the sources of funding to meet those costs, projected incremental revenues, and the projected time period during which financial obligations will be incurred;
 - (g) Proposed changes of any zoning ordinance, comprehensive plan, master plan, map, building code, or ordinance required to implement the proposed amendment; and
 - (h) If the city or county is a member of a planning unit, certification of review by the planning commission for compliance with the comprehensive plan of the planning unit pursuant to KRS Chapter 100 after any necessary changes identified in paragraph (g) of this subsection are made.
- (2) Prior to the adoption of an amendment to a development plan, the city or county shall comply with the hearing and notice provisions set forth in subsections (2) and (3) of Section 6 of this Act. The notice provided in relation to an amendment to the development plan shall include a summary of how the amendment changes the development plan and shall identify new redevelopment assistance and projects proposed by the amendment.
- (3) The city or county shall adopt any amendment to the development plan and any amendment to the development area by ordinance. The ordinance shall include the following provisions:
 - (a) A provision adopting the amendment to the development plan required by subsection (1) of this section;
 - (b) Approval of any local participation agreements or other agreements relating to the amendment;
 - (c) The identification of any new or different state or local tax revenues pledged by any taxing district or the Commonwealth to support the provision of redevelopment assistance or projects identified in the amendment;
 - (d) A finding that the amendment does not increase the aggregate value of taxable real property included in all the redevelopment areas and the local development areas within the jurisdiction of the city or county to more than twenty percent (20%) of the total value of taxable real property within its jurisdiction. For the purpose of determining whether the twenty percent (20%) threshold has been met, the assessed value of taxable-real property within all of the local development areas and development areas shall be valued as of the establishment date; and
 - (e) Any other provisions, findings, limitations, rules, or procedures regarding the amendment deemed necessary by the city or county.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) To provide funding for redevelopment assistance or projects in a development area or projects in a local development area:
 - (a) Any taxing authority may, in addition to any other pledge permitted by law to secure its obligations, pledge up to one hundred percent (100%) of the incremental local tax revenues generated in the development area or local development area from a project within the development area or local development area for up to thirty (30) years from the activation date;
 - (b) The amount of incremental revenues shall be determined for each type of tax separately; and
 - (c) Local tax revenues from a development area that have not been pledged to support redevelopment assistance or projects within the development area, or from a local development area that have not been pledged to support projects within the local development area, may be used to support other economic development projects, provided that local tax revenues shall not be pledged more than once. Thus, local tax revenues pledged to support increment bonds issued for the development area or local development area shall not also be pledged to support a specific project within the development area or local development area, and those revenues shall not be pledged to support any other program, development, or undertaking.
- (2) Any city may pledge revenues collected under a special assessment imposed under KRS 91A.200 to 91A.290 to support projects or the provision of redevelopment assistance within a development area, or to support projects within a local development area, and may pledge revenues collected from the assessment to support increment bonds.
- (3) Any county may levy a special assessment under the terms and conditions established for cities under KRS 91A.200 to 91A.290 to support projects or the provision of redevelopment assistance within a development area, or to support

projects within a local development area, and may pledge revenues collected from the assessment to support increment bonds.

- (4) Any pledge of incremental revenues or other revenues related to a development area by a taxing district shall be accomplished through the execution of a local participation agreement in accordance with Section 12 of this Act.
- (5) Any pledge of incremental revenues or other revenues related to a local development area by a taxing district shall be accomplished through the execution of a local development area agreement in accordance with Section 4 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Any city, county, or agency with bonding authority may issue increment bonds and may pledge incremental revenues to the payment of the increment bonds.

- (1) Increment bonds shall be issued, administered, and regulated by ordinance adopted by the governing body which shall:
 - (a) Declare the necessity of the incremental bond issue;
 - (b) State the principal amount or maximum principal amount of the increment bonds to be issued;
 - (c) State the purpose of the increment bond issue;
 - (d) State or provide for the date of, and the dates and amounts or maximum amount of, maturities or principal payments on the increment bonds;
 - (e) State any provisions for a special fund, mandatory sinking fund, mandatory sinking fund redemption, or for redemption prior to maturity;
 - (f) Provide for the rate or rates of interest, or maximum rate or rates of interest, or the method for establishing the rate or rates of interest to be paid on the increment bonds;
 - (g) State any provision for a designated officer of the issuer to determine any of the specific terms required to be stated or provided for in this subsection, subject to any limitations stated in the proceedings;
 - (h) If the increment bonds are payable solely from incremental revenues, include a determination that the incremental revenues are adequate to make the debt charges so long as the increment bonds are outstanding; and
 - (i) Include any other provisions deemed appropriate by the governing body.
- (2) Increment bonds issued pursuant to this section shall not mature on a date beyond the termination date of the development area or local development area.
- (3) Increment bonds may also be issued to fund or refund all or any portion of outstanding increment bonds. Any increment bonds issued under this section shall mature as determined by the governing body consistent with the termination date.
- (4) The provisions of KRS 66.021, 66.031, 66.041, 66.045, 66.071, 66.091, 66.121, 66.131, 66.141, 66.151, 66.171, 66.181, and 66.191 shall apply to the issuance of increment bonds insofar as they do not conflict with the provisions of Sections 1 to 22 of this Act. If they do conflict, the provisions of Sections 1 to 22 of this Act shall apply.

SECTION 11. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

During any time when incremental revenues have been pledged pursuant to a local participation agreement, local development area agreement, or project grant agreement, or that increment bonds are outstanding, the city, county, or issuer, as the case may be, shall maintain a special fund, which shall be pledged for the retirement of increment bonds, if such bonds are outstanding, and the payment of costs related to a project in a development area or local development area, or providing redevelopment assistance in a development area.

- (1) Officials charged with collecting revenues for any taxing district that has pledged incremental revenues under a local participation agreement or a local development area agreement shall, for each year a local participation agreement or local development area agreement is in effect or any increment bonds are outstanding with respect to a development area or local development area, submit those incremental revenues for deposit in the special fund. The amount of incremental revenues shall be determined under Section 22 of this Act.
- (2) Funds deposited in a special fund shall be disbursed at the times and in the amounts required to pay the costs of any debt charges on incremental bonds, approved public infrastructure costs, signature project costs and, in a development area, redevelopment assistance. However, there shall be no disbursements for other redevelopment assistance in a development area, or approved public infrastructure costs, or approved signature project costs in a development area or local development area, if the funds are required to pay debt charges on increment bonds.
- (3) Amounts in a special fund which exceed the amount required to pay debt charges and, in a development area, costs of redevelopment assistance in any fiscal year shall be used to provide for the retirement or defeasance of all or a portion of the remaining debt charges secured by the incremental revenues. Amounts beyond this may be used to pay the costs of additional projects or, in a development area, redevelopment assistance.

SECTION 12. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) A local participation agreement shall be executed among the agencies and taxing districts involved in administering or providing financing or pledging incremental revenues to support the implementation of a development plan in a

development area. The local participation agreement shall be adopted by a city or county by ordinance and by any other taxing authority or agency by resolution, and shall include but not be limited to the following provisions:

- (a) Identification of the parties to the local participation agreement and the duties and responsibilities of each entity under the agreement;
 - (b) Specific identification of the incremental revenues released or pledged by type of tax by each taxing district;
 - (c) The anticipated benefit to be received by each taxing district for the release or pledge, including:
 - 1. A detailed summary of old revenues collected and projected new revenues for each taxing district on an annual basis for the term of the local participation agreement; and
 - 2. The maximum amount of incremental revenue to be paid by each taxing district and the maximum number of years the payment will be effective;
 - (d) A detailed description of the development area;
 - (e) A description of each proposed project that is the subject of a local participation agreement, including an estimate of the costs of construction, acquisition, and development;
 - (f) A requirement that pledged incremental revenues will be deposited in a special fund established pursuant to Section 11 of this Act, including the timing and procedure for depositing incremental revenues and other pledged amounts into the special fund;
 - (g) Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the local participation agreement of any incremental revenues pledged to the special fund if increment bonds are outstanding that are secured by a pledge of those incremental revenues;
 - (h) The commencement date, activation date, and termination date; and
 - (i) Any other provisions not inconsistent with Sections 1 to 22 of this Act deemed necessary or appropriate by the parties to the agreement.
- (2) Any pledge of incremental revenues in a local participation agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date set forth in the local participation agreement, supersede any statute, ordinance, or resolution regarding the application or use of incremental revenues. An ordinance in conflict with a local participation agreement shall not be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances or resolutions pledging incremental revenues on a subordinate basis to any existing pledges may be adopted.

SECTION 13. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) A city, county, or issuer may enter into a service payment agreement.
- (2) The service payment agreement may provide that the city, county, or issuer shall have a lien on property described in the service payment agreement equal to the amount of periodic payments due under the service payment agreement. The service payment agreement may further provide that any lien created pursuant to this section shall be governed by the provisions set forth in KRS 91A.280, provided that a lien created pursuant to this section shall not have the priority established in KRS 91A.280 in relation to an existing lien on the property covered by the agreement unless, prior to recording the service payment agreement, the lien holder under the service payment agreement provides notice of the lien created by the service payment agreement to the holder of the existing lien, and the holder of the existing lien consents to the priority in writing. If written consent is not obtained, the priority of the lien created under this subsection in relation to the prior lien shall be determined in the same manner as a mortgage lien under KRS 382.280.
- (3) A lien authorized by this section shall not be valid and enforceable until evidence of the lien has been recorded in the office of the county clerk. The lien shall commence upon the issuance of increment bonds or other obligations and shall continue until other funding sources pledged to and derived from the project that is the subject of the service payment agreement are sufficient to make, when due, all payments on the increment bonds or other obligations identified in the service payment agreement. Upon termination of a lien authorized by this section, a release shall be filed by the city, county, or issuer with the county clerk.

SECTION 14. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Real property located within a development area shall not be eligible for participation in a program granting property assessment or reassessment moratoriums pursuant to KRS 99.600.

SECTION 15. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) The State Tax Increment Financing Commission is hereby created as an independent agency of the state within the meaning of KRS Chapter 12. The commission shall be composed of the following members:
 - (a) The secretary of the Finance and Administration Cabinet, who shall be the chairman thereof;
 - (b) The state budget director;
 - (c) The secretary of the Cabinet for Economic Development;
 - (d) The secretary of the Commerce Cabinet;
 - (e) The chairperson of the Kentucky Economic Development Finance Authority;

- (f) The dean of the University of Kentucky Gatton College of Business and Economics; and
- (g) The dean of the University of Louisville College of Business and Public Administration.
- (2) The commission shall review all applications for state participation in tax increment financing projects and shall approve those proposals it determines meet the requirements established by Sections 16, 17, 18, 19, 20 and 21 of this Act.
- (3) Members of the commission shall serve without compensation, but may receive reimbursement for their actual and necessary expenses incurred in the performance of their duties.
- (4) Any four (4) members of the commission shall constitute a quorum and shall by majority vote be authorized to transact any and all business of the commission.
- (5) The commission shall meet at least two (2) times each year, but may meet more frequently upon the call of the chairman or a request made by any four (4) members of the commission.
- (6) The commission shall be attached to the Finance and Administration Cabinet for administrative purposes and staff services. All cabinets, departments, divisions, agencies, and officers of the Commonwealth shall furnish the commission with necessary assistance, resources, information, records, or advice as it may require to fulfill its duties.
- (7) The commission shall prepare bylaws and shall establish procedures applicable to the operations of the commission.
- (8) The commission shall have the authority to promulgate any regulations necessary for the administration of Sections 15, 16, 17, 18, 19, 20, and 21 of this Act in accordance with KRS Chapter 13A.
- (9) On or before February 15, 2008, and each year thereafter, the commission shall provide the Governor and the Legislative Research Commission with an annual report, which shall include, but shall not be limited to the following for the prior calendar year:
 - (a) A list of applications considered by the commission during the prior calendar year, including the name of the applicant, a description of the project, the local tax revenues or other revenues pledged, the level of participation requested from the Commonwealth, and whether the application was approved; and
 - (b) For each approved application, the report shall include:
 - 1. The total commitment made by the Commonwealth, detailed by type of tax and estimated incremental revenues pledged for each tax;
 - 2. The length of the commitment; and
 - 3. The portion of the development area included in the project.

SECTION 16. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) The Commonwealth shall offer three (3) tax increment financing participation programs. The first program, the criteria and details of which are set forth in Section 17 of this Act, relates to a pledge of state real property ad valorem taxes only. The second program, the criteria and details of which are set forth in Section 18 of this Act, is the Signature Projects Program. The third program, the criteria and details of which are set forth in Section 19 of this Act, relates to the pledge of state tax revenues to support mixed use development in blighted urban areas.
- (2) (a) A city or county that has established a development area pursuant to Sections 5, 6, and 7 of this Act, or an agency designated as the entity managing a development area established pursuant to Sections 5, 6, and 7 of this Act, may submit an application to the office requesting that the Commonwealth participate in a project.
 - 1. The application shall identify the specific program under which state participation is being requested and shall include the following attachments, in addition to any requirements developed by the office pursuant to paragraph (b) of this subsection:
 - a. A copy of the ordinance adopted by the city or county establishing the development area;
 - b. A copy of the local participation agreement; and
 - c. Data and information supporting the determinations and findings required by Section 5 of this Act.
 - 2. The office shall review the application to determine if the applicant has met all of the statutory and regulatory requirements established by Sections 1 to 22 of this Act and shall notify the applicant in writing of its determination. This review shall be preliminary in nature and shall not constitute approval of the request. All applications for participation by the Commonwealth shall be reviewed by the commission for approval.
 - 3. a. Applications meeting all statutory and regulatory requirements requesting participation by the Commonwealth pursuant to Section 17 of this Act, along with any supporting materials, shall be referred by the office to the commission for consideration.
 - b. i. Applicants meeting all statutory and regulatory requirements requesting participation by the Commonwealth pursuant to paragraph (b) of subsection (2) of Section 18 of this Act or Section 19 of this Act shall be required to submit a report prepared by an independent consultant or financial adviser as described in subsection (6) of this section for the

application to be complete. The office shall notify such applicants of the report requirements and shall provide information regarding the contents and requirements for the report at the same time it notifies the applicant of the results of its preliminary review.

ii. Upon receipt and review of the report, the office shall refer the application and supporting information to the commission for consideration.

(b) Additional standards and requirements for the application process shall be established by the office through the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(3) (a) The commission may request any materials and make any inquiries concerning an application that the commission deems necessary.

(b) The commission shall, through the promulgation of administrative regulations in accordance with KRS Chapter 13A, establish commercially reasonable limitations on the financing costs that may be recovered under the provisions of Section 18 of this Act.

(4) Upon review of an application and other information available, the commission may pledge all or a portion of the state real property ad valorem tax incremental revenue of the Commonwealth or state tax revenues attributable to the footprint of the project, as limited by Section 17, 18, or 19 of this Act, whichever is applicable.

(a) If incremental revenues are pledged from less than one hundred percent (100%) of the footprint of the project, a description of the included portion of the development area shall be provided.

(b) State tax revenues from the development area that have not been pledged to projects within the development area may be used to support other economic development projects or tourism projects approved under KRS 139.536 and 148.851 to 148.860, provided that state tax revenues shall not be pledged more than once during the existence of the development area. Thus, state tax revenues pledged to support increment bonds issued for the development area, or a project in the development area shall not be pledged to support any other development area, project, program, development, or undertaking during the life of the development area. If less than one hundred percent (100%) of incremental revenues are pledged pursuant to the provisions of Sections 1 to 22 of this Act, the remaining incremental revenues shall not be used to support other economic development projects or tourism projects approved under KRS 139.536 and 148.851 to 148.860.

(5) The pledge of incremental state real property ad valorem tax revenues or state tax revenues of the Commonwealth by the commission shall be implemented through the execution of a project grant agreement between the Commonwealth and the agency, city, or county, as the case may be, in accordance with Section 20 of this Act.

(6) (a) The commission shall engage the services of a qualified independent outside consultant or financial adviser to analyze the data related to the project and the development area and prepare the report required by subsection (2) of this section. The report shall include the following:

1. The estimated approved public infrastructure costs for the project and, if relevant, approved signature project costs, financing costs, and costs associated with land preparation, demolition, and clearance;

2. The feasibility of the project, taking into account the scope and location of the project;

3. The estimated amount of local tax revenues and state tax revenues, as applicable, that would be generated by the project over the period, which may be up to twenty (20) years or thirty (30) years, as applicable, from the activation date;

4. The estimated amount of local tax revenues and state tax revenues, as applicable, that would be displaced within the Commonwealth, for the purpose of quantifying economic activity which is being shifted over the same period as that set forth in subparagraph 3. of this paragraph. The projections for displaced activity shall include economic activity that is lost to the Commonwealth as a result of the project, as well as economic activity that is diverted to the project that formerly took place at existing establishments within the Commonwealth prior to the commencement date of the project;

5. The estimated amount of local and state old revenues that would have been generated in the footprint of the project in the absence of the project, computed over the same time period as set forth in subparagraph 3. of this paragraph;

6. In the process of estimating the revenues and impacts prescribed in subparagraphs 3. and 4. of this paragraph, the independent outside consultant shall not consider any of the following:

a. Revenues or economic impacts associated with any projects within the development area where the new project will be located; and

b. Revenues or economic impacts associated with economic development projects and approved Kentucky Tourism Development Act projects under KRS Chapter 148;

7. The relationship of the estimated incremental revenues to the financing needs, including any increment bonds, of the project;

8. When estimating the fiscal impact of the project, the consultant shall evaluate the amount of revenue estimated in subparagraph 3. of this paragraph and shall deduct the amounts estimated in

subparagraphs 4. and 5. of this paragraph. The resulting difference shall be compared to the estimated incremental revenues to determine the presence or absence of a positive fiscal impact; and

9. A determination that the project will not occur if not for the designation of the development area, the granting of incremental revenues by the taxing district or districts, other than the Commonwealth, and the granting of the state tax incremental revenues.
- (b) 1. The independent consultant or financial advisor shall consult with the Office of State Budget Director, and the Finance and Administration Cabinet in the development of the report.
2. The Office of State Budget Director and the office, in collaboration with the independent consultant or financial advisor, shall agree on a methodology to be used and assumptions to be made by the independent consultant or financial consultant in preparing its report.
3. On the basis of the independent consultant's report and the other materials provided, prior to any approval of a project by the commission, the Office of State Budget Director and the Finance and Administration Cabinet shall certify to the commission whether there is a projected net positive economic impact to the Commonwealth and the expected amount of state tax incremental revenues from the project.
4. The city, county, or agency making the application shall pay all costs associated with the independent consultant's or financial advisor's report.

SECTION 17. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) The Commonwealth Participation Program for State Real Property Ad Valorem Tax Revenues is hereby established.
- (2) State participation under this program shall be limited to the support of approved public infrastructure costs determined to be necessary to support private investment or private development projects that benefit the public, where project economics are unable to support or secure necessary financing to undertake the public improvements.
- (3) A project shall meet all of the following criteria to be considered for state participation under this program:
 - (a) The project shall represent new economic activity in the Commonwealth;
 - (b) The project shall result in a minimum capital investment of ten million dollars (\$10,000,000); and
 - (c) Not more than twenty percent (20%) of the capital investment or twenty percent (20%) of the finished square footage shall be devoted to the support or development of assets that will be utilized for the retail sale of tangible personal property.
- (4) The commission shall review the application and supporting information as provided in Section 16 of this Act.
- (5) The commission may pledge up to one hundred percent (100%) of the Commonwealth's state real property ad valorem tax incremental revenue from the footprint of a project, provided that the maximum amount of incremental revenues that may be pledged during the term of the state participation agreement for a project shall not exceed one hundred percent (100%) of approved public infrastructure costs.
- (6) As part of the approval process, the commission shall determine the following:
 - (a) The footprint of the project;
 - (b) The maximum amount of approved public infrastructure costs;
 - (c) That the local revenues pledged to support the public infrastructure of the project, and local revenues pledged to support the overall project are of a sufficient amount to warrant participation of the Commonwealth in the project;
 - (d) The termination date of the project grant agreement, not to exceed twenty (20) years from the activation date; and
 - (e) Any adjustments to be made to old revenues in determining incremental revenues during each year of the term of the project grant agreement.
- (7) The pledge of incremental state real property ad valorem tax revenues of the Commonwealth by the commission shall be implemented through the execution of a project grant agreement between the Commonwealth and the agency, city, or county, in accordance with Section 20 of this Act.

SECTION 18. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) The Signature Project Program is hereby established. The purpose of this program is to encourage private investment in the development of major projects that will have a significant impact on the Commonwealth of Kentucky and are judged to be of such a magnitude that the effect upon the location of such project warrants extraordinary public support.
- (2) There shall be two (2) separate initiatives under this program. The first initiative, the criteria and details of which are set forth in paragraph (a) of this subsection, shall apply to qualifying projects that are not the subject of a contract under KRS 65.495 in effect on or before the effective date of this Act, but that have a project grant agreement executed pursuant to Section 20 of this Act prior to January 1, 2008. The second initiative, the criteria and details of which are set forth in paragraph (b) of this subsection, shall apply to projects that meet the specified requirements on or after

January 1, 2008.

(a) For projects that are not the subject of a contract under KRS 65.495 in effect on or before the effective date of this Act, but that have a project grant agreement executed pursuant to the provisions of Section 20 of this Act prior to January 1, 2008:

1. The criteria for qualification shall be as follows:
 - a. The project shall represent new economic activity in the Commonwealth; and
 - b. The project shall result in a minimum capital investment of two hundred million dollars (\$200,000,000).
2. The following provisions shall apply to projects that meet the criteria established in subparagraph 1. of this paragraph:
 - a. Section 6 of this Act shall not apply to the establishment of a development area;
 - b. The city or county in which the project is located shall adopt an ordinance establishing the development area. The ordinance shall be adopted in accordance with subsection (1)(a), (b), (c), (d), (e), (h), (i), (j), (k), (l), and (m) of Section 7 of this Act;
 - c. Section 5, subsections (2) and (3) of Section 7 and Sections 9, 10, 11, 12, 13, and 14 of this Act, relating to local development areas, shall apply;
 - d. An application for state participation shall be submitted as provided in Section 16 of this Act. The application shall include the information required by subsection (2)(a)1.a. and b. of Section 16 of this Act;
 - e. The report provided for in subsection (2)(a)3.b. of Section 16 of this Act shall not be required, and the certification required by subsection (6)(b) of Section 16 of this Act shall not be required;
 - f. A project grant agreement shall be executed in accordance with Section 20 of this Act; and
 - g. Sections 21 and 22 of this Act shall apply.
3. Projects that meet the criteria established in subparagraph 1. of this paragraph shall be eligible for the following:
 - a. Up to one hundred percent (100%) of approved public infrastructure costs, excluding any sales and use tax paid, may be recovered;
 - b. Up to one hundred percent (100%) of the financing costs associated with approved public infrastructure costs may be recovered;
 - c. In a county containing a city of the first class, the local participation agreement may provide for the release of up to eighty percent (80%) of the increment from the tax levied under Section 27 of this Act derived by the governing body within the project development area. The amount released shall not exceed a base amount of four hundred thousand dollars (\$400,000) in the first year of the local participation agreement, which base amount shall be increased in each subsequent year of the grant agreement by four percent (4%); and
 - d. Up to one hundred percent (100%) of approved signature project costs, excluding any sales and use taxes paid, subject to the following:
 - i. The commission shall review proposed expenditures for inclusion in the project grant agreement. The commission may approve the type of expenditures it determines are necessary for completion of the private development; and
 - ii. Approved signature project costs shall be detailed in the project grant agreement.

(b) Beginning January 1, 2008:

1. A project shall meet all of the following criteria to be considered for state participation under this program:
 - a. The project shall represent new economic activity in the Commonwealth;
 - b. The project shall result in a minimum capital investment of two hundred million dollars (\$200,000,000);
 - c. The project shall result in a net positive economic impact to the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses. The net positive impact shall be certified to the commission as required by subsection (6)(b) of Section 16 of this Act; and
 - d. Not more than twenty percent (20%) of the capital investment or twenty percent (20%) of the finished square footage shall be devoted to the support or development of assets that will be utilized for the retail sale of tangible personal property.
2. Projects that meet the criteria established by subparagraph 1. of this paragraph shall comply with all

relevant provisions of Sections 1 to 22 of this Act.

3. Projects that meet the criteria established by subparagraphs 1. and 2. of this paragraph shall be eligible to recover:
- a. Up to one hundred percent (100%) of approved public infrastructure costs, excluding any sales and use taxes paid;
 - b. Up to one hundred percent (100%) of the financing costs associated with approved public infrastructure costs; and
 - c. Up to one hundred percent (100%) of approved signature project costs, excluding sales and use taxes paid subject to the following:
 - i. The commission shall review proposed expenditures for inclusion in the project grant agreement. The commission may approve the type of expenditures it determines are necessary for completion of the private development; and
 - ii. Approved signature project costs shall be detailed in the project grant agreement.
- (3) The commission shall review the application, the certification required by Section 16 of this Act, if applicable, and supporting information as provided in Section 16 of this Act.
- (4) The commission shall specifically identify the state taxes from which incremental revenues will be pledged. The commission may pledge up to eighty percent (80%) of the incremental revenues from the identified state tax revenues from the footprint of the project, provided that the maximum amount of incremental revenues that may be pledged for a project during the term of the state participation agreement from all approved state taxes shall not exceed one hundred percent (100%) of approved public infrastructure costs, approved signature project costs, and financing costs.
- (5) As part of the approval process, the commission shall determine the following:
- (a) The footprint of the project;
 - (b) The maximum amount of approved public infrastructure costs, approved signature project costs, and financing costs;
 - (c) That the local revenues pledged to support the public infrastructure of the project, and local revenues pledged to support the overall project are of a sufficient amount to warrant participation of the Commonwealth in the project;
 - (d) The termination date of the project grant agreement, not to exceed thirty (30) years from the activation date;
 - (e) Any adjustments to be made to old revenues, in determining incremental revenues during each year of the term of the project grant agreement; and
 - (f) Any approved signature project costs;
- (6) For the purpose of making the certification required by subsection (2) of Section 28 of this Act, the commission shall review the projected expenditures for tangible personal property used in the construction of a signature project, as defined in subsection (1) of Section 28 of this Act, and shall establish an approximate percentage of the total anticipated expenditures that are not included in the project grant agreement as approved public infrastructure costs or approved signature project costs. This percentage shall be communicated by the office to the Department of Revenue, which shall use the information in administering the sales tax refund permitted by Section 28 of this Act.
- (7) If state income taxes or local occupational license taxes are included for a project that includes office space, the commission shall consider the impact of pledging these taxes on the ability to utilize other economic development projects at a later date.
- (8) The pledge of state incremental tax revenues of the Commonwealth by the commission shall be implemented through the execution of a project grant agreement between the Commonwealth and the agency, city, or county in accordance with Section 20 of this Act.

SECTION 19. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) The Commonwealth Participation Program for Mixed Use Redevelopment in Blighted Urban Areas is hereby established.
- (2) State participation under this program shall be limited to the support of approved public infrastructure costs and costs associated with land preparation, demolition, and clearance determined to be necessary to support private investment or private development projects that benefit the public, where project economics are unable to support or secure necessary financing to undertake the public improvements, land preparation, demolition, and clearance.
- (3) As used in this section:
- (a) "Mixed-use" means a project that includes at least two qualified uses;
 - (b) "Qualified use" means:
 - 1. Retail;
 - 2. Residential;

3. Office;

4. Restaurant; or

5. Hospitality.

To be a qualified use, the use must comprise at least twenty percent (20%) of the total finished square footage of the proposed project or represent twenty percent (20%) of the total capital investment; and

(c) "Retail" means an establishment predominantly engaged in the sale of tangible personal property subject to the tax imposed by KRS Chapter 139, but shall not include restaurants.

(4) To be considered for state participation under this program, a project shall:

(a) Be located in an area that has three (3) or more of the conditions listed in subsection (3) of Section 5 of this Act;

(b) Be a mixed use project;

(c) Represent new economic activity in the Commonwealth;

(d) Result in a capital investment between twenty million dollars (\$20,000,000) and two hundred million dollars (\$200,000,000);

(e) Not include any retail establishment that exceeds twenty thousand (20,000) square feet of finished square footage;

(f) Include pedestrian amenities and public space; and

(g) Result in a net positive economic impact to the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses. The net positive impact shall be certified to the commission as required by subsection (6)(b) of Section 16 of this Act.

(5) The following costs may be recovered pursuant to this section:

(a) Up to one hundred percent (100%) of approved public infrastructure costs; and

(b) Up to one hundred percent (100%) of expenses for land preparation, demolition, and clearance necessary for the development to occur.

(6) The commission shall review the application, the certification required by Section 16 of this Act, and supporting information as provided in Section 16 of this Act.

(7) The commission shall specifically identify the state taxes from which incremental revenues will be pledged. The commission may pledge up to eighty percent (80%) of the incremental revenues from the identified state tax revenues from the footprint of the project, provided that the maximum amount of incremental revenues that may be pledged for a project during the term of the state participation agreement from all approved state taxes shall not exceed the costs and expenses determined under subsection (5) of this section.

(8) As part of the approval process, the commission shall determine the following:

(a) The footprint of the project;

(b) That the proposed project meets the requirements established by subsection (4) of this section;

(c) The maximum amount of approved public infrastructure costs and expenses for land preparation, demolition, and clearance;

(d) That the local revenues pledged to support the public infrastructure of the project and local revenues pledged to support the overall project are of a sufficient amount to warrant participation of the Commonwealth in the project;

(e) The termination date of the project grant agreement; and

(f) Any adjustments to be made to old revenues, in determining incremental revenues during each year of the term of the project grant agreement.

(9) If state income taxes or local occupational licenses taxes are included for a project that includes office space, the commission shall consider the impact of pledging these taxes on the ability to utilize other economic development projects at a later date.

(10) The pledge of state incremental tax revenues of the Commonwealth by the commission shall be implemented through the execution of a project grant agreement between the Commonwealth and the agency, city, or county in accordance with Section 20 of this Act.

SECTION 20. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The terms and conditions of the project grant agreement shall be negotiated between the commission and the agency. The project grant agreement shall include but not be limited to the following provisions:

(a) Identification of the parties to the project grant agreement and the duties and responsibilities of each party to the project grant agreement;

(b) The specific identification of the state tax revenues, by type of tax, to be released or pledged by the

Commonwealth for the project;

- (c) 1. A detailed summary of old revenues collected and projected new revenues for the Commonwealth on an annual basis for the term of the project grant agreement; and
2. The maximum amount of incremental revenue to be released by the Commonwealth and the maximum number of years the pledge of incremental revenues will be effective;
 - (d) A detailed description of each project that is the subject of the project grant agreement, including an estimate of the costs of construction or acquisition and development;
 - (e) Identification of the project footprint from which the state incremental revenues pledged by the Commonwealth are to be derived;
 - (f) The approved public infrastructure costs and, when applicable, approved signature project costs, approved financing costs, and approved costs relating to land preparation, demolition, and clearance that may be recovered;
 - (g) The minimum capital investment required, and the date by which the minimum capital investment is expected to occur;
 - (h) Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the project grant agreement of any incremental revenues if increment bonds are outstanding that are secured by a pledge of those incremental revenues;
 - (i) The termination date;
 - (j) A requirement that the agency, city, or county annually certify to the office the use of incremental revenues for the payment of approved project costs within the development area;
 - (k) A requirement that the agency shall utilize the portion of incremental revenues pledged pursuant to a project grant agreement that exceeds, in a given year, the amounts needed to:
 - 1. Pay the current financing costs; and
 - 2. Maintain a fully funded reserve;to provide for the retirement or defeasance of all or a portion of the remaining financing costs related to approved public infrastructure costs, and approved signature project costs secured by the incremental revenues;
 - (l) A requirement that the agency, city, or county make periodic accountings to the office;
 - (m) A requirement that the office monitor and verify approved public infrastructure costs, financing costs and approved signature project costs and minimum capital investment; and
 - (n) For a signature project, the eligible refund percentage for the sales tax as permitted under Section 28 of this Act, and as determined by the commission pursuant to subsection (6) of Section 18 of this Act; and
 - (o) Any other provisions not inconsistent with Sections 1 to 22 of this Act deemed necessary or appropriate by the parties to the project grant agreement.
- (2) Any pledge of incremental revenues in a project grant agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date, supersede any statute or ordinance regarding the application or use of incremental revenues. An ordinance in conflict with a project grant agreement shall not be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances pledging increments on a subordinate basis to any existing pledges may be adopted.
- (3) Any project grant agreement shall be made on the basis of automatic year-to-year renewals, with the option to discontinue upon sixty (60) days' notice before the end of any annual termination date of the project grant agreement.

SECTION 21. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) (a) Prior to any incremental revenues being released by the Commonwealth for any project, the office shall certify that the minimum capital investment has been made as required by the project grant agreement.
(b) Incremental revenues received after the activation date but prior to certification of the minimum capital investment being made shall be held in a non-interest bearing escrow account by the Commonwealth until the minimum capital investment is certified by the office. The incremental revenues shall be released to the agency upon certification. If the minimum capital investment is not certified within the time period established by the commission, the escrow shall be forfeited to the Commonwealth.
- (2) The office shall monitor all project grant agreements and shall verify for each project expenditure identified as approved public infrastructure costs and where applicable, financing costs, approved signature project costs and expenses for land preparation, demolition and clearance.
- (3) The office shall track the amount of incremental revenues released to each agency under each project grant agreement.
- (4) The office shall prepare a quarterly report for the commission updating the status of each project subject to a project grant agreement, including expenditures qualifying as approved public infrastructure costs and, where applicable, financing costs, approved signature project costs, and expenses for land preparation, demolition and clearance to date

and incremental revenues from the Commonwealth released to date.

SECTION 22. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

- (1) (a) Any agency that enters into a local participation agreement, local development area agreement, or project grant agreement for the release of incremental revenues during the period of a local participation agreement, local development area agreement, or project grant agreement shall, after each calendar year, in which a local participation agreement, local development area agreement, or project grant agreement is in effect, notify each taxing district obligated under the local participation agreement or local development area agreement and the Commonwealth, if applicable, that incremental revenues are due and, in consultation with each taxing district, and the Commonwealth, if applicable, the agency shall determine the amount of incremental revenues due from each taxing district or the Commonwealth, if applicable.
- (b) The agency shall present to the office the total increment due from the Commonwealth. The office shall review and verify the information submitted and shall certify the verified amount.
- (2) Upon notice from the agency, each taxing district obligated under a local participation agreement or local development area agreement shall release to the agency the incremental revenues due under the local participation agreement or local development area agreement. The agency shall certify to the office on a calendar year basis the amount of incremental revenues collected.
- (3) Upon certification of the total incremental revenues due from the Commonwealth by the office, the Department of Revenue shall transfer the incremental revenues to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the incremental revenues. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the office shall notify the Finance and Administration Cabinet that the agency is in compliance with the terms of the project grant agreement. Upon notification, the Finance and Administration Cabinet shall release to the agency the Commonwealth's portion of the total incremental revenues due under the project grant agreement.
- (4) The Department of Revenue or local taxing district shall have no obligation to refund or otherwise return any of the incremental revenues to the taxpayer from whom the incremental revenues arose or are attributable. Further, no additional incremental revenues resulting from audit, amended returns, or other activity for any period shall be transferred to the tax increment financing account after the initial release to the agency of the taxing district's or Commonwealth's increment for that period.

SECTION 23. A NEW SECTION OF KRS 65.490 TO 65.499 IS CREATED TO READ AS FOLLOWS:

Effective on the effective date of this Act, the provisions of KRS 65.490 to 65.499 shall apply only to development areas which were established by a county containing a city of the first class or a city of the first class prior to the effective date of this Act, and that are subject to the provisions of a grant contract, Interlocal Cooperation Agreement or Master Agreement executed prior to the effective date of this Act.

SECTION 24. A NEW SECTION OF KRS 65.680 TO 65.699 IS CREATED TO READ AS FOLLOWS:

Effective on the effective date of this Act, the provisions of KRS 65.680 to 65.699 shall apply only to development areas which are:

- (1) Established under KRS 65.686 by a city or county prior to the effective date of this Act; and
- (2) Subject to the provisions of a grant contract executed prior to the effective date of this Act.

Section 25. KRS 132.012 is amended to read as follows:

As used in this section and in KRS 92.305 and 91.285, unless the context otherwise requires:

- (1) "Abandoned urban property" means any vacant structure or vacant or unimproved lot or parcel of ground in a predominantly developed urban area which has been vacant or unimproved for a period of at least one (1) year and which:
 - (a) Because it is dilapidated, unsanitary, unsafe, vermin infested, or otherwise dangerous to the safety of persons, it is unfit for its intended use; or
 - (b) By reason of neglect or lack of maintenance has become a place for the accumulation of trash and debris, or has become infested with rodents or other vermin; or
 - (c) Has been tax delinquent for a period of at least three (3) years; or
 - (d) Is located within a development area established under Sections 5, 6, and 7 of this Act.
- (2) For purposes of local taxation in cities of any class or consolidated local governments, there shall be a classification of real property known as abandoned urban property. The legislative body of a city of any class, county containing a city of the first class, or consolidated local government may levy a rate of taxation on abandoned urban property higher than the prevailing rate of taxation on other real property in the city, county containing a city of the first class, or consolidated local government. The limitation upon tax rates established by KRS 132.027 shall not apply to the rate of taxation on abandoned urban property.

Section 26. KRS 131.020 is amended to read as follows:

- (1) The Department of Revenue, headed by a commissioner appointed by the secretary with the approval of the Governor,

shall be organized into the following functional units:

- (a) Office of the Commissioner of the Department of Revenue, which shall include but not be limited to the Division of Tax Increment Financing, headed by a director appointed by the secretary of the Finance and Administration Cabinet. The division shall analyze and assist in implementing proposed state tax increment financing projects, including working with other government agencies to gather and evaluate the necessary tax related data for these proposed projects. The division shall work with the project agency in administering the grant contract and shall serve as the record keeping unit for all state tax increment financing projects;
- (b) Division of Legislative Services, headed by a division director who shall report to the commissioner of the Department of Revenue. The division shall perform such duties as providing support to the commissioner's office; managing the department's legislative efforts, including developing and drafting proposed tax legislation, coordinating review of proposed legislation, and coordinating development of administrative regulations; providing technical support and research assistance to all areas of the department; performing studies, surveys, and research projects to assist in policy-making decisions; and performing various miscellaneous duties, including working on special projects and conducting training;
- ~~(c)~~(b) Office of Processing and Enforcement, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. The office shall consist of the:
 1. Division of Operations, which shall be responsible for opening all tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts, maintaining tax data, and assisting other state agencies with similar operational aspects as negotiated between the department and the other agency;
 2. Division of Collections, which shall be responsible for initiating all collection enforcement activity related to due and owing tax assessments and for assisting other state agencies with similar collection aspects as negotiated between the department and the other state agency; and
 3. Division of Registration and Data Integrity, which shall be responsible for registering businesses for tax purposes, ensuring that the data entered into the department's tax systems is accurate and complete, and assisting the taxing areas in proper procedures to ensure the accuracy of the data over time;
- ~~(d)~~(e) Office of the Taxpayer Ombudsman. The Office of the Taxpayer Ombudsman shall be headed by an executive director, functioning as the taxpayer ombudsman as established by KRS 131.051(1) and 131.071, who shall report to the commissioner. The functions and duties of the office shall consist of those established by KRS 131.071;
- ~~(e)~~(d) Office of Property Valuation. The Office of Property Valuation shall be headed by an executive director who shall report directly to the commissioner. The functions and duties of the office shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuing the property of public service companies, valuing unmined coal and other mineral resources, administering personal property taxes, and collecting delinquent taxes. The Office of Property Valuation shall consist of the Divisions of:
 1. Local Valuation, which shall oversee the real property tax assessment and collection process throughout the state in each county's property valuation administrator's and sheriff's office;
 2. State Valuation, which shall administer all state-assessed taxes, including public service property tax, motor vehicle property tax, and the tangible and intangible tax program; and
 3. Minerals Taxation and GIS Services, which shall administer the severance tax and unmined minerals property tax programs and coordinate the department's geographical information system (GIS);
- ~~(f)~~(e) Office of Sales and Excise Taxes, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters relating to sales and use taxes and miscellaneous excise taxes, including but not limited to technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
 1. Division of Sales and Use Tax, which shall administer the sales and use tax; and
 2. Division of Miscellaneous Taxes, which shall administer various other taxes, including but not limited to alcoholic beverage taxes; cigarette enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise tax; inheritance and estate tax; insurance premiums and insurance surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels taxes;
- ~~(g)~~(f) Office of Income Taxation, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters related to income and corporation license taxes, including technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
 1. Division of Individual Income Tax, which shall administer the following taxes or returns: individual income, fiduciary, and employer withholding; and
 2. Division of Corporation Tax, which shall administer the corporation income tax, corporation license tax, pass-through entity withholding, and pass-through entity reporting requirements; and

~~(h)~~~~(g)~~ Office of Field Operations, headed by an executive director who shall report directly to the commissioner. The office shall manage the regional taxpayer service centers and the field audit program.

- (2) The functions and duties of the department shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the department shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the department, and to attempt to fairly and equitably resolve tax controversies at the administrative level.
- (3) The department shall maintain an accounting structure for the one hundred twenty (120) property valuation administrators' offices across the Commonwealth in order to facilitate use of the state payroll system and the budgeting process.
- (4) Except as provided in KRS 131.190(4), the department shall fully cooperate with and make tax information available as prescribed under KRS 131.190(2) to the Governor's Office for Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.
- (5) Executive directors and division directors established under this section shall be appointed by the secretary with the approval of the Governor.

Section 27. KRS 91A.390 is amended to read as follows:

- (1) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission. The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three percent (3%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. In addition to the three percent (3%), the local governing body may impose a special transient room tax not to exceed one percent (1%) for the sole purpose of meeting the operating expenses of a convention center. A transient room tax imposed by an urban-county government shall not exceed four percent (4%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. Transient room taxes shall not apply to the rental or leasing of an apartment supplied by an individual or business that regularly holds itself out as exclusively providing apartments. Apartment means a room or set of rooms, in an apartment building, fitted especially with a kitchen and usually leased as a dwelling for a minimum period of thirty (30) days or more. The local governing body or bodies that have established a commission by joint or separate action shall enact an ordinance for the enforcement of the tax measure enacted pursuant to this section and the collection of the proceeds of this tax measure on a monthly basis.
- (2) All moneys collected pursuant to this section and KRS 91A.400 shall be maintained in an account separate and unique from all other funds and revenues collected, and shall be considered tax revenue for the purposes of KRS 68.100 and KRS 92.330.
- (3) A portion of the money collected from the imposition of this tax, as determined by the ~~tax~~ tax levying body, upon the advice and consent of the tourist and convention commission, may be used to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business, **including projects described in subsection (2)(a) of Section 18 of this Act.** The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax shall not be used as a subsidy in any form to any hotel, motel, or restaurant, **except as provided in subsection (2)(a)3.c. of Section 18 of this Act.** Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.
- (4) A county with a city of the first class may impose an additional tax, not to exceed one and one-half percent (1.5%) of the room rent. This additional tax, if approved by the local governing body, shall be collected and administered in the same manner as the regular tax and shall be used for the purpose of funding additional promotion of tourist and convention business.
- (5) An urban-county government may impose an additional tax, not to exceed one percent (1%) of the room rents included in this subsection. This additional tax shall be collected and administered in the same manner as the regular tax with the exception that this additional tax shall be used for the purpose of funding the purchase of development rights program provided for under KRS 67A.845.
- (6) Local governing bodies which have formed multicounty tourist and convention commissions as provided by KRS 91A.350(3) may impose an additional tax, not to exceed one percent (1%) of the room rents. This additional tax, if approved by each governing body, shall be collected and administered in the same manner as the regular tax, with the exception that this additional tax shall be used for the purpose of funding regional efforts relating to the promotion of tourist and convention business and convention centers. In no event shall any revenues collected as provided for under KRS 91A.350(3) be utilized for the construction, renovation, maintenance, or additions to any convention center that is located outside the boundaries of the Commonwealth of Kentucky.
- (7) The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of

the revenue anticipated from the transient room tax during the year the money is borrowed. The commission may pledge its securities for the repayment of any sum borrowed.

- (8) The fiscal court or legislative body of a consolidated local government or city establishing a commission pursuant to KRS 91A.350(1) or (2) and, in its own name, a commission established pursuant to of KRS 91A.350(1) is authorized and empowered to issue revenue bonds pursuant to KRS Chapter 58 for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county, consolidated local government, or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.
- (9) A commission established pursuant to KRS 91A.350(3) is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, pursuant to KRS Chapter 58 for revenue bonds for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county. All bonds sold pursuant to this section shall be subject to competitive bidding as provided by law, and shall not bear interest at rates exceeding those for bonds issued for public projects under KRS Chapter 58.

SECTION 28. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Agency" has the same meaning as in Section 3 of this Act;

(b) "Signature project" means a project that meets the requirements established by Section 18 of this Act; and

(c) "Tangible personal property used in the construction of a signature project" means tangible personal property that:

1. Consists of:

a. Permanently incorporated building materials and fixtures that are an improvement to real property on the signature project;

b. Building materials temporarily incorporated into the signature project for infrastructure support during construction; or

c. Temporarily incorporated specialized forms for concrete that are for exclusive use on the qualifying signature project; and

2. Is not machinery or equipment.

(2) (a) Notwithstanding any other provision of KRS Chapter 139 and KRS 134.580, the sales or use tax paid on the purchase of tangible personal property used in the construction of the portion of a signature project that does not relate to approved public infrastructure costs or approved signature project costs, as defined in Section 3 of this Act, may be refunded to the agency under the conditions established by subsection (3) of this section.

(b) The office, as defined in subsection (29) of Section (3) of this Act, shall notify the department upon the approval of a signature project. The notification shall include the name of the signature project, the name of the agency, the name of the project developer, the commencement date of the project grant agreement, and the percentage of total anticipated expenditures for tangible personal property used in the construction of a signature project that are not included in the project grant agreement as approved public infrastructure costs or approved signature project costs.

(c) The department shall determine the total amount of eligible refund by multiplying total sales and use tax paid during the period covered by the application by the percentage provided by the office under the provisions of paragraph (b) of this subsection reduced by the amount of vendor compensation taken in accordance with KRS 139.570.

(3) To qualify for the refund established by subsection (2) of this section, the agency shall collect from the purchasers of tangible personal property used in the construction of the signature project all documentation relating to the payment of sales or use tax, and shall file an application for refund of the sales or use tax paid by the purchasers as reflected in the documentation collected. Requests for refund shall be filed annually during the first twelve (12) years the project grant agreement is in effect, and shall cover purchases made during the immediately preceding year. Requests for refund shall be filed in the manner directed by the cabinet.

(4) The agency shall file the first year refund request within sixty (60) days following the end of the fiscal year in which the project grant agreement is executed. The agency shall file the final refund request within sixty (60) days following the

end of the eleventh fiscal year following the fiscal year in which the project grant agreement was executed, or within sixty (60) days after construction is complete, whichever date is earlier. All other annual refund requests shall be filed within sixty (60) days after the completion of each fiscal year.

(5) Interest shall not be allowed or paid on any refund made under the provisions of this section.

(6) The agency shall execute information sharing agreements prescribed by the department with contractors, vendors, and other related parties to verify construction material costs.

Section 29. Whereas there are some projects that need to begin immediately, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Senate Committee Amendment No. 1 Title to **HB 549** is as follows:

HB 549, Amend the title to read "AN ACT relating to incentives for development and redevelopment and declaring an emergency.

Representative Clark moved that the House concur in the Senate Committee Substitute to **HB 549**. Agreed.

Representative Clark moved that the House concur in the Senate Committee Amendment No. 1 Title to **HB 549**. Agreed.

Representative Clark moved that **HB 549**, by way of Senate Committee Substitute, as amended by the Senate, be passed and title agreed to.

On the roll call the vote was: Yeas 85, Nays 11. (See March 12, 2007, roll call on **HB 549** - Appendix.)

HB 549, by way of Senate Committee Substitute, as amended by the Senate, was passed and title agreed to.

Representative Clark moved that the vote by which **HB 549**, by way of Senate Committee Substitute, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Adkins moved that the rules be suspended and that **SCR 218** be posted for passage in the Orders of the Day. Agreed.

Representative Adkins moved to suspend the rules to allow the House to recess for Caucus meetings. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Adkins moved to suspend the rules to allow the House to recess until 9:00 p.m. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Message received in regard to **HB 128**: The Senate has receded from Senate Committee Substitute to **HB 128** and has passed the Bill.

Message received in regard to **HB 177**: The Senate has receded from Senate Amendments to **HB 177** and has passed the Bill.

Message received in regard to **HB 337**: The Senate has receded from Senate Committee Substitute and Senate Amendments to **HB 337** and has passed the Bill. (8:46 p.m.)

Message received in regard to **HB 185**: The Senate has refused to recede from the Senate Committee Substitute on **HB 185** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senators Borders, Chair, Harris, and Palmer.

Message received in regard to **HB 362**: The Senate has refused to recede from the Senate Committee Substitute on **HB 362** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senators Borders, Chair, Harris, Tori, Denton, and Ridley.

Message received in regard to **HB 402**: The Senate has refused to recede from the Senate Amendments to **HB 402** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senators Thayer, Chair, Tapp, Harris, and Worley.

Message received in regard to **HB 418**: The Senate has refused to recede from the Committee Substitute and Amendments on **HB 418** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senators Williams, Chair, Stine, Kelly, Seum, Borders, Harris, Worley, Turner, Pendleton, and Carroll.

Message received in regard to **HB 490**: The Senate has refused to recede from the Amendments to **HB 490** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senators Tapp, Chair, Gibson and Worley. (8:45 p.m.)

Announcing passage of **HB 114, 120, 285, 374, 443, HJR 23** and **137**.

Message received in regard to **HB 282**: The Senate has passed **HB 282** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (9:09 p.m.)

A Conference Committee Report was filed on **HB 490**.

A Conference Committee Report was filed on **HB 185**.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 128, 138, 207, 549, 177, and 337** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -9:50 p.m.)

Representative Moberly moved the adoption of the following Conference Committee Report on **HB 185**.

HB 185, The Conference Committee on **HB 185** has met as provided in the Rules of the House and Senate and hereby reports that they cannot agree.

Signed March 12, 2007: Representatives Moberly, J. Lee, Pasley, and Napier; Senators Borders, Palmer, and Harris. The above-named members, in separate votes by house, all concur in the provisions of this report.

The Conference Committee Report on **HB 185** was adopted by voice vote.

Representative Yonts moved the adoption of the following Conference Committee Report on **HB 490**.

HB 490, The Conference Committee on **HB 490** has met as provided in the Rules of the House and Senate and hereby reports that they cannot agree.

Signed March 12, 2007: Representatives Rand, Vincent, Yonts, and Webb; Senators Tapp, Worley, and Gibson.

The above-named members, in separate votes by house, all concur in the provisions of this report.

The Conference Committee Report on **HB 490** was adopted by voice vote.

Representative Yonts moved that the same members be appointed to the Free Conference Committee that were on the Conference Committee for **HB 490**. Agreed.

The Speaker announced the appointment of the same members to the Free Conference Committee for **HB 185** that were appointed to the Conference Committee.

Representative Adkins moved that the rules be suspended and that **HB 282** be taken from the Committee on Rules and posted for passage in the Orders of the Day. Agreed.

HB 282, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 282** is as follows:

HB 282, AN ACT relating to continuing care retirement communities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.335 is amended to read as follows:

The establishment of continuing care retirement community nursing home beds under KRS 216B.015, 216B.020, 216B.330, and 216B.332 shall be limited to the time period commencing upon July 14, 2000, and ending December 31, 2012~~[July 31, 2008]~~. After December 31, 2012~~[July 31, 2008]~~, no further continuing care retirement community nursing home beds shall be established under KRS 216B.015, 216B.020, 216B.330, and 216B.332 without affirmative actions of the General Assembly.

Representative Damron moved that the House concur in the Senate Committee Substitute to **HB 282**. Agreed.

Representative Damron moved that **HB 282**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 99, Nays 0.** (See March 12, 2007, roll call on **HB 282** - Appendix.)

HB 282, by way of Senate Committee Substitute, was passed and title agreed to.

Representative Damron moved that the vote by which **HB 282**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SCR 218 taken from the Orders of the Day and ordered read at length. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved the adoption of the following **SCR 218**:

SCR 218, A CONCURRENT RESOLUTION adjourning the General Assembly until March 26, 2007.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. When the Senate and the House of Representatives adjourn on Monday, March 12, 2007, they do so to convene again on Monday, March 26, 2007.

On the roll call the vote was: **Yeas 99, Nays 0.** (See March 12, 2007, roll call on **SCR 218** - Appendix.)

SCR 218 was adopted.

Representative Adkins moved that the vote by which **SCR 218** was adopted be reconsidered and said motion be placed on the table. Agreed.

Representative Jenkins moved the adoption of the following **HR 219**:

HR 219, A RESOLUTION honoring the Girl Scouts of Kentuckiana on the 95th anniversary of the Girl Scouts of America.

WHEREAS, the Girl Scouts of America movement began on March 12, 1912, when Juliette Gordon Lowe began with 18 girls in Savannah, Georgia; and

WHEREAS, scouting for girls in Louisville predates the formation of the Girl Scouts, with Charlotte Went Butler organizing a group in 1911 at the age of only 11; and

WHEREAS, Girl Scouting officially reached Kentucky in 1917, with the first documented troop located in Scottsville, followed shortly by troops in Owensboro, Paducah, and Louisville; and

WHEREAS, the Girl Scouts of Kentuckiana currently serves more than 23,000 women as young as age 5, through more than 2000 troops in Kentucky, Indiana, and Tennessee; and

WHEREAS, the Girl Scouts of Kentuckiana has served as an inspiration to young women throughout Kentucky and other states, regardless of race, religion, or socioeconomic status, helping them learn valuable skills and an appreciation for the role all people play in society;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives applauds the Girl Scouts of Kentuckiana for its outstanding contributions to the

Commonwealth and its young women for the last 95 years, and expresses its heartfelt wishes for continued success.

Section 2. When the House of Representatives adjourns this day, it does so in honor of the Girl Scouts of Kentuckiana.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Girl Scouts of Kentuckiana, Post Office Box 32335, Louisville, Kentucky 40232.

There being no objection, **HR 219** was adopted.

A Free Conference Committee Report was filed on **HB 490**.

A Free Conference Committee Report was filed on **HB 185**.

HB 185 taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for consideration of the Free Conference Committee Report. Agreed.

Representative Moberly moved the adoption of the following Free Conference Committee Report on **HB 185**. Agreed.

HB 185, The Free Conference Committee on **HB 185** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of **HB 185**, Senate Committee Substitute, with the following changes:

On page 3, line 15, after "to" by deleting "(i)" and inserting "(h)" in lieu thereof;

On page 3, line 22, after "paragraphs" by deleting "(n)" and inserting "(m)" in lieu thereof;

On page 3, line 25, after "(q)" by inserting ", (r)," in lieu thereof;

On page 5, line 16, after "businesses," by deleting "including" and inserting "as well as" in lieu thereof;

On page 6, line 15, after "2." by deleting "Conduct" and inserting "Submit to" in lieu thereof; and

On page 13, line 2, after "b." by deleting "Conduct" and inserting "Submit to" in lieu thereof.

Signed March 12, 2007: Representatives Moberly, J. Lee, Pasley, and Napier; Senators Borders, Palmer, and Harris.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Moberly moved that **HB 185**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 12, 2007, roll call on **HB 185** - Appendix.)

HB 185, as amended by the Free Conference Committee Report, was passed.

Representative Moberly moved that the vote by which **HB 185**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 490 taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for consideration of the Free Conference Committee Report. Agreed.

Representative Yonts moved the adoption of the following Free Conference Committee Report on **HB 490**.

HB 490, The Free Conference Committee on **HB 490** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of **HB 490/GA** with the following changes:

On page 1, line 11, by deleting "trustee, agent, or spouse", and by inserting "trustee or agent" in lieu thereof; and

On page 3, line 7, by deleting "settle", and by inserting "resolve" in lieu thereof; and

On page 3, line 17, after "(30)", by inserting "business"; and

On page 4, line 14, after "any", by inserting "undisputed"; and

On page 4, line 19, after "subcontractor", by inserting "any undisputed amounts due"; and

On page 5, line 2, after "completed", by inserting "in accordance with the contract"; and

On page 5, by deleting line 13 in its entirety, and by inserting "contractor, and any subcontractor with work yet to be completed shall mutually agree with the schedule for"; and

On page 6, by deleting lines 17 through 20 in their entirety; and

On page 6, line 21, by deleting "(3)", and inserting "(2)" in lieu thereof; and

On page 7, between lines 10 and 11, by inserting the following new subsection:

"(4) Sections 1 to 6 of this Act shall not apply to any contract for construction of or relating to any facility as defined in KRS Chapter 278.

(5) Sections 1 to 6 of this Act shall not apply to any construction project where the total agreed payment on the construction contract is in excess of one billion dollars (\$1,000,000,000) at a specific site within a twelve (12) month period."

Signed March 12, 2007: Representatives Yonts, Webb, Vincent, and Rand; Senators Tapp, Worley, and Gibson.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Adkins moved that **HB 490** be placed back in the Orders of the Day. Agreed.

Representative Adkins moved that the rules to reconsider be suspended to reconsider the vote on **HB 185**.

On the roll call to suspend the rules to reconsider a vote the vote was: Yeas 99, Nays 0. (See March 12, 2007, roll call to suspend the rules. - Appendix.)

Representative Adkins moved that the vote by which **HB 185** as amended by the Free Conference Committee Report was passed be reconsidered.

On the roll call to reconsider the vote on the passage of **HB 185** the vote was: Yeas 99, Nays 0. (See March 12, 2007, roll call to reconsider the vote on **HB 185** - Appendix.)

Representative Adkins moved that the rules be suspended and that **HB 185** be placed back in the Orders of the Day. Agreed.

A Conference Committee Report was filed on **HB 402**.

Representative Adkins that the House recess until 10:30 p.m. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 114, 120, 285, 374, 443, HJR 23, and 137** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -)

Representative Firkins moved the adoption of the following Conference Committee Report on **HB 402**. Agreed.

HB 402, The Conference Committee on **HB 402** has met as provided in the Rules of the House and Senate and hereby reports that they cannot agree.

Signed March 12, 2007: Representatives Firkins, Draud, Jenkins, and Wilkey; Senators Thayer, Harris, Tapp, and Worley.

The above-named members, in separate votes by house, all concur in the provisions of this report.

The Conference Committee Report on **HB 402** was adopted by voice vote.

The Speaker announced the appointment of the following previously appointed members of the Conference Committee to the Free Conference Committee on **HB 402**: Representatives Firkins, Chair, Wilkey, Jenkins, and Draud.

2007 Regular Session

Representative Adkins moved that no further business be conducted on the floor this day except for Conference Committee Reports, appointment of Conference Committee members, Senate Messages with non concurring Amendments, and Enrollment of Bills. Agreed.

Representative Adkins moved that when the House does adjourn that it does so until 10:00 a.m. on March 26, 2007, and that it does so by voice vote. Agreed.

Representative Adkins moved that the House recess until 11:30 p.m. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Announcing passage of **HB 360**.

Message received in regard to **HB 5**: The Senate has passed **HB 5** by way of Senate Committee Substitute with the following Senate Committee Amendments No. 1, No. 2, and No. 3 Title and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 191**: The Senate has passed **HB 191** by way of Senate Committee Substitute with the following Senate Committee Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 284**: The Senate has passed **HB 284** by way of Senate Committee Substitute with the following Senate Committee Amendments No. 3 and No. 2 Title and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 430**: The Senate has passed **HB 430** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 476**: The Senate has passed **HB 476** by way of Senate Committee Substitute with the following Senate Committee Amendments No. 2 and No. 1 Title and respectfully requests concurrence of this Honorable Body. (11:15 p.m.)

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 171, SJR 6, SB 10, 29, 82, 105, 111, and 175** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:30 p.m.)

HB 50, 225, 280, 287, 296, 305, 355, 386, 394, 514, 536, 367, HJR 84, HB 128, 138, 207, 549, 177, and 337 were delivered to the Senate and signed by the President. Delivered to the Governor on March 12, 2007, at 11:18 p.m.

HB 114, 120, 285, 374, 443, HJR 23, and 137 were delivered to the Senate and signed by the President. Delivered to the Governor on March 12, 2007, at 11:30 p.m.

Floor Amendments

House Floor Amendment No. 17 to the House Committee Substitute to **SB 159**, by Representative Riner:

SB 159, On page 72, after line 19, insert the following:

"(20) Any person who knowingly violates Section 46 of this Act shall be fined not more than one thousand dollars (\$1,000) per offense."

On page 73, after line 19, insert the following:

"SECTION 46. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions in Sections 1 through 42 of this Act, no member of the General Assembly shall solicit or accept any contribution, or a promise or pledge to make a contribution, from an individual or permanent committee, nor shall

a member of the General Assembly participate in a caucus campaign committee fundraiser, from the first day of a legislative session until sine die adjournment pursuant to Sections 36 and 80 of the Constitution of Kentucky."

Renumber remaining sections accordingly.

House Floor Amendment No. 2 to the House Committee Substitute to SB 155, by Representative Riggs:

SB 155, On page 3, line 12, after "area" delete "seven hundred fifty (750)" and insert in lieu thereof "four hundred (400)"; and

On page 3, line 16, after "area" delete "seven hundred fifty (750)" and insert in lieu thereof "four hundred (400)"; and

On page 3, line 17, after "and" delete "three hundred seventy-five (375)" and insert in lieu thereof "two hundred (200)".

House Floor Amendment No. 3 to the House Committee Substitute to SB 155, by Representative Riner:

SB 155, On page 7, line 11, after "(1)", by inserting "Except where prohibited by local resolution under Section 8 of this Act," and making "The" lower case; and

On page 8, line 23, after "(1)", by inserting "Except where prohibited by local resolution under Section 8 of this Act," and making "An" lower case; and

On page 10, after line 26, by inserting the following:

"SECTION 8. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

- (1) A city, consolidated local government, urban county government, unified local government, or charter county government may adopt a resolution declaring its opposition to the removal of vegetation along state highway rights-of-way within its boundaries. A county may adopt a resolution declaring its opposition to the removal of vegetation along state highway rights-of-way within unincorporated areas of the county. The effect of such a resolution will be to make the state highways within that jurisdiction ineligible for vegetation control permits under Sections 3 and 4 of this Act.
- (2) If a unit of local government adopts a resolution under subsection (1) of this section and transmits it to the Transportation Cabinet, the cabinet shall not accept applications under Section 3 of this Act or issue a permit under Section 4 of this Act for vegetation removal within the jurisdiction of that city or county. If the cabinet receives a resolution while there is a valid permit in force, it shall allow work under that permit to continue until the permit expires."

House Floor Amendment No. 4 to the House Committee Substitute to SB 155, by Representative Riner:

SB 155, On page 10, after line 26, by inserting the following:

"SECTION 8. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

- (1) The Transportation Cabinet shall establish a highway beautification program to plant trees and shrubs along interstate highway rights-of-way to provide a natural visual and sound barrier to adjoining property.
- (2) Any unit of local government may petition the cabinet under this section for placement of trees or shrubs on the right-of-way of any interstate highway that runs through its jurisdiction. The cabinet shall determine whether placement of trees or shrubs in the requested area is appropriate and safe and shall, in consultation with the requesting government, determine the types of plants to be used. The local government shall be responsible for paying the costs of the plants and their initial planting.
- (3) The cabinet shall promulgate administrative regulation under KRS Chapter 13A to provide application procedures and placement standards and to otherwise carry out the provisions of this section."

House Floor Amendment No. 5 Title to SB 155, by Representative Riner:

SB 155, By Amending the Title to read " AN ACT relating to the rights-of-way of state highways."

House Floor Amendment No. 1 to SB 197, by Representative Meeks:

SB 197, On page 2, line 18, after ";" insert "and" ; and

On page 2, between lines 18 and 19, insert the following:

"WHEREAS, there is a growing movement in Virginia, Georgia, and Missouri for states to apologize for the roles they played during slavery; and

WHEREAS, Kentucky was one of the largest slave breeding states after the importation of slaves to the United States was abolished in 1808; and

WHEREAS, Kentucky's ties to the Northern industrialists and its cultural and economic ties to the plantation South uniquely positioned it to play a vital role on the issue of slavery and the question of states' rights; and

WHEREAS, the Underground Railroad is full of stories, lessons, and legacies for all to learn from today; and

WHEREAS, slavery as an institution in the United States was officially ended by the Civil War; and

WHEREAS, it is appropriate for the Commonwealth of Kentucky to examine and reflect on the legacy of slavery;"; and

On page 6, after line 21 insert the following:

"SECTION 7. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOW:

The Commonwealth of Kentucky Slavery Commission, which shall be attached to the Kentucky Historical Society for administrative purposes. The commission shall be composed of eighteen (18) members as follows:

- (1) Two (2) members of the House of Representatives, appointed by the Speaker of the House;*
- (2) Two (2) members of the Senate, appointed by the President of the Senate;*
- (3) Two (2) members from the Kentucky Historical Society, appointed by the director of that agency;*
- (4) One (1) member from the Kentucky Heritage Council, appointed by the executive director of that agency;*
- (5) One (1) member from Kentucky State University, appointed by the president of that University;*
- (6) One (1) member from the University of Kentucky, appointed by the president of that University;*
- (7) One (1) member from the University of Louisville, appointed by the president of that University;*
- (8) One (1) member from Morehead State University, appointed by the president of that University;*
- (9) One (1) member from Murray State University, appointed by the president of that University;*
- (10) One (1) member from Eastern Kentucky University, appointed by the president of that University;*
- (11) One (1) member from Northern Kentucky University, appointed by the president of that University;*
- (12) One (1) member from Western Kentucky University, appointed by the president of that University;*
- (13) One (1) member from the Kentucky African-American Heritage Commission, appointed by the head of that agency; and*
- (14) Two (2) citizen members from the state at large with a demonstrated interest in history and substantial knowledge and appreciation of the legacy of slavery, appointed by the Governor.*

The chair of the commission shall be elected from among the membership by the commission members. Appointments to the commission shall be made no later than November 1, 2007, and the first meeting of the commission shall occur no later than March 30, 2008.

SECTION 8. A NEW SECTION KRS CHAPTER 171 IS CREATED TO READ AS FOLLOW:

The Commonwealth of Kentucky Slavery Commission shall:

- (1) Study and examine the institution of slavery in the United States in a historical context;*
- (2) Educate Kentucky residents and the nation about the legacy of slavery in Kentucky;*
- (3) Examine discrimination against freed slaves and their descendants from the end of slavery to the present, including economic, political, and social discrimination;*
- (4) Examine the lingering negative effects of slavery and the discrimination on living African Americans and on society in the United States;*
- (5) Plan and implement appropriate events, including commemorations and educational initiatives, to mark the appreciation of the legacy of slavery;*
- (6) Perform other duties as necessary to highlight Kentucky's role in slavery in the United States; and*
- (7) Seek grants and philanthropic support for its activities and initiatives.*

SECTION 9. A NEW SECTION KRS CHAPTER 171 IS CREATED TO READ AS FOLLOW:

The Commonwealth of Kentucky Slavery Commission shall expire on December 31, 2015. "

House Floor Amendment No. 1 to SB 55, by Representative Moberly:

SB 55, On page 59, between lines 15 and 16, by inserting the following:

"SECTION 31. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

- (1) The staff of the Legislative Research Commission is responsible for providing services to the General Assembly and the Legislative Research Commission, including fiscal analysis of legislation and proposed legislation, economic studies and analysis, and the staffing of budget and revenue committees. To facilitate the provision of these services, the staff*

of the Legislative Research Commission requires information and data in the possession of other agencies and instrumentalities of state government.

- (2) Notwithstanding KRS 131.190, any provisions of KRS Chapter 154, or any other provision of the Kentucky Revised Statutes to the contrary, the Department of Revenue and the Cabinet for Economic Development shall provide, upon request of the Legislative Research Commission, any information necessary for the Legislative Research Commission staff to perform its duties. The Department of Revenue and the Cabinet for Economic Development shall provide the requested information in a timely manner, and shall provide any assistance needed to facilitate the review, copying, or inspection of any public or confidential information requested, whether written or electronic. The information shall be used by Legislative Research Commission staff for official purposes only.
- (3) Information that shall be provided upon request includes:
 - (a) Any information acquired from any records of the Department of Revenue, but excluding the taxpayer's name and excluding any information received by the department from the Internal Revenue Service, whether such information is classified as confidential or public; and
 - (b) Any information acquired from any records of the Cabinet for Economic Development, including individual company information, whether such information is classified as confidential or public.
- (4) The Department of Revenue and Cabinet for Economic Development shall allow the staff of the Legislative Research Commission to interview its employees during normal working hours, without any restrictions imposed by the Department of Revenue or the Cabinet for Economic Development, for the purpose of obtaining information pertinent to the responsibilities set forth in subsection (1) of this section.
- (5) The contents of interviews conducted by staff of the Legislative Research Commission, or any information supplied at the request of the Legislative Research Commission or Legislative Research Commission staff which is not specifically restricted by KRS 61.878 may be classified as confidential by the Department of Revenue or the Economic Development Cabinet and, if so classified, shall not be subject to release under KRS 61.872. The provisions of this paragraph shall not apply to reports or documents routinely maintained by the Department of Revenue or the Cabinet for Economic Development subject to release under KRS 61.872.
- (6) If the information sought by the Legislative Research Commission is required by law to be confidential the staff of the Legislative Research Commission shall have access to the information, but shall maintain the confidentiality of the information. The staff of the Legislative Research Commission shall be subject to the same penalties as the custodian of the information for improper dissemination of such information. The Legislative Research Commission shall limit the Legislative Research Commission staff who shall have access to confidential data to those whose duties and responsibilities involve the review and analysis of data. The Legislative Research Commission shall provide a list of such staff members to the agency at the time the data is requested and shall update the list as necessary when staff members with access change.
- (7) Access to information provided to the staff of the Legislative Research Commission pursuant to the provisions of this section does not extend to members of the General Assembly. While staff of the Legislative Research Commission may share summary analysis and research resulting from the information and data provided pursuant to the provisions of this section that is required by law to be confidential, or that is classified by the Department of Revenue or the Economic Development Cabinet as confidential under subsection (5) of this section, the unsummarized confidential data and information that could identify an individual taxpayer or company shall not be shared with members of the General Assembly by staff of the Legislative Research Commission.
- (8) The provisions of KRS 7.320(3) shall apply to enforce the provisions of this section."; and
By renumbering the subsequent sections accordingly.

House Floor Amendment No. 2 Title to SB 55, by Representative Moberly:

SB 55, By amending the title to read as follows: "AN ACT relating to government agencies."

House Floor Amendment No. 6 to SB 155, by Representative Riner:

SB 155, On page 7, line 11, after "(1)", by inserting "Except where prohibited by local resolution under Section 7 of this Act," and making "The" lower case; and

On page 10, after line 13, by inserting the following:

"SECTION 7. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

- (1) A city, consolidated local government, urban-county government, unified local government, or charter county government may adopt a resolution declaring its opposition to the removal of vegetation along state highway rights-of-way within its boundaries. A county may adopt a resolution declaring its opposition to the removal of vegetation along state highway rights-of-way within unincorporated areas of the county. The effect of such a resolution will be to make the state highways within that jurisdiction ineligible for vegetation control permits under Section 3 of this Act.

(2) If a unit of local government adopts a resolution under subsection (1) of this section and transmits it to the Transportation Cabinet, the cabinet shall not accept an application or issue a permit under Section 3 of this Act for vegetation removal within the jurisdiction of that city or county. If the cabinet receives a resolution while there is a valid permit in force, it shall allow work under that permit to continue until the permit expires."

Motions, Petitions, and Communications

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 128, Representative Henderson

HB 207, Representative Crenshaw

HB 280, Representative Denham

HB 289, Representative Crenshaw

HB 296, Representatives Hall and Edmonds

HB 305, Representative Edmonds

HB 332, Representative Crenshaw

HB 403, Representative Crenshaw

HB 469, Representative Sims

HB 506, Representative Crenshaw

HR 211, Representatives Wuchner, Floyd, Santoro, and S. Lee

The following member filed a request to have his name withdrawn as co-sponsor of a Bill:

HB 279, Representative Simpson

Announcements

The Committee on Government Contracts, upon recess, Room 327

Majority Caucus, upon recess, Supreme Court Chamber

Minority Caucus, upon recess, Room 316

Adjournment

Representative Adkins moved to adjourn until the hour of 10:00 a.m. on Monday, March 26, 2007.

The motion that the House adjourn until 10:00 a.m. on Monday, March 26, 2007, was adopted by voice vote.

MONDAY, MARCH 26, 2007
TWENTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Reverend Chuck Beighle, Memorial Baptist Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present.

Representative Ballard moved that the reading of the Journal of March 12, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording on the next legislative day to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills were filed by the following:

Representative Upchurch moved that his vote be changed from "Nay" to "Yea" on **SB 82**. Agreed.

Representative B. Smith moved that he be recorded as voting "Yea" on **SB 105**. Agreed.

Representative B. Smith moved that he be recorded as voting "Yea" on **SB 130**. Agreed.

Representative B. Smith moved that he be recorded as voting "Yea" on **HB 258** and **259**. Agreed.

Representative Dedman moved that he be recorded as voting "Yea" on **HB 258, 259, SB 43, 185, 187, 91, 92, 196, 144, 186, 134, 153, 98, 125, 56, and 76**. Agreed.

Representative Cherry moved that his vote be changed from "Yea" to "Nay" on **SB 29**. Agreed.

Representative Yonts moved that his vote be changed from "Yea" to "Nay" on **SB 29**. Agreed.

Representative J. Lee moved that he be recorded as voting "Yea" on **HB 355**. Agreed.

Representative Upchurch moved that he be recorded as voting "Yea" on **HB 50, 225, and 287**. Agreed.

Representative Burch moved that he be recorded as voting "Yea" on **HB 207**. Agreed.

Representative Bell moved that his vote be changed from "Nay" to "Yea" on **SB 145**. Agreed.

Representative Cherry moved that he be recorded as voting "Yea" on **HB 207**. Agreed.

Representative Moore moved that he be recorded as voting "Yea" on the motion to lay **HB 177** on the Clerk's Desk. Agreed.

Representative Wuchner moved that she be recorded as voting "Yea" on the motion to lay **HB 177** on the Clerk's Desk. Agreed.

Representative Fischer moved that he be recorded as voting "Nay" on **HB 305, SB 10, and 171**. Agreed.

Representative Fischer moved that he be recorded as voting "Yea" on **HB 50, 287, 280, 296, 355, 394, 514, 536, the SCS to HB 138 (SCS), 138, 207, FA (3) to HB 177, the motion to reconsider SFA (2) Title on HB 177, HJR 84, SB 130, 105, 88, 82, 1, 111, 175, 29, HB 225, SB 100, 25, 103, 22, 145, SJR 109, and 6**. Agreed.

Representative Spencer moved that his vote be changed from "Yea" to "Nay" on **HB 549**. Agreed.

Representative Collins moved that his vote be changed from "Yea" to "Nay" on **HB 549**. Agreed.

Representative Fischer moved that he be recorded as voting "Yea" on **SB 30 and 14**. Agreed.

Representative Greer moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Greer moved the adoption of the following **Legislative Citation No. 79**.

The House of Representatives of the Commonwealth of Kentucky hereby offers sincere congratulations to Kenny Walker upon having been selected for induction into the Class of 2007 Kentucky Athletic Hall of Fame in recognition of his extraordinary athletic accomplishments and his stellar contributions to the sport of basketball. A native of Roberta, Georgia, who was named a McDonald's All American as a high school senior in 1982 and who, in that same year, committed to attend and play basketball at the University of Kentucky, Kenny Walker became, over his four-year career, UK's #2 all-time leading scorer with 2080 points;

was named the SEC Player of the Year in both his junior and senior years; also led Kentucky in scoring, rebounding, blocked shots and taking charges in his senior year; and was inducted into The SEC Chick Filet Hall of Fame. Drafted in the first round of the 1986 NBA Draft by the New York Knicks, he played professionally for seven seasons in the NBA, four seasons overseas, and enjoyed a career highlighted with a Slam Dunk Competition win in 1989. Inasmuch as Kenny "Sky" Walker has so richly contributed to the phenomenal tradition of athletic excellence of this state by virtue of his many significant athletic achievements, the members of this august body are honored to join Representative Jeff Greer in applauding this talented individual and laudable ambassador for Kentucky Basketball and the Commonwealth of Kentucky as he visits the Chamber of the House of Representatives as a welcome guest during the 2007 Regular Session of the Kentucky General Assembly. Done in Frankfort, Kentucky, this twenty-sixth day of March, in the year two thousand and seven.

Legislative Citation No. 79 was adopted without objection.

Representative Pullin moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Pullin moved the adoption of the following **Legislative Citation No. 81**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the members of the Greenup County Youth and Mini Cheerleading Squads upon the Youth Squad capturing the 2007 Universal Cheerleading Association National Championship title in the Junior Youth/Recreation Division and the 2007 Kentucky State Cheer & Dance Championship title in the Junior Recreation Division and the Mini Squad capturing the 2007 Kentucky State Championship title. Inasmuch as these talented athletes have demonstrated great heart, fine team spirit and exceptional athletic skill, the members of this distinguished body are delighted to join with Representative Tanya Pullin in applauding the grand success of the Greenup County Youth and Mini Cheerleading Squads and in extending best wishes for continued accomplishment and good fortune. Done in Frankfort, Kentucky, this twenty-sixth day of March, in the year two thousand and seven.

Legislative Citation No. 81 was adopted without objection.

Representative Stein moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Stein moved the adoption of the following **Legislative Citation No. 82**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to the members and coaching staff of the Lexington Christian Academy Lady Eagles Varsity Basketball Team for their phenomenal athletic performance during the 2006-2007 season that resulted in this talented assemblage of athletes capturing both the 2007 Touchstone Energy All "A" Classic State Championship and the 2007 Houchens Industries/KHSAA State Sweet Sixteen Championship titles, marking only the second time in the history of Kentucky high school basketball that this phenomenal achievement has been accomplished, while completing the season with an extraordinary record of 34-3. Inasmuch as the members of this celebrated team, under the capable leadership of Head Coach Jason Seamands, have enjoyed an outstanding year and have added yet another monument of success to an ever-growing legacy of athletic achievement, the members of this distinguished body are delighted to join with Representative Kathy W. Stein in commending the members and coaching staff of the Lexington Christian Academy Lady Eagles Basketball Team for their tremendous accomplishments and in extending best wishes for continued success and good fortune. Done in Frankfort, Kentucky, this twenty-sixth day of March, in the year two thousand and seven.

Legislative Citation No. 82 was adopted without objection.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 282** and **360** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:50 a.m.)

Representative A. Smith moved that the rules be suspended to grant floor privileges and introduce and to act on a Resolution. Agreed.

Introduction of Bills and Resolutions

HR 230, by Representative A. Smith: A RESOLUTION honoring the June Buchanan School Crusaders upon advancing to the 2007 KHSAA Boys' Sweet Sixteen Basketball Tournament.

Representative A. Smith moved the adoption of the following **HR 230**:

HR 230, A RESOLUTION honoring The June Buchanan School Crusaders upon advancing to the 2007 KHSAA Boys' Sweet Sixteen Basketball Tournament.

WHEREAS, on March 13, 2007, the Crusaders defeated Hazard 51-46 in the 14th Region final to advance to the KHSAA Boys' Sweet Sixteen Basketball Tournament for the first time in the school's history; and

WHEREAS, Co-Coaches Gary Stepp and Jim Stepp, along with support staff, coached their team to an impressive record of 26 wins and 7 losses for the season; and

WHEREAS, the Crusaders demonstrated their skill, effort, and sportsmanship in the Sweet Sixteen Basketball Tournament, playing with determination and heart against eventual semi-finalist Warren Central; and

WHEREAS, as a team, the June Buchanan Crusaders rank among the top 25 teams in the Commonwealth in scoring, scoring margin, field goal percentage, and three point field goal percentage; and

WHEREAS, Crusaders player Clark Stepp is the first and only All-Stater in the history of The June Buchanan School; and

WHEREAS, The June Buchanan School is the eighth-smallest high school currently participating in high school athletics in the Commonwealth of Kentucky; and

WHEREAS, The June Buchanan School's current 9th through 12th grade enrollment is only 74 students, and 15 of the school's 34 boys are members of the boys basketball team; and

WHEREAS, The June Buchanan School was established in 1984 as an academically challenging, private college preparatory school, and the members of the boys basketball team have a combined 3.5 grade point average; and

WHEREAS, six of the eight top players on the boys basketball team have been attending The June Buchanan School since kindergarten, the other two top players enrolled before high school, and all of the players are from Knott County or its bordering counties; and

WHEREAS, ninety-nine percent of graduates of The June Buchanan School enroll in college, and, in the history of the school, there has never been a dropout student; and

WHEREAS, the school was named for the co-founder of Alice Lloyd College, Miss June Buchanan, who was affectionately known to all as "Miss June"; and

WHEREAS, Miss June left her home state of New York to come to Caney Creek in Knott County, where she educated Appalachian students for more than 68 years until her death in 1988 at 101 years of age; and

WHEREAS, the administration, faculty, and staff of both The June Buchanan School and its parent institution, Alice Lloyd College, continue to work tirelessly to make high-quality education available to Appalachian students; and

WHEREAS, The June Buchanan School accomplishes its educational goals for Kentucky's mountain children by providing scholarships for nearly 50% of its students, and through its Caney Honors Achievement Program, which gives June Buchanan School students the opportunity to graduate high school with a semester of college credit at no out-of-pocket expense; and

WHEREAS, the accomplishments of this fine young group of athletes have brought great honor and distinction to their school and community, and should be saluted and honored;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, do hereby honor and commend The June Buchanan School Crusaders, Co-Coaches Gary Stepp and Jim Stepp, the team's support staff, and Headmaster Yvon Allen upon the team's accomplishments in regular and post season play, being crowned 14th Region champions, and earning a spot in the KHSAA Boys' Sweet Sixteen Basketball Tournament, and express best wishes to the team and everyone associated with it for continued success in future endeavors.

Section 2. The Clerk of the House of Representatives shall forward a copy of this Resolution to Headmaster Yvon Allen, The June Buchanan School, 100 Purpose Road, Pippa Passes, Kentucky 41844.

There being no objection, **HR 230** was adopted.

Representative Meeks moved that the rules be suspended to grant floor privileges and to allow Ron Sprigg from the Kentucky Organization for Tuskegee Airmen to address the body. Agreed.

Representative Collins moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Collins moved the adoption of the following **Legislative Citation No. 83**.

The House of Representatives of the Commonwealth of Kentucky hereby extends a warm welcome to the members of the Johnson County Middle School Academic Team to the House Chamber during the 2007 Regular Session of the Kentucky General Assembly to be commended for having won the 2007 Kentucky Governor's Cup State Academic Championship in the middle school division for the second consecutive year and capturing first place Future Problem Solving Championship honors.

Inasmuch as the members of this remarkable team, under the skillful tutelage of coaches Pam Burton and Rachel Holbrook, have demonstrated commendable hard work and laudable dedication to continuing this school's phenomenal tradition of academic excellence, having now won an unprecedented five state championship titles and three runner-up titles, by the effort put forth in this challenging competition, the members of this distinguished body are delighted to join Representative Hubert Collins in applauding them on this auspicious occasion and in extending best wishes for their continued stellar success and good fortune. Done in Frankfort, Kentucky, this twenty-sixth day of March, in the year two thousand and seven.

Legislative Citation No. 83 was adopted without objection.

Representative Rand moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Rand moved the adoption of the following **Legislative Citation No. 84**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and welcomes Kassidy Rae Dees the recently crowned winner of the 2007 Miss Kentucky County Fair Pageant. Representing Adair County, this exceptional young lady, a resident of Henry County, Kentucky; the cherished daughter of Darrell and Ronda Dees; an outstanding junior at Eminence Independent High School who is a valued member of the Fast-Pitch Softball Team, Volleyball Team and the Beta Club, where she served as state vice president; and, an active participant in her church and community activities, is commended for her stellar accomplishments and applauded for the effort she put forth in this worthy endeavor. The members of this distinguished body are delighted to join Representative Rick W. Rand in welcoming Kassidy Dees to the House Chamber during the 2007 Regular Session of the Kentucky General Assembly and in extending warmest wishes for her continued academic, athletic and civic success. Done in Frankfort, Kentucky, this twenty-sixth day of March, in the year two thousand and seven.

Legislative Citation No. 84 was adopted without objection.

Representative Wuchner moved that the rules be suspended to grant floor privileges and to act on a Legislative Citation. Agreed.

Representative Wuchner moved the adoption of the following **Legislative Citation No. 80**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the winners of the 2007 There Ought To Be A Law! Contest and welcomes them to the House Chambers during a day of the 2007 Regular Session of the Kentucky General Assembly. Inasmuch as Jennifer Evans with her entry, Chewing Gum in Class, Conrad Fisher with his entry, Banning Cell Phone Use While Driving - Under the Age of 18, Kayne Westhoff with his entry, No Smoking in Restaurants, and Toni Strange with her entry, Ban Smoking in Public Places, have demonstrated a profound interest in the legislative process and for thoughtfully proposed ideas for a bill that could be considered by members of the Kentucky General Assembly, the members of this most distinguished body are pleased to join with Representative Addia K. Wuchner in congratulating these exceptional young scholars on this auspicious occasion and in extending best wishes for their continued success and good fortune. Done in Frankfort, Kentucky, this twenty-sixth day of March, in the year two thousand and seven.

Legislative Citation No. 80 was adopted without objection.

Introduction of Bills and Resolutions (Continued)

HR 223, by Representatives McKee and Clark: A RESOLUTION urging the staff of the Legislative Research Commission to study how workers who are not citizens of the United States affect Kentucky's labor market and how the Kentucky Cabinet for Economic Development/Kentucky Department of Agriculture office in Guadalajara could be utilized to address the issue of labor shortages in Kentucky.

HR 224, by Representatives Pullin and Hoover: A RESOLUTION urging the Council on Postsecondary Education to formalize and continue the work of the council's Science, Technology, Engineering, and Mathematics Task Force to ensure the development of a strategic action plan to improve Kentucky's performance in the science, technology, engineering and mathematics disciplines.

HR 225, by Representative Hoffman: A RESOLUTION adjourning the House of Representatives in honor of the bravery and service of Petty Officer First Class Kelly Winkle.

HR 226, by Representatives Tilley and Dossett: A RESOLUTION honoring the students of Crofton Elementary School.

HR 227, by Representative Denham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Robert H. Wilcox.

HR 228, by Representatives Richards and Hoffman: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Christopher Wayne Johnson, public servant.

HR 231, by Representative Montell: A RESOLUTION proclaiming August 25, 2007, as American Saddlebred Day.

HR 232, by Representative Damron: A RESOLUTION honoring Dr. Sandra C. Gray on being elected the 17 president and the first female president of Asbury College.

HR 233, by Representatives Damron, Farmer, Moore, Pullin, Palumbo, Richards, Cherry, and Ballard: A RESOLUTION recognizing the United States Navy.

HR 234, by Representatives Damron, Farmer, Moore, Pullin, Palumbo, Richards, Cherry, and Ballard: A RESOLUTION honoring Commander Jeffrey S. Coran.

HR 235, by Representatives Damron, Farmer, Moore, Pullin, Palumbo, Richards, Cherry, and Ballard: A RESOLUTION recognizing May as Armed Forces Appreciation Month.

HR 229, by Representative Hoffman: A RESOLUTION adjourning the House of Representatives in honor of the bravery and service of Petty Officer First Class Kelly Winkle.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Resolutions:

House Floor: **HR 222, 223, 224, 225, 226**

Orders of the Day

Representative Adkins moved that **HB 5, 191, 430, and 476** be placed in the Orders of the Day. Agreed.

HB 5, with Senate Committee Substitute and Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 5** is as follows:

HB 5, AN ACT relating to energy independence.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) To improve energy efficiency throughout state government:

(a) The Finance and Administration Cabinet is encouraged to:

1. Utilize Leadership in Energy Environmental Design (LEED) to promote design, construction, and operation of high-performance energy-efficient buildings using a whole-building approach in five (5) key areas of human and environmental health: sustainable site development, water savings, energy efficiency, material selection, and environmental quality; and

2. Incorporate ENERGY STAR products in state agency procurements, if possible; and

(b) The agency responsible for administering state-owned property shall review the utility usage of the property and shall cooperate with the Finance and Administration Cabinet to determine which properties are good Energy Savings Performance Contract (ESPC) candidates, and the responsible agency is encouraged to implement ESPC contracts where appropriate.

(2) The Finance and Administration Cabinet shall develop a strategy to:

(a) Replace at least fifty percent (50%) of the state-owned passenger vehicles and light-duty trucks, overseen and administered by the Division of Fleet Management as of July 1, 2007, with:

1. New qualified hybrid motor vehicles as defined in 26 U.S.C. sec. 30B;

2. New advanced lean burn technology motor vehicles as defined in 26 U.S.C. sec. 30B;

3. New qualified fuel cell motor vehicles as defined in 26 U.S.C. sec. 30B; or

4. New qualified alternative fuel motor vehicles as defined in 26 U.S.C. sec. 30B; and

(b) Increase the use of ethanol, biodiesel, and other alternate transportation fuels as defined in KRS 152.715 to reduce state government's dependence on petroleum-based transportation fuels, where possible.

(3) On or before December 1, 2007, and every December 1 thereafter, the Finance and Administration Cabinet shall report to the Legislative Research Commission:

(a) Any improvements in energy efficiency planned or realized through the use of LEED, ENERGY STAR

products, and ESPC contracts:

- (b) The strategy for transitioning to motor vehicles outlined in subsection (2) of this section, including a life-cycle cost comparison, and a projected timetable to replace motor vehicles in the state motor pool as provided in subsection (2) of this section; and
- (c) The strategy for increased use of ethanol, biodiesel, and alternate transportation fuels, including the targeted amount and the dates by which these targets shall be achieved.

SECTION 2. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

- (1) "Energy efficiency project" means a project undertaken by a person engaged in manufacturing whereby the person purchases machinery or equipment that reduces the consumption of energy or energy-producing fuels used in the manufacturing process by at least fifteen percent (15%) per year measured in megawatts, gallons, or other measurable units of energy, while maintaining or increasing the number of units produced for that same period. For purposes of this subsection, "machinery or equipment" shall not include:
 - (a) Windows, lighting, or other improvements to buildings; or
 - (b) Repair and replacement parts.
- (2) Notwithstanding KRS 139.770 and 134.580(3), a person engaged in manufacturing and located in this state may apply for a refund equal to the amount of Kentucky sales or use tax paid on the purchase of machinery or equipment purchased on or after July 1, 2008, for an energy efficiency project if the person:
 - (a) Files an application for preapproval with the department prior to purchasing the machinery or equipment that includes a description of the machinery or equipment, documentation of the amount of energy or energy-producing fuels consumed in the twelve (12) month period prior to the application for preapproval, and any other information the department may request; and
 - (b) Files an application for refund with information documenting achievement of the energy-efficiency standards required by Section 2 of this Act within eighteen (18) months from the time the machinery or equipment was placed in service.
- (3) The burden of proof that the purchase of the machinery or equipment resulted in a decrease in the consumption of energy or energy-producing fuel is upon the purchaser.
- (4) Interest shall not be allowed or paid on any refund made under this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

As used in Sections 3 to 16 of this Act, unless the context requires otherwise:

- (1) "Agreement" means a written contract between the authority and any person or persons, firm, corporation, or public entity including but not limited to local government, state government, federal government or public university providing for or relating to the financing of the construction, reconstruction, improvement, or repair of one (1) or more projects of the authority;
- (2) "Authority" means the Kentucky Energy Development Authority created in Section 4 of this Act;
- (3) "Bonds" means revenue bonds, notes, or other obligations issued under the provisions of Sections 3 to 16 of this Act;
- (4) "Cost" means the expenditures for construction, acquisition of land, rights of way, easements and interests required for such construction, demolishing or removing any buildings on land so acquired, financing charges, interest prior to and during construction, principal and interest on any bonds, notes, or obligations issued by the authority, engineering and legal expenses, plans, specifications, cost and revenue estimates, other expenses necessary or incidental to determining the feasibility or practicality of constructing any project, administrative expenses, and such other expenses necessary or incident to the construction of and placing into operation of a project; and
- (5) "Project" means any building, facility, or structure that the authority may deem necessary for the promotion of an alternative fuel facility or renewable energy facility.

SECTION 4. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

- (1) The Kentucky Energy Development Authority is created and shall be composed of the following members:
 - (a) The secretary of the Finance and Administration Cabinet or designee;
 - (b) The state budget director or designee;
 - (c) The secretary of the Cabinet for Economic Development or designee;
 - (d) The chairman of the Kentucky Economic Development Authority or designee; and
 - (e) The director of the Kentucky Center for Applied Energy Research or designee.
- (2) The five (5) members of the authority and their successors shall be a body corporate and politic, with perpetual succession, constituting a public corporation and a governmental agency and instrumentality of the Commonwealth. The authority shall have the power, in its corporate name, to contract and be contracted with, acquire and convey property, sue and be sued, have and use a corporate seal, and exercise all of the usual powers of corporations not inconsistent with the authority's specifically enumerated powers.

- (3) The members of the authority shall receive no compensation for their services, but shall be entitled to reimbursement for their actual and necessary expenses incurred in the performance of their duties under Sections 3 to 16 of this Act.
- (4) The members of the authority shall elect a chair from their membership.
- (5) The authority shall designate an employee of the Office of Energy Policy to serve as treasurer of the authority. The treasurer shall give bond to the authority for a faithful accounting for all funds coming into his or her custody, in the amount the authority may prescribe, drawn upon a surety company qualified to do business in the Commonwealth. The premium shall be paid by the Commonwealth.
- (6) The authority shall establish and maintain an office in Frankfort, Kentucky and keep accurate and complete records of the authority's actions and proceedings, which shall be available for public inspection in accordance with KRS 61.870 to 61.884. The Office of Energy Policy shall provide the funds, staff, facilities, and materials required by the authority in the conduct of its duties and functions.

SECTION 5. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

- (1) If any officers of the authority whose signature, or a facsimile thereof, appears on any bonds of the authority or on any other instruments or documents pertaining to the functions of the authority ceases to be an officer before delivery of the bonds, or before the effective date or occasion of the instruments or documents, the signature or facsimile shall nevertheless be valid for all purposes the same as if the officer had remained in office until the delivery or effective date or occasion.
- (2) Any three (3) voting members of the authority shall constitute a quorum.
- (3) Meetings of the authority shall be called by the chair. The chair shall give notice by any means agreed upon by the membership, at least ten (10) days prior to the time of any meeting.
- (4) The authority may adopt bylaws relating to its organization and internal management.
- (5) The authority shall promulgate administrative regulations for the conducting of its business and affairs including criteria for project eligibility, in accordance with the provisions of KRS Chapter 13A.

SECTION 6. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

The primary purpose of the authority shall be to provide a financing mechanism for projects, as defined in Section 3 of this Act, that will increase tax revenue for Kentucky, create jobs for Kentuckians, and create a competitive advantage in environmentally responsible development of Kentucky's coal and agricultural resources. In addition, the authority shall help ensure the nation's energy security by helping to facilitate projects which will reduce the country's dependence upon imported petroleum. The authority may:

- (1) Determine the number and location of projects most beneficial to Kentucky;
- (2) Facilitate the construction of a project, as defined in Section 3 of this Act, that benefits the Commonwealth;
- (3) Acquire and convey real estate and any improvements, buildings, and facilities located thereon for which a project is undertaken, in the manner and under the terms as may be set forth in the agreement;
- (4) Issue revenue bonds and revenue bond anticipation notes of the authority payable solely from the revenues, rentals, and other funds pledged for their payment, for the purpose of paying any part of the cost of one (1) or more projects and refunding any bonds;
- (5) Grant, convey, assign, or lease any easement or rights of way that are acquired, owned, or leased by the authority and related to a project;
- (6) Employ consulting engineers, attorneys, accountants, construction and financial experts, managers, and other employees or agents who, in the judgment of the authority, are necessary, and fix their compensation;
- (7) Enter into contracts with parties that are necessary and incidental to the performance of its duties and execution of its powers under Sections 3 to 16 of this Act;
- (8) Establish and enforce rules and specifications regarding any project undertaken by the authority, except during any period when the powers are assigned to a lessee pursuant to a lease agreement. The rules and specifications shall be consistent with federal and state laws and regulations pertaining to such projects;
- (9) Receive, accept, and expend funds or other contributions from any source, public or private, for or in aid of any project undertaken by the authority;
- (10) Create and establish a debt service reserve pursuant to proceedings and trust indenture of the authority; and
- (11) Do all things and perform all acts desirable, necessary, and proper to carry out the powers expressly granted to the authority by this section, including the promulgation of administrative regulations pursuant to KRS Chapter 13A.
- (12) The authority shall review all applications for state participation in eligible projects as defined in Section 25 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

- (1) (a) The authority may provide for the issuance of revenue bonds to pay any part of the cost of any projects undertaken pursuant to an agreement. The principal and interest on these bonds shall be payable solely from the funds provided for such payment. Any issue may be in one (1) or more series and any series may enjoy equal or subordinate status with respect to the pledge of funds from which they are payable, shall be dated,

shall bear interest at such rate as established by the authority, shall mature at a time not exceeding thirty (30) years from their date, and may be made redeemable before maturity, at the option of the authority, at the price and under the terms and conditions as may be fixed by the authority prior to the issuance of the bonds.

- (b) The authority shall determine the form of the bonds and fix the denomination of the bonds and the place for payment of principal and interest, which may be at any bank or trust company in or outside this Commonwealth. The bonds shall be signed by the facsimile signature of the chair or authorized officer of the authority, and the seal of the authority or a facsimile thereof shall be affixed thereto and attested by the manual or facsimile signature of the authorized officer or chair of the authority.
- (c) All bonds issued under the provisions of Sections 3 to 16 of this Act shall have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code, KRS Chapter 355. The authority may sell bonds at public or private sale.
- (2) (a) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects for which the bonds are issued, and shall be disbursed in the manner and under any restrictions as the authority may provide in the proceedings authorizing the issuance of the bonds or in the trust indenture securing them.
- (b) If the proceeds of the bonds of any issue, by error of estimates or otherwise, is less than the cost, additional bonds may be issued in like manner to provide the amount of the deficit and, unless otherwise provided in the proceedings authorizing the issuance of the bonds or in the trust indenture securing them, shall be deemed to be of the same issue and entitled to payment from the same fund without preference or priority of the bonds first issued.
- (c) If the proceeds of the bonds of any issue exceed the cost, the surplus shall be deposited to the credit of the sinking fund for these bonds or any account therein as the authority shall provide in the proceedings or trust indenture authorizing and securing the bonds.
- (3) Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue notes or temporary bonds that shall be exchangeable for definitive bonds when the definitive bonds are executed and available for delivery.

SECTION 8. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

Bonds issued by the authority under Sections 3 to 16 of this Act shall not constitute a debt of this Commonwealth or any political subdivision thereof or a pledge of the faith and credit of the Commonwealth or any political subdivision. The bonds shall be payable solely from the funds and security provided for payment under Sections 3 to 16 of this Act, and each bond shall contain a statement to that effect on its face.

SECTION 9. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

- (1) In the discretion of the authority, any bonds issued under Sections 3 to 16 of this Act may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company in or outside of Kentucky. The trust indenture or the proceedings providing for the issuance of the bonds may:
 - (a) Pledge or assign the rents and other revenues to be received from a particular series of bonds as it relates to a trust indenture;
 - (b) Contain provisions for protecting and enforcing the rights and remedies of the bondholders that are reasonable and proper and not in violation of law, including covenants setting forth the duties of the authority in relation to the acquisition or sale of property and the construction, improvement, maintenance, repair, and insurance of the project in connection with the bonds are authorized; the rates or rental charges; and the custody, safeguarding, and application of all moneys;
 - (c) Restrict the individual right of action by bondholders; and
 - (d) Contain other provisions as the authority may deem reasonable and proper for the security of the bondholders.
- (2) It is lawful for any bank or trust company which may act as depository of the proceeds of bonds or of revenues to furnish indemnifying bonds or pledge securities as may be required by the rights and remedies of the bondholders and of the trustee. All expenses incurred in carrying out the provisions of the trust indenture or proceedings may be treated as a part of the cost of the project or projects.

SECTION 10. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

Any holder of bonds issued under Sections 3 to 16 of this Act and the trustee under any trust indenture, except to the extent that rights may be restricted by the trust indenture, may, either at law or in equity, by suit, action, mandamus, or other proceedings, protect and enforce any and all rights arising under the laws of this Commonwealth, a trust indenture, or a proceeding authorizing the issuance of bonds, and may enforce and compel the performance of duties required under Sections 3 to 16 of this Act, including the fixing, charging, and collecting of rents.

SECTION 11. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

- (1) Bonds issued by the authority are securities in which all public officers and public bodies, agencies, and instrumentalities of this Commonwealth and its political subdivisions, insurance companies, trust companies, bank

associations, investment companies, executors, administrators, trustees and other fiduciaries, and other persons who are authorized to invest in bonds or similar obligations may invest funds.

- (2) The bonds are securities which may be deposited with any state or municipal officer or any agency or political subdivision of the Commonwealth for any purpose for which the deposit of bonds or other obligations of the Commonwealth is authorized by law.

SECTION 12. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

- (1) The authority may provide for the issuance of revenue refunding bonds for the purpose of refunding any outstanding bonds that have been issued under Sections 3 to 16 of this Act, including the payment of any redemption premium thereon and any interest accrued to the date of redemption of the bonds, and, if the authority determines, for the purpose of constructing improvements, extensions, or enlargements of the project in connection with which the bonds to be refunded have been issued. The authority may also provide for the issuance of its revenue bonds for the combined purposes of:
- (a) Refunding any outstanding bonds that are issued under Sections 3 to 16 of this Act, including the payment of any redemption premium and any interest accrued to the date of redemption of the bonds; and
- (b) Paying any part of the cost of any additional project.
- (2) The issuance of bonds, their maturities and other details, the rights of the bondholders, and the rights, duties, and obligations of the authority, shall be governed by Sections 3 to 16 of this Act where applicable.

SECTION 13. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

All moneys received under Sections 3 to 16 of this Act, either from the sale of bonds or as revenues, shall be held and applied solely as provided in Sections 3 to 16 of this Act. The proceedings or the trust indenture shall provide that any officer with whom, or any bank or trust company with which, these moneys are deposited shall act as trustee of the moneys and shall hold and apply them for the purposes stated, subject to any regulation that Sections 3 to 16 of this Act, proceedings thereunder, or the trust indenture may provide.

SECTION 14. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

The property of the authority and its income and operation shall be exempt from all taxation by this state or any of its political subdivisions. All bonds and notes of the authority, the interest thereon, and their transfer shall be exempt from all taxation by this state or any of its political subdivisions, except for estate, gift, and inheritance taxes, notwithstanding that interest on bonds or notes of the authority may be or become subject to federal income taxation.

SECTION 15. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

Nothing in KRS 45A.045 shall be construed to apply to any project undertaken by the authority pursuant to Sections 3 to 16 of this Act.

SECTION 16. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

- (1) Beginning January 1, 2008, and by January 1 of subsequent years, the authority shall make an annual report of its activities for the preceding fiscal year to the Office of the State Budget Director and to the Interim Joint Committee on Appropriations and Revenue. Each report shall set forth a complete operating and financial statement covering the authority's operations during the year including:
- (a) A list of applications considered by the authority during the prior calendar year, including the name of the applicant, a description of the project, the level of participation requested from the Commonwealth, and whether the application was approved; and
- (b) For each approved application, the report shall include:
1. The total commitment made by the Commonwealth, detailed by type of tax and estimated incremental revenues pledged for each tax; and
 2. The length of the commitment.
- (2) The authority shall provide for an audit of its books and accounts to be made within ninety (90) days after the close of each fiscal year by certified public accountants and the cost thereof may be treated as a part of the cost of construction of the project. Audits under this section shall be public records within the meaning of KRS 61.870 to 61.884.

Section 17. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020, 141.040, and 141.0401, the priority of application and use of the credits shall be determined as follows:

- (1) The nonrefundable business incentive credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) 1. For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(a);
 2. For taxable years beginning after December 31, 2006, the limited liability entity tax credit permitted by KRS 141.0401;

- (b) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;
 - (c) The certified rehabilitation credit permitted by KRS 171.397;
 - (d) The health insurance credit permitted by KRS 141.062;
 - (e) The tax paid to other states credit permitted by KRS 141.070;
 - (f) The credit for hiring the unemployed permitted by KRS 141.065;
 - (g) The recycling or composting equipment credit permitted by KRS 141.390;
 - (h) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (i) The coal incentive credit permitted under KRS 141.0405;
 - (j) The research facilities credit permitted under KRS 141.395;
 - (k) The employer GED incentive credit permitted under KRS 151B.127;
 - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) The biodiesel credit permitted by KRS 141.423;
 - (n) The environmental stewardship credit permitted by KRS 154.48-025;~~[-and]~~
 - (o) The clean coal incentive credit permitted by KRS 141.428; and
 - (p) The ethanol credit permitted by Section 21 of this Act.
- (2) After the application of the nonrefundable credits in subsection (1) of this section, the nonrefundable personal tax credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual credits permitted by KRS 141.020(3);
 - (b) The credit permitted by KRS 141.066;
 - (c) The tuition credit permitted by KRS 141.069; and
 - (d) The household and dependent care credit permitted by KRS 141.067.
- (3) After the application of the nonrefundable credits provided for in subsection (2) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
- (a) The individual withholding tax credit permitted by KRS 141.350;
 - (b) The individual estimated tax payment credit permitted by KRS 141.305; and
 - (c) For taxable years beginning after December 31, 2004, and before January 1, 2007, the corporation income tax credit permitted by KRS 141.420(3)(c).
- (4) The nonrefundable credit permitted by KRS 141.0401 shall be applied against the tax imposed by KRS 141.040.
- (5) The following nonrefundable credits shall be applied against the sum of the tax imposed by KRS 141.040 after subtracting the credit provided for in subsection (4) of this section, and the tax imposed by KRS 141.0401 in the following order:
- (a) The economic development credits computed under KRS 141.347, 141.400, 141.401, 141.403, 141.407, 141.415, and 154.12-2088;
 - (b) The certified rehabilitation credit permitted by KRS 171.397;
 - (c) The health insurance credit permitted by KRS 141.062;
 - (d) The unemployment credit permitted by KRS 141.065;
 - (e) The recycling or composting equipment credit permitted by KRS 141.390;
 - (f) The coal conversion credit permitted by KRS 141.041;
 - (g) The enterprise zone credit permitted by KRS 154.45-090, for taxable periods ending prior to January 1, 2008;
 - (h) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263 in effect prior to July 15, 2002, and the credit permitted by KRS 154.20-258;
 - (i) The coal incentive credit permitted under KRS 141.0405;
 - (j) The research facilities credit permitted under KRS 141.395;
 - (k) The employer GED incentive credit permitted under KRS 151B.127;
 - (l) The voluntary environmental remediation credit permitted by KRS 141.418;
 - (m) The biodiesel credit permitted by KRS 141.423;
 - (n) The environmental stewardship credit permitted by KRS 154.48-025;~~[-and]~~
 - (o) The clean coal incentive credit permitted by KRS 141.428; and
 - (p) The ethanol credit permitted by Section 21 of this Act.

- (6) After the application of the nonrefundable credits in subsection (5) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the total of any remaining taxes imposed by KRS 141.040 and the tax imposed by KRS 141.0401.

Section 18. KRS 141.0405 is amended to read as follows:

- (1) There shall be allowed a nonrefundable credit against taxes imposed by the Commonwealth on any taxpayer that:
- (a) 1. Is an electric power company as defined in KRS Chapter 136; ~~or~~
 2. Is an entity that owns or operates a coal-fired electric generation plant; or
 3. Is an alternative fuel facility as defined in Section 25 of this Act unless the facility has been approved for incentives under Sections 24 to 30 of this Act or Section 31 of this Act;
 - (b) Remits tax to the Commonwealth under KRS 136.070, 136.120, 141.020, 141.040, or 141.0401; and
 - (c) 1. Purchases coal subject to the tax imposed under KRS 143.020 that is used by the taxpayer, or by a parent company if the taxpayer is a wholly owned subsidiary, for the purpose of generating electricity; or
 2. Purchases or severs and uses coal that is subject to the tax imposed under KRS 143.020 that is used by the taxpayer, or by a parent company if the taxpayer is a wholly owned subsidiary, for the use in an alternative fuel facility.
- (2) The amount of the allowable credit shall be two dollars (\$2) per each incentive ton of coal purchased or severed and used that is subject to tax under KRS 143.020 and that is used to generate electric power or used as fuel for an alternative fuel facility.
- (3) Incentive tons are calculated as the tons of coal purchased or severed and used in the current year for which coal severance tax was paid minus the tons of coal purchased or severed and used during the base year.
- (4) The base year amount shall be equal to:
- (a) For entities existing on July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the tons of coal purchased and used to generate electricity during the twelve (12) calendar months ending in December 31, 1999, that were subject to the tax imposed by KRS 143.020; or
 - (b) For entities that come into existence after July 14, 2000, that meet the eligibility requirements imposed under subsection (1) of this section, the base year amount shall be equal to zero (0). However, no company qualifying for the credit as of July 14, 2000, with a base year calculation as provided under subsection (4)(a) of this section may create an affiliate, subsidiary, or corporation that would qualify for a base year of zero (0).
- (5) On or before March 15 of each year, a company eligible for the credit provided under subsection (2) of this section shall file a coal incentive credit claim on forms prescribed by the Department of Revenue. At the time of filing for the credit, the taxpayer shall submit verification of the tons of coal purchased or severed and used in the base year and the tons of coal purchased or severed and used in the year for which the credit is being claimed. The Department of Revenue shall determine the amount of the eligible credit and issue a credit certificate to the taxpayer.
- (6) The taxpayer shall be eligible to apply, subject to the conditions imposed under subsection (7) of this section, the amount identified on the credit certificate issued by the Department of Revenue under subsection (5) of this section, against the taxpayer's liability for the taxes, in consecutive order as follows:
- (a) The credit shall first be applied against both the taxes imposed by KRS 141.020 or 141.040 and the tax imposed by KRS 141.0401, with the ordering of credits as provided in KRS 141.0205;
 - (b) The credit shall next be applied to the taxes imposed by KRS 136.070; and
 - (c) Any remaining credit shall be applied against the taxes imposed by KRS 136.120.
- (7) The credit shall meet the entirety of the taxpayer's liability under the first tax listed in consecutive order under subsection (6) of this section before applying the remaining credit to the next tax listed in consecutive order. The taxpayer's total liability under each preceding tax must be fully met before the remaining credit can be applied to the subsequent tax listed in consecutive order.
- (8) The taxpayer shall maintain records required in subsection (5) of this section for a period of five (5) years.
- (9) Acceptable verification of coal purchased during the base year shall include invoices that indicate the tons of coal purchased from a Kentucky supplier of coal and proof of remittance for that purchase.
- (10) The Department of Revenue shall develop the forms required under subsection (5) of this section, specifying the procedure for claiming the credit, and applying the credit against the taxpayer's liability in the order provided under subsections (6) and (7) of this section.

Section 19. KRS 141.0406 is amended to read as follows:

Except in the case of an alternative fuel facility as defined in Section 25 of this Act, the Coal Incentive Credit authorized under KRS 141.0405 shall be allowed for ten (10) consecutive years beginning on July 15, 2001. In the case of an alternative fuel facility, the Coal Incentive Credit shall be allowed for tax periods beginning after December 31, 2008, and ending before January 1, 2021. Continuation of the credit authorized under this section shall require reauthorization by the General Assembly.

Section 20. KRS 141.422 is amended to read as follows:

As used in KRS 141.422 to 141.425:

- (1) "Annual biodiesel tax credit cap" means ~~ten~~~~one~~ million ~~five hundred thousand~~ dollars (\$10,000,000)~~(\$1,500,000)~~;
- (2) "Annual ethanol tax credit cap" means ten million dollars (\$10,000,000);
- (3) "Biodiesel" means a renewable, biodegradable, mono alkyl ester combustible liquid fuel derived from agriculture plant oils or animal fats that meets American Society for Testing and Materials specification D6751-03 for biodiesel fuel (B100) blend stock distillate fuels;
- ~~(4)~~~~(3)~~ "Biodiesel producer" means a business that uses agricultural crops, agricultural residues, or waste products to manufacture biodiesel at a location in this Commonwealth;~~and~~
- ~~(5)~~~~(4)~~ "Blended biodiesel" means a blend of biodiesel with petroleum diesel so that the percentage of biodiesel in the blend is at least two percent (2%) (B2 or greater); and
- (6) "Ethanol" has the same meaning as in KRS 247.910.

SECTION 21. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) (a) For taxable years beginning after December 31, 2008, an ethanol producer shall be entitled to a nonrefundable tax credit against the taxes imposed by KRS 141.020 or 141.040 and KRS 141.0401 in an amount certified by the department under subsection (3) of this section. The credit rate shall be one dollar (\$1) per ethanol gallon unless the total amount of approved credit for all ethanol producers exceeds the annual ethanol tax credit cap. If the total amount of approved credit for all ethanol producers exceeds the annual ethanol tax credit cap, the department shall determine the amount of credit each ethanol producer receives by multiplying the annual ethanol tax credit cap by a fraction, the numerator of which is the amount of approved credit for the ethanol producer and the denominator of which is the total approved credit for all ethanol producers.
- (b) The credit allowed under paragraph (a) of this subsection shall be applied both to the income tax imposed under KRS 141.020 or 141.040 and to the limited liability entity tax imposed under KRS 141.0401, with the ordering of credits as provided in Section 17 of this Act.
- (2) The credit shall not be carried forward to a return for any other period.
- (3) Each ethanol producer eligible for the credit provided under subsection (1) of this section shall file an ethanol tax credit claim for ethanol gallons produced in this state on forms prescribed by the department by the fifteenth day of the first month following the close of the preceding calendar year. The department shall determine the amount of the approved credit based on the amount of ethanol produced in this state during the preceding calendar year and issue a credit certificate to the ethanol producer by the fifteenth day of the fourth month following the close of the calendar year.
- (4) In the case of an ethanol producer that has a fiscal year end for purposes of computing the tax imposed by KRS 141.040, the amount of approved credit shall be claimed on the return filed for the first fiscal year ending after the close of the preceding calendar year.

SECTION 22. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

- (1) An ethanol producer that is a pass-through entity not subject to tax under KRS 141.040, shall apply the amount of approved credit against the tax imposed by KRS 141.0401 at the entity level, and shall also distribute the amount of the approved credit to each partner, member, shareholder, or beneficiary based on the partner's, member's, shareholder's, or beneficiary's distributive share of the income of the pass-through entity.
- (2) Each ethanol producer shall notify the department electronically of all partners, members, shareholders, or beneficiaries who may claim any amount of the approved credit. Failure to provide information to the department in a manner prescribed by administrative regulation may result in the forfeiture of available credits to all partners, members, shareholders, or beneficiaries in the pass-through entity.

SECTION 23. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

From a list of potential sites developed by the Office of Energy Policy and suitable for development of alternative fuel facilities or renewable energy facilities as defined in Section 25 of this Act, the Office of Energy Policy may expend state funds for preliminary environmental and baseline assessments, inventories, and other activities on or for the potential sites in furtherance of environmental or other permitting required for the development of a facility.

SECTION 24. SUBCHAPTER 27 OF KRS CHAPTER 154 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

- (1) The provisions of Sections 24 to 30 and Section 31 of this Act shall be known as the "Incentives for Energy Independence Act".
- (2) The Incentives for Energy Independence Act shall consist of three (3) types of incentives:
 - (a) Tax increment financing utilizing the state income taxes and the limited liability entity tax, as set forth in Sections 24 to 29 of this Act;
 - (b) Sales tax refunds for purchases made to construct, retrofit or upgrade an eligible project, as set forth in Section

31 of this Act; and

- (c) Incentives for the purchase of coal that is subject to the tax imposed under KRS 143.020 and that is specifically used by an approved company as feedstock for an eligible project, as set forth in Section 30 of this Act.

SECTION 25. A NEW SECTION OF SUBCHAPTER 27 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in Sections 24 to 30 of this Act:

- (1) "Activation date" means the date established any time within a five (5) year period after the commencement date. The activation date is the date on which the time period for the pledge of incremental revenues shall commence. The Commonwealth may extend the five (5) year period to no more than seven (7) years upon written application by the approved company requesting the extension. To implement the activation date, the approved company that is a party to the project grant agreement shall notify the authority;
- (2) "Alternative fuel facility" means a facility located in Kentucky, that:
 - (a) Produces for sale alternate transportation fuels as defined in KRS 152.715;
 - (b) Produces for sale synthetic natural gas as defined in KRS 152.715; or
 - (c) Generates for sale chemical feedstocks, or liquid fuels, including but not limited to methane, methanol, or nitrogen fertilizer, from coal through a gasification process and may co-produce electricity;
- (3) "Approved company" means a corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust or any other entity approved for inducements under Section 26 of this Act;
- (4) "Authority" means the Kentucky Energy Development Authority established in Section 4 of this Act;
- (5) (a) "Capital investment" means:
 1. Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an eligible project;
 2. The cost of acquiring land or rights in land on the footprint of the eligible project, and any cost incident thereto, including recording fees;
 3. The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an eligible project which is not paid by the contractor or contractors or otherwise provided;
 4. All costs of architectural and engineering services, including test borings, surveys, estimates, plans, specifications, preliminary investigations, supervision of construction, and the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an eligible project;
 5. All costs that are required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an eligible project; and
 6. All other costs of a nature comparable to those described in this subsection;
- (b) Capital investment does not include costs described in paragraph (a) of this subsection that are paid for with funds received from the federal government or that are reimbursed by the federal government.
- (6) "Commencement date" means the date on which a project grant agreement is executed;
- (7) "Commonwealth" means the Commonwealth of Kentucky;
- (8) "CPI" means the nonseasonally adjusted Consumer Price Index for all urban consumers, all items, base year computed for 1982 to 1984 equals one hundred (100), published by the United States Department of Labor, Bureau of Labor Statistics;
- (9) "Department" means the Department of Revenue;
- (10) "Eligible project" means:
 - (a) An alternative fuel facility for which a minimum capital investment of at least one hundred million dollars (\$100,000,000) is made after the commencement date; or
 - (b) A renewable energy facility;
- (11) "Footprint" means the actual perimeter of a discrete, identified eligible project;
- (12) "Incremental revenues" means the amount of revenues received by the Commonwealth as determined by subtracting old revenues from new revenues in a calendar year with respect to the footprint of an eligible project;
- (13) "New revenues" means the amount of state tax revenues received by the Commonwealth with respect to the footprint of an eligible project in any calendar year beginning with the year in which the activation date occurred;
- (14) "Office" means the Office of Energy Policy;

(15) "Old revenues" means:

(a) The amount of state tax revenues received by the Commonwealth from the footprint of an eligible project during the last calendar year prior to the commencement date. The office shall consult with the department regarding the determination of old revenues. If the department determines that the amount of state tax revenues received during the last calendar year prior to the commencement date does not represent a true and accurate depiction of revenues, the department may consider revenues for a period of no longer than three (3) calendar years prior to the commencement date, so as to determine a fair representation of state tax revenues. The amount determined by the department shall be communicated to the office and shall be specified in the project grant agreement. If state tax revenues were derived from the footprint of the project prior to the commencement date, old revenues shall increase each calendar year by:

1. The percentage increase, if any, of the CPI or a comparable index; or
2. An alternative percentage increase that is determined to be appropriate by the department.

The method for increasing old revenues shall be set forth in the project grant agreement;

(b) If state revenues were derived from the footprint of the eligible project prior to the commencement date, the calculation of incremental revenues shall be based on the value of old revenues as increased using the method prescribed in subparagraph 1. of this paragraph to reflect the same calendar year as is used in the determination of new revenues.

(16) "Project grant agreement" means an agreement entered into under Section 27 of this Act;(17) "Renewable energy facility" means a facility located in Kentucky that utilizes:

- (a) Wind power, biomass resources as defined in KRS 152.715, landfill methane gas, or hydropower to generate electricity for sale in excess of one (1) megawatt; or
- (b) Solar power to generate electricity for sale in excess of fifty (50) kilowatts.

(18) "State tax revenues" means revenues received by the Commonwealth from one (1) or more of the following sources:

- (a) Individual income taxes levied under KRS 141.020;
- (b) Corporation income taxes levied under KRS 141.040; and
- (c) Limited liability entity taxes levied under KRS 141.0401;

(19) "Termination date" means a date established by the project grant agreement that is no more than twenty (20) years from the activation date.

SECTION 26. A NEW SECTION OF SUBCHAPTER 27 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) A company with an eligible project may submit an application to the office requesting that the Commonwealth participate in the eligible project.(2) The application shall include:

- (a) The name of the applicant;
- (b) The type of facility;
- (c) A description of the location;
- (d) A full description of the eligible project scope, including but not limited to:
 1. A list, and the status of applicable permits, certificates, or approvals necessary;
 2. Any feasibility studies including supporting documents; and
 3. Anticipated sources of eligible project funding;
- (e) A finding that the eligible project would not be constructed without public assistance. This finding shall be supported by specific reasons and supporting facts, including a clear demonstration of the financial need for public assistance;
- (f) A finding that the public benefits for the eligible project justify the public costs proposed. This finding shall be supported by specific data and figures demonstrating that the eligible projected benefits outweigh the anticipated costs and shall take into account the positive and negative effects of investment in the eligible project on existing businesses and residents in the Commonwealth; and
- (g) Other information as required by the office.

(3) The office shall review the application to determine if the applicant has met all of the statutory and regulatory requirements established by Sections 24 to 30 of this Act and Section 31 of this Act and shall notify the applicant in writing of its determination. This review shall be preliminary in nature and shall not constitute approval of the request. All applications for participation by the Commonwealth shall be reviewed by the authority for approval.(4) Applications meeting all statutory and regulatory requirements requesting participation by the Commonwealth, along with any supporting materials, shall be referred by the office to the authority for consideration.

- (5) Additional standards and requirements for the application process shall be established by the office through the promulgation of administrative regulations in accordance with KRS Chapter 13A.
- (6) The authority may request any materials and make any inquiries concerning an application that the authority deems necessary.
- (7) Upon review of an application and other information available, the authority may pledge all or a portion of the state tax revenues attributable to the footprint of the eligible project. Eligible projects that meet the criteria established by Sections 24 to 29 of this Act shall be eligible to recover up to one hundred percent (100%) of capital investment in the eligible project.
- (8) The authority shall specifically identify the state taxes from which incremental revenues will be pledged. The authority may pledge up to eighty percent (80%) of the incremental revenues from the identified state tax revenues from the footprint of the eligible project, provided that the maximum amount of incremental revenues that may be pledged for an eligible project during the term of the project grant agreement from all approved state taxes shall not exceed one hundred percent (100%) of the capital investment in the eligible project.
- (9) The pledge of state tax revenues of the Commonwealth by the authority shall be implemented through the execution of a project grant agreement between the Commonwealth and the approved company, in accordance with Section 27 of this Act.
- (10) As part of the approval process, the authority shall determine the following:
 - (a) The footprint of the eligible project;
 - (b) The maximum amount of approved capital investment;
 - (c) The termination date of the project grant agreement, not to exceed twenty (20) years from the activation date; and
 - (d) Any adjustments to be made to old revenues, in determining incremental revenues during each year of the term of the project grant agreement.

SECTION 27. A NEW SECTION OF SUBCHAPTER 27 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) The terms and conditions of the project grant agreement shall be negotiated between the authority and approved company. The project grant agreement shall include but not be limited to the following provisions:
 - (a) The duties and responsibilities of the parties;
 - (b) The specific identification of the state tax revenues, by type of tax, to be released or pledged by the Commonwealth for the eligible project;
 - (c) 1. A detailed summary of old revenues collected and projected new revenues for the Commonwealth on an annual basis for the term of the project grant agreement; and
 - 2. The maximum amount of incremental revenue to be released by the Commonwealth and the maximum number of years the pledge of incremental revenues will be effective;
 - (d) A detailed description of each eligible project that is the subject of the project grant agreement, including an estimate of the costs of construction or acquisition and development;
 - (e) Identification of the eligible project footprint from which the state incremental revenues pledged by the Commonwealth are to be derived;
 - (f) The minimum capital investment required;
 - (g) The termination date;
 - (h) Any agreement related to sales tax refunds under Section 31 of this Act or incentives for the purchase of coal under Section 30 of this Act;
 - (i) A requirement that the office monitor the project grant agreement; and
 - (j) Any other provisions not inconsistent with Sections 24 to 30 of this Act and Section 31 of this Act deemed necessary or appropriate by the parties to the project grant agreement.
- (2) Any pledge of incremental revenues in a project grant agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date, supersede any statute regarding the application or use of incremental revenues.
- (3) Any project grant agreement shall be made on the basis of automatic year-to-year renewals, with the option to discontinue upon sixty (60) days' notice before the end of any annual termination date of the project grant agreement.

SECTION 28. A NEW SECTION OF SUBCHAPTER 27 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) Prior to any incremental revenues being released by the Commonwealth for any eligible project, the office shall certify that the minimum capital investment has been made as required by the project grant agreement.
- (2) The office shall monitor all project grant agreements and shall verify expenditures.

- (3) The office shall track the amount of incremental revenues released to each eligible project under each project grant agreement.
- (4) The office shall prepare a quarterly report for the authority updating the status of each eligible project subject to a project grant agreement.

SECTION 29. A NEW SECTION OF KRS SUBCHAPTER 27 OF CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) Any approved company that enters into a project grant agreement for the release of incremental revenues shall, after each calendar year in which a project grant agreement is in effect, notify the authority that incremental revenues are due. The authority, in consultation with the department shall request any necessary information from the approved company. The department shall review and verify the information submitted and shall certify the verified amount.
- (2) Upon certification of the total incremental revenues due from the Commonwealth the department shall transfer the incremental revenues to a tax increment financing account established and administered by the Finance and Administration Cabinet for payment of the Commonwealth's portion of the incremental revenues. Prior to disbursement by the Finance and Administration Cabinet of the funds from the tax increment financing account, the office shall notify the Finance and Administration Cabinet that the approved company is in compliance with the terms of the project grant agreement. Upon notification, the Finance and Administration Cabinet shall release to the approved company the incremental revenues due under the project grant agreement.
- (3) The Department of Revenue shall have no obligation to refund or otherwise return any of the incremental revenues to the taxpayer from whom the incremental revenues arose or are attributable. Further, no additional incremental revenues resulting from audit, amended returns, or other activity for any period shall be transferred to the tax increment financing account after the initial release to the approved company of the Commonwealth's increment for that period.

SECTION 30. A NEW SECTION OF SUBCHAPTER 27 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

- (1) As used in this section:
 - (a) "Activation date" means "activation date" as defined in Section 25 of this Act;
 - (b) "Approved company" means "approved company" as defined in Section 25 of this Act;
 - (c) "Authority" means the Kentucky Energy Development Authority established under Section 4 of this Act;
 - (d) "Base amount" means the tons of coal purchased and used by the approved company as feedstock for an eligible project during the calendar year prior to the commencement date, that were subject to the tax imposed by KRS 143.020;
 - (e) "Commencement date" means "commencement date" as defined in Section 25 of this Act;
 - (f) "Eligible project" means "eligible project" as defined in Section 25 of this Act;
 - (g) "Office" means "office" as defined in Section 25 of this Act;
 - (h) "Project grant agreement" means "project grant agreement" as defined in Section 25 of this Act; and
 - (i) "Termination date" means "termination date" as defined in Section 25 of this Act.
- (2) (a) Notwithstanding any other provision of KRS Chapter 143 and KRS 134.580, an approved company that purchases coal that is subject to the tax imposed under KRS 143.020 and that is specifically used by the approved company as feedstock for an eligible project may qualify for an incentive in an amount up to eighty percent (80%) of the taxes paid pursuant to KRS 143.020 on coal purchased by the approved company that is above the base amount, and that is specifically used by the approved company as feedstock in an eligible project. Eligibility for this incentive shall begin no earlier than the activation date of the project grant agreement and shall end at the termination date of the project grant agreement.
- (b) An approved company that has purchased coal subject to the tax imposed under KRS 143.020 prior to the execution of a project grant agreement shall not create an affiliate, subsidiary, corporation or other related entity that would result in a base amount of zero (0).
- (3) The authority shall notify the department upon approval of an eligible project. The notification shall include the name of the eligible project, the name of the approved company, the commencement date of the project grant agreement.
- (4) The approved company shall file an application for incentives with the office within sixty (60) days following the end of each calendar year. The application shall be in the form prescribed by the office through the promulgation of administrative regulations in accordance with KRS Chapter 13A. The application shall include, but shall not be limited to the following information:
 - (a) Verification of the base amount;
 - (b) Verification of the tons of coal purchased and used by the approved company as feedstock for an eligible project during the calendar year for which the incentive application is being made; and
 - (c) Any other information that the office may require.

- (5) (a) The office shall review the application, and shall verify that the application meets any requirements established by statute or regulation. When the office is satisfied that the application is complete and that it meets all requirements, the office shall forward the application and necessary supporting information to the department for verification of the tax paid pursuant to KRS 143.020 on the coal purchased by the approved company and used as feedstock for an eligible project during the calendar year for which the application was submitted.
- (b) The department shall certify the taxes paid on the coal purchased by the approved company and used as feedstock for the eligible project during the calendar year for which the application was submitted, and shall notify the office of the amount.
- (c) The office shall determine the approved incentive amount, and shall notify the approved company and the department of the incentive amount, which amount may be less than the amount certified by the department. The incentive amount shall be distributed to the approved company in quarterly installments beginning on July 1 of the year following the calendar year for which the application was submitted.
- (6) The approved company seeking incentives shall execute information sharing agreements prescribed by the office with vendors from which it purchased coal to verify the value of coal purchased by the approved company and used as feedstock for an eligible project, and the amount of tax paid under KRS 143.020 on such coal.

SECTION 31. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

- (1) As used in this section:
- (a) "Approved company" means "approved company" as defined in Section 25 of this Act;
- (b) "Authority" means the Kentucky Energy Development Authority established under Section 4 of this Act;
- (c) "Commencement date" means "commencement date" as defined in Section 25 of this Act;
- (d) "Eligible project" means "eligible project" as defined in Section 25 of this Act;
- (e) "Office" means "office" as defined in Section 25 of this Act; and
- (f) "Project grant agreement" means "project grant agreement" as defined in Section 25 of this Act.
- (2) (a) Notwithstanding any other provision of KRS Chapter 139 and KRS 134.580, an approved company constructing, retrofitting or upgrading an eligible project may be eligible for a refund of a portion of the Kentucky sales or use tax paid. That portion may be up to one hundred percent (100%) of the tax paid, less the amount of vendor compensation allowed under KRS 139.570, on the purchase of tangible personal property used to construct, retrofit, or upgrade an eligible project including building materials, machinery, and equipment. The tangible personal property must be incorporated into the eligible project.
- (b) The following purchases shall not be eligible for the refund:
1. Purchases made prior to the effective date of the project grant agreement; or
 2. Purchases of operating supplies, or repair and replacement parts.
- (3) The authority shall notify the department upon approval of an eligible project. The notification shall include the name of the eligible project, the name of the approved company, and the commencement date;
- (4) Approved companies seeking a refund under this section shall:
- (a) File an application with the office and shall include all documentation relating to the payment of the sales and use tax;
- (b) File the first year refund request within sixty (60) days following the end of the fiscal year including the commencement date; and
- (c) File the final refund request within sixty (60) days after the construction, retrofit, or upgrade is complete.
- (5) Interest shall not be allowed or paid on any refund made under the provisions of this section.
- (6) The approved company seeking the refund shall execute information sharing agreements prescribed by the department with contractors, vendors, and other related parties to verify the costs of tangible personal property eligible for the refund under this section.

Section 32. KRS 42.4582 is amended to read as follows:

- (1) There is hereby established in the State Treasury a fund entitled "Local Government Economic Development Fund." The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallotted or unencumbered balances in the fund shall be invested as provided for in KRS 42.500(9). Income earned from the investments shall be prorated for grants to counties according to the allotment schedule set out in KRS 42.4592.
- (2) (a) Moneys shall be transferred from the general fund ~~in~~ into this fund according to the following schedule:
- (a) ~~Effective July 1, 1992, an amount equal to fifteen percent (15%) of the severance and processing taxes on coal collected annually;~~
- (b) ~~Effective July 1, 1993, an amount equal to eighteen percent (18%) of the severance and processing taxes on coal collected annually;~~

- ~~(e) Effective July 1, 1994, an amount equal to twenty five percent (25%) of the severance and processing taxes on coal collected annually; and~~
- ~~(d) Effective July 1, 1995, and thereafter, an amount equal to fifty percent (50%) of the severance and processing taxes on coal collected annually, unless otherwise amended by the budget bill.~~
- (b) The transfers shall be made quarterly, based upon the revenue estimates prevailing at the time each quarterly transfer is due, except that the last quarterly transfer shall be made after the close of the fiscal year accounting records, and shall be adjusted to provide the balance of the annual transfer required by this subsection.**
- (c) The quarterly calculation and transfer of funds pursuant to ~~subsection (2)(d) of~~ this section shall be made only after:**
 - 1. The quarterly installment of the annual nineteen million dollars (\$19,000,000) allocation of coal severance tax revenues has been credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission as required by KRS 342.122; and**
 - 2. The quarterly installment of the annual amount from the prior calendar year allowed as an incentive to an approved company under the provisions of Section 30 of this Act.**

Section 33. KRS 42.4585 is amended to read as follows:

- (1) A portion of each quarterly transfer of moneys provided for in KRS 42.4582 shall be transferred from the local government economic development fund into the local government economic assistance fund ~~according to the following schedule:~~**
 - ~~(a) Effective July 1, 1992, an amount equal to eighty percent (80%) of each quarterly transfer;~~
 - ~~(b) Effective July 1, 1993, an amount equal to sixty six and seven tenths percent (66.7%) of each quarterly transfer;~~
 - ~~(c) Effective July 1, 1994, an amount equal to forty eight percent (48%) of each quarterly transfer; and~~
 - ~~(d) Effective July 1, 1995, and thereafter, an amount equal to twenty four percent (24%) of each quarterly transfer.~~
- ~~The transfers shall be made quarterly.]~~
- (2) The amount transferred annually from the local government economic development fund into the local government economic assistance fund under the provisions of subsection (1) of this section shall be not less than an amount equal to fifteen percent (15%) of the severance and processing taxes on coal collected annually.**
- (3) The quarterly calculation and transfer of funds pursuant to subsections (1) and (2) of this section shall be made only after:**
 - (a) The quarterly installment of the annual nineteen million dollars (\$19,000,000) allocation of coal severance tax revenues has been credited to the benefit reserve fund within the Kentucky Workers' Compensation Funding Commission as required by KRS 342.122; and**
 - (b) The quarterly installment of the annual amount from the prior calendar year allowed as an incentive to an approved company under the provisions of Section 30 of this Act.**

Section 34. Sections 1 to 33 of this Act are in accordance with the findings and determinations of the General Assembly set out in KRS 152.710. The purposes of this Act are to ensure that the Commonwealth is in the forefront of national efforts to achieve energy independence through reducing the state's reliance on imported oil and increasing the domestic production and use of alternate transportation fuels; synthetic natural gas; fuels such as methane, methanol, or nitrogen fertilizer produced through coal gasification; and electricity generated with solar power, wind power, biomass resources, landfill methane gas, or hydropower.

SECTION 35. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) The Advanced Placement incentive fund is hereby created to encourage schools to provide rigorous curricula and to make available accelerated classes and college credit for students. Funds shall be used to provide:**
 - (a) Payment of fees for the AP examination as defined in Section 4 of this Act;**
 - (b) Two (2) year grants to schools to support the start-up of AP programs in calculus, physics, and chemistry;**
 - (c) Monetary awards to teachers for students' success on AP examinations in calculus, physics, and chemistry;**
 - (d) Two (2) year grants to middle schools to support accelerated student learning in mathematics and the sciences; and**
 - (e) Scholarships for public high school students to take AP courses in calculus, physics, and chemistry through the Kentucky Virtual High School when those courses are not offered at the school in which they are enrolled.**
- (2) The Kentucky Board of Education shall promulgate an administrative regulation to define the request for proposal process and the reporting requirements for grant recipients, and to administer the Middle School Mathematics and Science Scholars Program. The Kentucky Department of Education shall administer the incentive fund, approve grant recipients, and distribute the funds to local school districts.**
- (3) To qualify for a two (2) year grant, a school shall initiate at least one (1) of the following course offerings: AP calculus, AP physics, or AP chemistry. The use of funds during the first year shall be used for planning and training of staff. The use of funds during the second year shall be to support an AP course in calculus, physics, or chemistry, including additional training of the AP teacher, purchase of classroom supplies, textbooks, and other instructional materials, and purchase of laboratory equipment.**

- (4) Schools applying for grants shall provide assurances that:
- (a) All AP teachers will participate in a College Board-endorsed summer AP training institute for each subject area for which the grant is awarded; and
 - (b) All students enrolled in the AP courses funded by the grants will take the AP examination in the respective courses.
- (5) The Kentucky Board of Education shall establish long-term and annual statewide goals for increasing:
- (a) The number of high schools providing rigorous curricula and making available accelerated classes and college credit for students;
 - (b) The number and percentage of students enrolled in AP calculus, chemistry, and physics courses;
 - (c) The number and percentage of students taking the calculus, chemistry, and physics AP examinations;
 - (d) The number and percentage of students receiving a score of "3" or better on the AP examinations in calculus, chemistry, and physics;
 - (e) The number and percentage of students eligible for free or reduced price lunch and receiving a score of "3" or better on AP examinations;
 - (f) The number of calculus, chemistry, and physics teachers successfully completing a College Board-endorsed summer AP training institute;
 - (g) The number of calculus, chemistry, and physics teachers with the knowledge and training needed to prepare students for high achievement on AP examinations in these content areas; and
 - (h) Other criteria determined by the board.
- (6) The Kentucky Department of Education shall develop and implement a research agenda regarding implementation of Sections 1 and 5, and paragraph (3)(c) of Section 11 of this Act. Beginning in 2007, the department shall submit an annual report by December 1 to the Kentucky Board of Education and the Legislative Research Commission based on the research agenda and measuring progress against the statewide goals set by the board under subsection (5) of this section.
- (7) Notwithstanding KRS 157.350, no later than the 2009-2010 academic year, each teacher of AP calculus, AP chemistry, and AP physics shall receive a monetary award for each of his or her respective students with a grade of three (3) or above on the corresponding AP examination in the previous year. For each content area of calculus, chemistry, and physics, a teacher shall be eligible to receive only one (1) monetary award for each student, regardless of whether a student takes more than one (1) AP examination within the content area. The Kentucky Department of Education shall distribute the awards, based on the following scale:
- (a) Six hundred dollars (\$600) for each student eligible for free or reduced-price lunch who scores five (5) on the AP examination;
 - (b) Five hundred dollars (\$500) for each student eligible for free or reduced-price lunch who scores four (4) on the AP examination;
 - (c) Four hundred dollars (\$400) for each student eligible for free or reduced-price lunch who scores three (3) on the AP examination;
 - (d) Four hundred dollars (\$400) for each student not eligible for free or reduced-price lunch who scores five (5) on the AP examination;
 - (e) Three hundred dollars (\$300) for each student not eligible for free or reduced-priced lunch who scores four (4) on the AP examination; and
 - (f) Two hundred dollars (\$200) for each student not eligible for free or reduced-price lunch who scores three (3) on the AP examination.
- (8) The annual aggregate award to a teacher may not exceed ten thousand dollars (\$10,000), regardless of the number of AP courses or sections of an AP course taught. If there are insufficient funds in the Advanced Placement incentive fund to award teachers in accordance with the scale outlined in this section, the expenditures to fulfill the provisions of this section shall be considered necessary government expense.
- (9) No later than the 2008-2009 academic year, the Kentucky Department of Education shall provide monetary awards to AP teachers who teach AP calculus, AP chemistry, and AP physics via the Kentucky Virtual High School that are based on one-half (1/2) of the per student allotment in the scale described in subsection (7) of this section.
- (10) Monetary awards for AP teachers shall not be considered in the calculation for contributions to the Kentucky Teachers' Retirement System.
- (11) Monetary awards for AP teachers shall be considered to be for services rendered.
- (12) No later than the 2008-2009 school year, and for each school year thereafter, the Kentucky Department of Education shall transfer funds from the Advanced Placement incentive fund to the Kentucky Higher Education Assistance Authority. The transfer shall be in an amount sufficient to provide scholarships to all public high school students who are enrolled in Advanced Placement courses in calculus, chemistry, and physics through the Kentucky Virtual High

School when those courses are not offered at their school, and for whom tuition costs are not provided through a scholarship program administered by the authority. The authority shall use the transferred funds to offer scholarships as set forth in subsection (1)(d) of this section. Any unused balance of the transferred funds at the close of a fiscal year shall not lapse but shall be returned to the Advanced Placement incentive fund.

SECTION 36. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

- (1) No later than September 1, 2008, the Department of Education shall establish the Middle School Mathematics and Science Scholars Program to increase the number of students entering high school who are well-prepared to undertake rigorous mathematics and science coursework, culminating in successful completion of Advanced Placement courses and high achievement on AP examinations.
- (2) The program shall provide two (2) year renewable grants to middle schools to support intensive, accelerated student learning in mathematics and the sciences, to be offered at no cost to participants. Grants shall be used to support activities that may include but not be limited to programs during the school day, after-school programs, Saturday programs, or multiweek summer sessions.
- (3) The program shall focus particular attention on identifying and attracting student participants who are members of subpopulations for whom significant academic achievement gaps have been identified, including racial and ethnic minorities, and students with low socioeconomic status.

Section 37. KRS 156.160 is amended to read as follows:

- (1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:
 - (a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and 158.6453 and distributed to local school districts and schools. The administrative regulations shall provide that:
 1. If a school offers American sign language, the course shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law; and
 2. If a school offers the Reserve Officers Training Corps program, the course shall be accepted as meeting the physical education requirement for high school graduation notwithstanding other provisions of law;
 - (b) Beginning in 2008-2009, courses of study or educational experiences available to students in all middle and high schools to fulfill the prerequisites for Advanced Placement courses in calculus, chemistry, and physics. The board shall establish the grade levels and sequences in which the prerequisite courses shall be offered. Notwithstanding KRS 160.345(2)(i), a school-based decision making council shall adopt a curriculum that conforms to the provisions of this paragraph.
 - (c) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;
 - ~~(d)(e)}~~ The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;
 - ~~(e)(d)}~~ Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;
 - ~~(f)(e)}~~ Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;
 - ~~(g)(f)}~~ Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;
 - ~~(h)(g)}~~ A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence that a vision examination that meets the criteria

prescribed by the Kentucky Board of Education has been performed. This evidence shall be submitted to the school no later than January 1 of the first year that a three (3), four (4), five (5), or six (6) year-old child is enrolled in a public school, public preschool, or Head Start program;

~~(l)(h)~~ The transportation of children to and from school;

~~(l)(i)~~ The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

~~(k)(j)~~ The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

~~(l)(k)~~ A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

~~(m)(l)~~ The disposal of real and personal property owned by local boards of education.

- (2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include but are not limited to the following:
 1. An alternative approach will achieve the same result required by the administrative regulation;
 2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
 3. There is a finding of good cause for the waiver.
 - (b) The following shall not be subject to waiver:
 1. Administrative regulations relating to health and safety;
 2. Administrative regulations relating to civil rights;
 3. Administrative regulations required by federal law; and
 4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.
 - (c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.
- (3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.
 - (4) Any public school that violates the provisions of KRS 158.854 shall be subject to a penalty to be assessed by the commissioner of education as follows:
 - (a) The first violation shall result in a fine of no less than one (1) week's revenue from the sale of the competitive food;
 - (b) Subsequent violations shall result in a fine of no less than one (1) month's revenue from the sale of the competitive food;
 - (c) "Habitual violations," which means five (5) or more violations within a six (6) month period, shall result in a six (6) month ban on competitive food sales for the violating school; and
 - (d) Revenue collected as a result of the fines in this subsection shall be transferred to the food service fund of the local school district.

Section 38. KRS 158.007 is amended to read as follows:

As used in KRS Chapter 158 unless the context requires otherwise:

- (1) "Advanced Placement" *or "AP"* means a college-level course that incorporates all topics and instructional strategies specified by ~~for~~ the College Board ~~[Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board]~~ on its standard syllabus for a given subject area and is licensed by the College Board.
- (2) "Board" means the Kentucky Board of Education.
- (3) "College Board Advanced Placement examination" means the Advanced Placement test administered by the College Entrance Examination Board.
- (4) "College Board" means the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and Advanced Placement examinations.
- (5) "Core curriculum" means at least one (1) course in at least four (4) of the six (6) following subject areas: English, science,

mathematics, social studies, foreign language, and the arts.

- (6) "Department" means the Kentucky Department of Education.
- (7) "Dual credit" means a college-level course of study developed in accordance with KRS 164.098 in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study.
- (8) "Dual enrollment" means a college-level course of study developed in accordance with KRS 164.098 in which a student is enrolled in a high school and postsecondary institution simultaneously.
- (9) "International Baccalaureate" means the International Baccalaureate Organization's Diploma Programme, a comprehensive two (2) year program designed for highly motivated students.
- (10) "Kentucky Virtual High School" means secondary-level instructional programs or courses offered by the Kentucky Department of Education through the Internet and other on-line, computer-based methods.
- (11) "Kentucky Virtual University" means a college-level instructional program offered by the Council on Postsecondary Education through the Internet or other on-line, computer-based methods.

Section 39. KRS 158.622 is amended to read as follows:

- (1) ~~[By December 31, 2002,]~~ The Kentucky Board of Education shall promulgate administrative regulations establishing the criteria a school shall meet in order to designate a course an Advanced Placement course, including content and program standards concerning student admission criteria, data collection, and reporting.
- (2) Upon receipt of adequate federal funding for these purposes, by December 31, 2002, the Department of Education shall:
 - (a) Expand Advanced Placement teacher training institutes, including offering Advanced Placement teacher training instruction and assistance through the Kentucky Virtual High School or in conjunction with the Council on Postsecondary Education through the Kentucky Virtual University;
 - (b) Require teachers who are planning to participate in Advanced Placement teacher training and complete Advanced Placement training at Advanced Placement institutes facilitated by the department to sign an agreement to teach at least one (1) Advanced Placement course in a Kentucky public school or the Kentucky Virtual High School when assigned by the school principal;
 - (c) Develop the Kentucky Virtual Advanced Placement Academy which shall offer school districts and their students access to a core Advanced Placement curriculum through the Kentucky Virtual High School;
 - (d) Identify, in conjunction with the Council on Postsecondary Education, resources at the secondary and postsecondary levels that can be directed toward Advanced Placement or dual enrollment instruction;
 - (e) Compare the costs of offering Advanced Placement courses through traditional on-site instruction, the Kentucky Virtual High School, and other methods and shall offer each school district assistance, if requested, in analyzing how the school district can most cost-effectively offer the largest number of Advanced Placement courses;
 - (f) Identify current and future funding sources for Advanced Placement or dual enrollment instructional programs and the amount of funds available or anticipated from those sources; and
 - (g) Submit a report to the Kentucky General Assembly outlining compliance with this section.
- (3) ~~[Beginning with the 2002-2003 school year and thereafter,]~~ Each school district shall:
 - (a) Accept for credit toward graduation any course a student successfully completes through the Kentucky Virtual High School and incorporate the grade the student receives in a Kentucky Virtual High School course in calculating that student's grade point average without distinction between the grade received in the Kentucky Virtual High School course and courses taught within the school district for which the student receives a grade;
 - (b) Accept for credit toward graduation and completion of high school course requirements an Advanced Placement, a high school equivalent, or a Kentucky Virtual High School course taken by a student in grades 5, 6, 7, or 8 if that student attains performance levels expected of high school students in that district as determined by achieving a score of "3" or higher on a College Board Advanced Placement examination or a grade of "B" or better in a high school equivalent or a Kentucky Virtual High School course; and
 - (c) Pay tuition and other costs for students from their districts who are enrolled in a Kentucky Virtual High School course for credit that is part of the student's regular school day coursework by proportionately sharing funds generated under KRS 157.360 or other funding sources.

Section 40. KRS 158.6453 is amended to read as follows:

- (1) The Kentucky Board of Education shall be responsible for creating and implementing a statewide assessment program to be known as the Commonwealth Accountability Testing System to ensure school accountability for student achievement of the goals set forth in KRS 158.645 and 158.6451. The board shall seek the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability in the development of the program. The statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.

- (2) The assessment program shall include the following components:
 - (a) A customized or commercially available norm-referenced test that measures, to the extent possible, the core content for assessment. The test shall provide valid and reliable results for individual students;
 - (b) Open-response or multiple-choice items, or both, to assess student skills in reading, mathematics, science, social studies, the arts, the humanities, and practical living and vocational studies; and an on-demand assessment of student writing. These assessments shall measure, to the extent possible, the core content for assessment;
 - (c) Writing portfolios consisting of samples of student work. After receiving the advice of the Writing Advisory Committee, the Kentucky Board of Education shall, by September 1 following April 14, 1998, file a notice of intent to promulgate an administrative regulation which reduces the teacher and student time involved in preparing a writing portfolio. Time reduction strategies included in the administrative regulation may include, but are not limited to, limiting the time spent on a single portfolio entry, limiting the number of revisions, or collecting entries at different grade levels;
 - (d) Performance assessment events for schools that have students enrolled in performing arts organizations sponsoring sanctioned events with an established protocol for adjudication; and
 - (e) A technically sound longitudinal comparison of the assessment results for the same students.
- (3) The provisions of subsection (2) of this section shall apply to elementary schools, and shall also apply to middle and high schools, except as provided in subsections (4) to (8) of this section.
- (4) No later than the 2007-2008 school year, and each year thereafter, the following provisions shall apply to the assessment program for middle and high schools:
 - (a) The assessment program shall include:
 - 1. A high school readiness examination to assess English, reading, mathematics, and science in grade eight (8);
 - 2. A college readiness examination to assess English, reading, mathematics, and science in grade ten (10);
 - 3. The ACT college admissions and placement examination to assess English, reading, mathematics, and science, to be taken by all students in grade eleven (11); and
 - 4. Any other component necessary to comply with the No Child Left Behind Act of 2001, 20 U.S.C. sec. 6301 et seq., as determined by the United States Department of Education;
 - (b)
 - 1. A student whose scores on the high school readiness examination administered in grade eight (8) indicate a high degree of readiness for high school shall be counseled to enroll in accelerated courses; and
 - 2. A student whose scores on the college readiness examination administered in grade ten (10) or the ACT college admissions and placement examination administered in grade eleven (11) indicate a high degree of readiness for college shall be counseled to enroll in accelerated courses, with an emphasis on Advanced Placement classes;
 - (c) The cost of the initial ACT examination administered to students in grade eleven (11) shall be paid for by the Kentucky Department of Education. The costs of additional ACT examinations shall be the responsibility of the student; and
 - (d) The components of the middle and high school assessment program set forth in paragraph (a) of this subsection shall be administered in lieu of a customized or commercially available norm-referenced test under subsection (2)(a) of this section.
- (5) No later than the 2007-2008 school year, and each year thereafter, students in grades ten (10), eleven (11), and twelve (12) may take the WorkKeys assessments from ACT, Inc. in reading for information, locating information, and applied mathematics.
 - (a) The costs of the initial WorkKeys assessments shall be paid by the Kentucky Department of Education. The cost of additional WorkKeys assessments shall be the responsibility of the student.
 - (b) A student whose scores on the WorkKeys assessments indicate that additional assistance is required in reading for information, locating information, or applied mathematics shall have intervention strategies for accelerated learning incorporated into his or her learning plan.
 - (c) A student meeting the WorkKeys threshold established by the Department of Workforce Investment shall be issued the appropriate Kentucky employability certificate.
- (6)
 - (a) The Kentucky Department of Education shall conduct periodic studies comparing the standards in reading, mathematics, and science for middle and high schools within the Kentucky core content for assessment and the concepts and content measured by the ACT and the high school and college readiness examinations under subsection (4)(a) of this section.
 - (b) If the department determines that reading, mathematics, and science assessments required under subsection (4)(a) of this section are shown to provide direct measures of content standards and concepts identified in the Kentucky core content for assessment, the Kentucky Board of Education shall seek the advice of the Office of Education

Accountability, the School Curriculum, Assessment, and Accountability Council, and the National Technical Advisory Panel on Assessment and Accountability regarding reducing the number of questions on the Commonwealth Accountability Testing System.

- (c) The Kentucky Department of Education shall continue to include open-response or multiple-choice items, or both, that assess student knowledge and skills in reading, mathematics, and science to the degree necessary for adequate coverage of the elements of the Kentucky core content for assessment not covered by the examinations.
- (7) Accommodations provided by ACT, Inc. to a student with a disability taking the assessments under subsection (4)(a)3. of this section shall consist of:
 - (a) Accommodations provided in a manner allowed by ACT, Inc. when results in test scores are reportable to a postsecondary institution for admissions and placement purposes, except as provided in paragraph (b) of this subsection; or
 - (b) Accommodations provided in a manner allowed by a student's individualized education program as defined in KRS 158.281 for a student whose disability precludes valid assessment of his or her academic abilities using the accommodations provided under paragraph (a) of this subsection when the student's scores are not reportable to a postsecondary institution for admissions and placement purposes.
- (8) The assessments under subsections (4) and (5) of this section shall be known as the "Kentucky Work and College Readiness Examination" or "Readiness Examination."
- (9) Kentucky teachers shall have a significant role in the design of the assessments. The assessments shall be designed to:
 - (a) Measure grade appropriate core academic content, basic skills, and higher-order thinking skills and their application. The assessment shall measure the core content for assessment used by the Department of Education during the 1997-98 school year. Any revisions to the core content for assessment shall be developed through a public process involving parents; educators at the elementary, secondary, and postsecondary education levels; professional education advocacy groups and organizations; and business and civic leaders and shall be distributed to all public schools;
 - (b) Provide valid and reliable scores for schools. If scores are reported for students individually, they shall be valid and reliable; and
 - (c) Minimize the time spent by teachers and students on assessment.
- (10) Results from the state assessment under this section shall be reported to the school districts and schools no later than one hundred fifty (150) days following the first day the assessment can be administered.
- (11) The Department of Education shall gather information to establish the validity of the assessment and accountability program. It shall develop a biennial plan for validation studies that shall include but not be limited to the consistency of student results across multiple measures, the congruence of school scores with documented improvements in instructional practice and the school learning environment, and the potential for all scores to yield fair, consistent, and accurate student performance level and school accountability decisions. Validation activities shall take place in a timely manner and shall include a review of the accuracy of scores assigned to students and schools, as well as of the testing materials. The plan shall be submitted to the Commission by July 1 of the first year of each biennium. A summary of the findings shall be submitted to the Legislative Research Commission by September 1 of the second year of the biennium.
- (12) In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress. The continuous assessment shall provide diagnostic information to improve instruction to meet the needs of individual students.
- (13) The Kentucky Board of Education, after the Department of Education has received advice from the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation under KRS Chapter 13A to establish the components of a reporting structure for assessments administered under this section. The reporting structure shall include the following components:
 - (a) A school report card that clearly communicates with parents and the public about school performance. The school report card shall be sent to the parents of the students of the districts, and a summary of the results for the district shall be published in the newspaper with the largest circulation in the county. It shall include but not be limited to the following components reported by race, gender, and disability when appropriate:
 1. Student academic achievement, including the results from each of the assessments administered under this section;
 2. **Advanced Placement courses offered, the number of students enrolled in Advanced Placement courses, and the number of students taking the examination for each course. The number of students shall be disaggregated by gender, race, students with disabilities, and economic status. Examination scores shall not be reported;**
 3. Nonacademic achievement, including the school's attendance, retention, dropout rates, and student

2007 Regular Session

transition to adult life; and

- ~~4.[3-]~~ School learning environment, including measures of parental involvement;
- (b) An individual student report to parents for each fifth-grade student summarizing the student's readiness in reading and mathematics based on the student's fourth-grade state assessment results. The school's fifth-grade staff shall develop a plan for accelerated learning for any student with identified deficiencies;
- (c) An individual report for each student who takes a high school or college readiness examination administered under subsection (4)(a) of this section that:
 1. Provides the student's test scores;
 2. Provides a judgment regarding whether or not a student has met or failed to meet the expectations for each standard assessed; and
 3. Is designed to assist students, parents, and teachers to identify, assess, and remedy academic deficiencies prior to high school graduation; and
- (d) A student's scores on the ACT examination or WorkKeys assessments administered under subsections (4)(a) and (5) of this section and the ACT examination under KRS 158.6459(5) shall be recorded on his or her official high school transcript.

Section 41. KRS 160.348 is amended to read as follows:

- (1) ~~[Beginning with the 2003-2004 school year and thereafter,]~~ Each secondary school-based decision making council shall offer a core curriculum of Advanced Placement, International Baccalaureate, dual enrollment, or dual credit courses, using either or both on-site instruction or electronic instruction through the Kentucky Virtual High School or other on-line alternatives. In addition, each school-based decision making council shall comply with any additional requirements for Advanced Placement, International Baccalaureate, dual enrollment, and dual credit courses that may be established cooperatively by the Kentucky Department of Education, the Education Professional Standards Board, and the Council on Postsecondary Education in accordance with the definitions in KRS 158.007.
- (2) Each secondary school-based decision making council shall establish a policy on the recruitment and assignment of students to Advanced Placement, International Baccalaureate, dual enrollment, and dual credit courses that recognizes that all students have the right to participate in rigorous and academically challenging curriculum ~~[be] academically challenging curriculum [challenged and should be encouraged to participate in these courses].~~ All students who are willing to accept the challenge of a rigorous academic curriculum shall be admitted to Advanced Placement, International Baccalaureate, dual enrollment, and dual credit courses, provided they have the prerequisite courses.
- (3) No later than the 2008-2009 academic year, students enrolled in AP classes in the public schools shall have the cost of the AP examinations paid by the Department of Education.

Section 42. KRS 164.002 is amended to read as follows:

As used in KRS Chapter 164, unless the context requires otherwise:

- (1) "Advanced Placement" or "AP" means a college-level course that incorporates all topics and instructional strategies specified by ~~[for] the College Board [Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board]~~ on its standard syllabus for a given subject area and is licensed by the College Board.
- (2) "College Board Advanced Placement examination" means the Advanced Placement test administered by the College Entrance Examination Board.
- (3) "College Board" means the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and Advanced Placement examinations.
- (4) "Dual credit" means a college-level course of study developed in accordance with KRS 164.098 in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study.
- (5) "Dual enrollment" means a college-level course of study developed in accordance with KRS 164.098 in which a student is enrolled in a high school and postsecondary institution simultaneously.

Section 43. KRS 164.098 is amended to read as follows:

~~[By December 31, 2002:]~~

- (1) The Council on Postsecondary Education shall promulgate administrative regulations that require public postsecondary educational institutions ~~[beginning with the 2003-2004 school year,]~~ to grant credit toward graduation to a student who scores at least "3" on a College Board Advanced Placement examination.
- (2) The Council on Postsecondary Education shall publish information, in print and electronic format, about the scores required on College Board Advanced Placement examinations at which credit toward graduation and completion of degree requirements will be granted at all Kentucky public and private postsecondary educational institutions.
- (3) The Council on Postsecondary Education, in conjunction with the Kentucky Board of Education and the Education Professional Standards Board, shall develop guidelines for content knowledge and teacher training in dual enrollment and

dual credit programs offered in Kentucky.

Section 44. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

- (1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the authority;
- (2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;
- (3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the authority, on the Scholastic Assessment Test;
- (4) "Authority" means the Kentucky Higher Education Assistance Authority;
- (5) "Award period" means two (2) consecutive academic terms;
- (6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;
- (7) "Council" means the Council on Postsecondary Education created under KRS 164.011;
- (8) "Eligible high school student" means any person who:
 - (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;
 - (b) Was enrolled after July 1, 1998:
 1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year; or
 2. In a Kentucky high school for the fall academic term of the senior year and who:
 - a. Was enrolled during the entire academic term;
 - b. Completed the high school's graduation requirements during the fall academic term; and
 - c. Was not enrolled in a secondary school during any other academic term of that academic year; and
 3. Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and
 - (c) Is not a convicted felon;
- (9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:
 - (a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;
 - (b) Has the required postsecondary G.P.A. required under KRS 164.7881;
 - (c) Has remaining semesters of eligibility under KRS 164.7881;
 - (d) Is enrolled in a participating institution as a part-time or full-time student; and
 - (e) Is not a convicted felon;
- (10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;
- (11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;
- (12) "High school" means any Kentucky public high school, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;
- (13) "KEES" means Kentucky educational excellence scholarship;
- (14) "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection (8)(b)2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the authority;
- (15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;
- (16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;
- (17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(a) ~~(d)(e)}~~. The amount so determined shall be the maximum amount available to the eligible

postsecondary student for any award period;

- (18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:
- (a) 1. Is publicly operated; or
 2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or
 3. Is designated by the authority as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and
- (b) Continues to commit financial resources to student financial assistance programs;
- (19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and
- (20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Section 45. KRS 164.7879 is amended to read as follows:

- (1) Kentucky educational excellence scholarship awards shall be based upon an established base scholarship amount and an eligible high school student's grade point average. The base scholarship amount for students attaining a grade point average of at least 2.5 for the 1998-1999 academic year shall be as follows:

GPA	Amount	GPA	Amount
2.50	\$125.00	3.30	\$325.00
2.60	\$150.00	3.40	\$350.00
2.70	\$175.00	3.50	\$375.00
2.75	\$187.00	3.60	\$400.00
2.80	\$200.00	3.70	\$425.00
2.90	\$225.00	3.75	\$437.00
3.00	\$250.00	3.80	\$450.00
3.10	\$275.00	3.90	\$475.00
3.20	\$300.00	4.00	\$500.00
3.25	\$312.00		

The authority shall review the base amount of the Kentucky educational excellence scholarship each academic year and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (2) (a) The authority shall commit to provide to each eligible high school student the base amount of the Kentucky educational excellence scholarship for each academic year of high school study in the Kentucky educational excellence scholarship curriculum that the high school student has attained at least a 2.5 grade point average. The award shall be based upon the eligible high school student's grade point average at the close of each academic year. An award attributable to a past academic year shall not be increased after the award has been earned by an eligible high school student, regardless of any subsequent increases made to the base amount of the Kentucky educational excellence scholarship through the promulgation of an administrative regulation by the authority.
- (b) Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874, any high school student who maintains Kentucky residency and completes the academic courses that are required for a Kentucky educational excellence scholarship while participating in an approved educational high school foreign exchange program or participating in the United States Congressional Page School may apply his or her grade point average for that academic year toward the base as described in paragraph (a) of this subsection. The grade point average shall be reported by the student's Kentucky home high school, based on an official transcript from the school that the student attended during the out-of-state educational experience. The authority shall promulgate administrative regulations that describe the approval process for the educational exchange programs that qualify under this paragraph. The provisions in this paragraph shall likewise apply to any Kentucky high school student who participated in an approved educational exchange program or in a Congressional Page School since the 1998-99 school year and maintained his or her Kentucky residency throughout.
- (c) 1. Notwithstanding the definitions of "eligible high school student" and "high school" in KRS 164.7874 and the requirement that a student graduate from a Kentucky high school, a high school student who completes the KEES curriculum while attending an accredited out-of-state high school or Department of Defense school may apply the grade point average for any applicable academic year toward the base as described in

paragraph (a) of this subsection and shall also qualify for a supplemental award under subsection (3) of this section when:

- a. His or her custodial parent or guardian is in active service of the Armed Forces of the United States; and
 - b. The custodial parent or guardian maintained Kentucky as the home of record at the time the student attended an accredited out-of-state high school or a Department of Defense school.
2. The student or parent shall arrange for the out-of-state school to report the student's grade point average each academic year and the student's highest ACT score to the authority as required under KRS 164.7885. The authority shall promulgate administrative regulations implementing the requirements in this paragraph, including:
- a. The documentation that the parent shall submit to the authority establishing the student's eligibility for the scholarship; and
 - b. The assurances that an out-of state institution shall submit to the authority for submission of the student grade point average.
3. The provisions in this paragraph shall apply to the 2001-2002 school year and thereafter.

- (3) (a) The authority shall commit to provide to each eligible high school student graduating from high school before June 30, 1999, and achieving a score of at least 15 on the American College Test, a supplemental award for the award period beginning in the fall of 1999, based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Bonus	Annual	ACT Score	Bonus	Annual
15		\$21	22		\$171
16		\$43	23		\$193
17		\$64	24		\$214
18		\$86	25		\$236
19		\$107	26		\$257
20		\$129	27		\$279
21		\$150	28 or above		\$300

Subsequent supplemental awards for eligible high school students graduating before June 30, 1999, shall be determined in accordance with the provisions of paragraph (b) of this subsection.

- (b) The authority shall commit to provide to each eligible high school student upon achievement after June 30, 1999, of an ACT score of at least 15 on the American College Test a supplemental award based on the eligible high school student's highest ACT score attained by the date of graduation from high school. The amount of the supplemental award shall be determined as follows:

ACT Score	Amount	ACT Score	Amount
15	\$36	22	\$286
16	\$71	23	\$321
17	\$107	24	\$357
18	\$143	25	\$393
19	\$179	26	\$428
20	\$214	27	\$464
21	\$250	28 and above	\$500

The authority shall review the base amount of the supplemental award beginning with the 2001-2002 academic year and each academic year thereafter and may promulgate an administrative regulation to make adjustments after considering the availability of funds.

- (c) The authority shall commit to provide a supplemental award for achievement on an AP examination as defined in Section 8 of this Act to an eligible high school student who was eligible for free or reduced price meals under the national school meals program as set forth in 42 U.S.C. sec. 1751 et seq. for any year during high school enrollment. The supplemental award for AP examination scores are as follows:

1. Two hundred dollars (\$200) for each score of three (3);
2. Two hundred fifty dollars (\$250) for each score of four (4); and
3. Three hundred dollars (\$300) for each score of five (5).

- (d) The authority shall promulgate administrative regulations establishing the eligibility criteria and procedures for making a supplemental award to Kentucky residents who are citizens, nationals, or permanent residents of the United States and who graduate from a nonpublic secondary school not certified by the Kentucky Board of Education and Kentucky residents who are citizens, nationals, or permanent residents of the United States and who obtain a General Educational Development (GED) diploma within five (5) years of their high school graduating class, and students under subsection (2)(c) of this section who do not attend an accredited high school.

Section 46. KRS 164.7881 is amended to read as follows:

- (1) Eligible high school students who have graduated from high school and eligible postsecondary students who have earned a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and a supplemental award, or a supplemental award only pursuant to KRS 164.7879(3)~~(d)(e)~~, shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or a supplemental award only for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsections (5) and~~subsection~~ (6) of this section.
- (2) To receive the Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, an eligible high school or postsecondary student shall:
 - (a) Enroll in and attend a participating institution as a full-time student or a part-time student; and
 - (b) Maintain eligibility as provided in subsection (3) of this section.
- (3) Eligibility for a Kentucky educational excellence scholarship or a Kentucky educational excellence scholarship and supplemental award shall terminate upon the earlier of:
 - (a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or
 - (b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, for a cumulative total of eight (8) academic terms if the student enrolls as at least a part-time student in a four (4) year program.
- (4)
 - (a) The maximum award amount shall be determined by the authority and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible postsecondary student for an award period shall be delivered by the authority to the participating institution for disbursement to the eligible postsecondary student.
 - (b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible postsecondary student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible postsecondary student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible postsecondary student, except if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period.
 - (c)
 1. An eligible postsecondary student who is enrolled full-time in an undergraduate program of study, in the pharmacy program at the University of Kentucky, or in a program of study designated as an equivalent undergraduate program of study by the authority in an administrative regulation, shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study.
 2. To retain the maximum award for the second award period, an eligible postsecondary student shall have at least a 2.5 grade point average at the end of the first award period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the maximum award for the award period in which he or she resumes enrollment.
 3. To retain the maximum award amount for subsequent award periods, an eligible postsecondary student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period, except that if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period, the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the same award for the award period in which he or she resumes enrollment as he or she received in the award period in which enrollment was interrupted.
 4. Any eligible postsecondary student who maintains a cumulative grade point average of less than 3.0 but at least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount

equal to fifty percent (50%) of the maximum award amount for the next award period.

5. Any eligible postsecondary student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period.
 6. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each Kentucky educational excellence scholarship recipient enrolled as a full-time or part-time student at the participating institution.
 7. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.
- (5) The expiration of a student's eight (8) academic terms and five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:
- (a) A serious and extended illness or injury of the student, certified by an attending physician;
 - (b) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;
 - (c) Natural disasters that would render a student unable to attend classes; or
 - (d) 1. Active duty status for the student in the United States Armed Forces or as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student in the Peace Corps Act or the Americorps, for the total number of years during which the student was on active duty status. The number of months served on active duty status shall be rounded up to the next higher year to determine the maximum length of eligibility extension allowed, for up to three (3) years].
 2. A student whose eligibility expired prior to the effective date of this Act due to the three (3) year time limit on eligibility extensions imposed by this paragraph prior to the effective date of this Act shall have his or her eligibility reinstated for the number of years beyond the three (3) years during which he or she was on active duty status. The number of months served on active duty status shall be rounded up to the next higher year to determine the maximum length of eligibility extension allowed.
- (6) An eligible postsecondary student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the authority shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award only for a maximum of ten (10) academic terms. The expiration of an eligible postsecondary student's five (5) year eligibility shall be extended to six (6) years for eligible postsecondary students meeting the requirements of this subsection.
- (7) Each eligible high school student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Senator Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement.
- Section 47. KRS 164.7885 is amended to read as follows:
- (1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the authority, a compiled list of all high school students during the academic year. A high school shall report the grade point average of an eligible high school student pursuant to KRS 164.7874 by January 15 following the end of the fall academic term in which the student completed the high school graduation requirements. The list shall identify the high school and shall contain each high school student's name, Social Security number, address, grade point average for the academic year, expected or actual graduation date, ~~and~~ highest ACT score, eligibility status for free or reduced-price lunch and each Advanced Placement examination score. The list need not contain the ACT or Advanced Placement scores~~score~~ if the authority receives the scores~~ACT score~~ directly from the testing services. The authority shall notify each eligible high school student of his or her Kentucky educational excellence scholarship award earned each academic year. The authority shall determine the final Kentucky educational excellence scholarship and supplemental award based upon the actual final grade point average, ~~and~~ highest ACT score, and qualifying AP scores and shall notify each eligible twelfth-grade high school student of the final determination. The authority shall make available a list of eligible high school and postsecondary students to participating institutions.
 - (2) The authority shall provide data access only to participating institutions that have either received an admission application from an eligible high school or postsecondary student or have been listed by the eligible high school or postsecondary student on the Free Application For Federal Student Aid.
 - (3) For each eligible postsecondary student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:
 - (a) The student's initial eligibility for a Kentucky educational excellence scholarship, Kentucky educational excellence scholarship and supplemental award, or supplemental award only pursuant to KRS 164.7879(3)~~(d)~~~~(e)~~ through the

comprehensive list compiled by the authority or an alternative source satisfactory to the authority;

- (b) The student's highest ACT score attained by the date of graduation from high school, provided that the participating institution need not report the ACT score if the authority receives the ACT score directly from the testing services;
 - (c) The eligible postsecondary student's full-time or part-time enrollment status at the beginning of each academic term; and
 - (d) The eligible postsecondary student's cumulative grade point average after the completion of each award period.
- (4) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible postsecondary students enrolled for that academic term. Kentucky educational excellence scholarships and supplemental awards shall be disbursed by the authority to each eligible postsecondary student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.
- (5) The Kentucky educational excellence scholarship and the supplemental award shall not be reduced, except as provided in KRS 164.7881(4).
- (6) Kentucky educational excellence scholarships and supplemental awards shall not be awarded or disbursed to any eligible postsecondary students who are:
- (a) In default on any loan under Title IV of the federal act; or
 - (b) Liable for any amounts that exceed annual or aggregate limits on any loan under Title IV of the federal act; or
 - (c) Liable for overpayment of any grant or loan under Title IV of the federal act; or
 - (d) In default on any obligation to the authority under any programs administered by the authority until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.
- (7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Kentucky educational excellence scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

SECTION 48. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

- (1) Notwithstanding any other statute to the contrary, as of the 2008-2009 school year and thereafter, a local board of education shall provide salary supplements to certified teachers as follows:**
- (a) Six thousand dollars (\$6,000) to any public high school teacher who:**
 - 1. Has a major in chemistry or chemistry education;**
 - 2. Received a score of 153 or above on the PRAXIS chemistry content knowledge examination; and**
 - 3. Teaches chemistry;**
 - (b) Six thousand dollars (\$6,000) to any public high school teacher who:**
 - 1. Has a major in physics or physics education;**
 - 2. Received a score of 147 or above on the PRAXIS physics content knowledge examination; and**
 - 3. Teaches physics;**
 - (c) Three thousand dollars (\$3,000) to any public high school teacher who:**
 - 1. Has a major in mathematics or mathematics education;**
 - 2. Receives a score of 147 or above on the PRAXIS high school mathematics content knowledge examination;**
 - 3. Has a teaching schedule that includes a majority of mathematics classes; and**
 - 4. Administers any end-of-course mathematics examinations developed by the Kentucky Department of Education; and**
 - (d) Three thousand dollars (\$3,000) to any middle school teacher who:**
 - 1. Has a major in mathematics, mathematics education, or middle school mathematics;**
 - 2. Receives a score of 163 or above on the PRAXIS middle school mathematics examination or a score of 147 or above on the PRAXIS mathematics content knowledge examination;**
 - 3. Has a teaching schedule that includes a majority of mathematics classes; and**
 - 4. Administers any end-of-course mathematics examinations developed by the Kentucky Department of Education.**
- (2) A teacher who qualifies for a salary supplement as identified in subsection (1) of this section who teaches a combination of chemistry, physics, and mathematics classes shall receive only the higher supplement.**
- (3) Notwithstanding any other statute to the contrary, and in addition to the salary supplement provided for in subsection (1) of this section, as of the 2008-2009 school year and thereafter, a local board of education shall provide an annual salary supplement to a public school teacher who has a major or education major in chemistry, physics, or**

mathematics and is employed in a school with a high concentration of students eligible for federal free or reduced-price lunch, as determined by the second school month, on the following schedule:

- (a) One thousand dollars (\$1,000) to teachers employed in schools with thirty percent (30%) through fifty-four percent (54%) eligible for free or reduced-price lunch;
- (b) Two thousand dollars (\$2,000) to teachers employed in schools with fifty-five percent (55%) through seventy-nine percent (79%) eligible for free or reduced-price lunch; and
- (c) Three thousand dollars (\$3,000) to teachers employed in schools with eighty percent (80%) or greater eligible for free or reduced-price lunch.
- (4) A teacher employed less than full time who qualifies for a salary supplement as identified in subsections (1) to (3) of this section shall have the salary supplement prorated.
- (5) Any salary supplement provided to a teacher under the provisions of this section shall be in addition to the base salary of the teacher and shall be considered in the calculation for contributions to the Kentucky Teachers' Retirement System.
- (6) A local board of education shall request reimbursement from the fund to support education excellence described in KRS 157.350 for the purpose of providing an annual salary supplement to a teacher eligible under the provisions of this section.
- (7) The Education Professional Standards Board shall promulgate administrative regulations that are necessary to implement the provisions of this section, including the verification of teachers eligible to receive a salary supplement and the notification of eligible teachers to the Kentucky Department of Education prior to the distribution of funds for that purpose.

Section 49. KRS 164.757 is amended to read as follows:

- (1) For purposes of this section unless the context requires otherwise:
 - (a) "Critical shortage area" means an area in which there are insufficient numbers of fully certified staff in a particular subject, school, or geographic location;
 - (b) "Emergency certified teacher" means an individual who has not completed certification requirements but has been awarded a temporary certificate for a certification area in which no fully qualified teacher was available;
 - (c) "Qualified teacher" means a teacher who holds the appropriate certification for a position unless the superintendent of the employing local school district has documented evidence that the teacher is unsuitable for appointment;
 - (d) "Qualified teaching service" means teaching for at least seventy (70) days each semester or the equivalent in the certification area for which an individual received a forgivable loan in the Kentucky school district that recommended the individual for a loan or in another Kentucky private or public school district in the certification area for which an individual received a forgivable loan if no position was available in the recommending school district at the time when the individual completed his or her certification;
 - (e) "Semester" means a period which usually makes up one-half (1/2) of a school year or one-half (1/2) of a postsecondary institution's academic year; and
 - (f) "Summer term" means an academic period consisting of one (1) or more sessions of instruction between a spring and a fall semester at a postsecondary education institution.
- (2) To increase the number of qualified teachers in local school districts and to reduce the number of emergency certified teachers, there is hereby created the district teacher certification loan fund in the State Treasury. The loans shall be used to provide forgivable loans to emergency certified personnel, fully certified teachers who are willing to seek additional certification in hard-to-fill or critical shortage areas, ~~and~~ paraprofessionals in local school districts to become fully certified teachers and to continue service within the local district, and elementary teachers who are willing to seek additional knowledge in mathematics by taking postsecondary level courses in mathematics or mathematics education.
- (3) The fund shall be administered by the Kentucky Higher Education Assistance Authority. The authority shall promulgate administrative regulations to specify the terms and conditions of the award, cancellation, and repayment of loans, including but not limited to the maximum amount that may be loaned per term and the maximum aggregate amount per applicant, the selection process, eligibility for renewal, the specific administrative procedures for utilizing the funds, and the rate of repayment.
- (4) Except for teachers enrolled in an accelerated certification program as identified in subsection (5) of this section~~To qualify for a forgivable loan~~, an applicant shall meet the following requirements to qualify for a forgivable loan:
 - (a) Be employed by a specific local district as a certified teacher, an emergency full-time or part-time teacher, an emergency substitute teacher, or a paraprofessional at the time he or she makes application for the loan;
 - (b) Be recommended by the superintendent as an individual that he or she would recommend to be employed in a teaching position for which the applicant is pursuing certification if the applicant fulfills all credentialing requirements;
 - (c) Be endorsed by the school-based decision making council of the school in which he or she serves to receive a loan

for the purposes of obtaining teacher certification in a specific certification area; except that the endorsement shall not be construed as a commitment of securing a position in the particular school in the future;

- (d) Be admitted and enrolled as an undergraduate or graduate student in a Kentucky private or public postsecondary institution that offers a teacher certification program in the area for which he or she is seeking certification; and
- (e) Be enrolled in a minimum of six (6) credit hours and not more than nine (9) credit hours during each semester of an academic term while employed concurrently in the school district and in not less than six (6) credit hours during the summer term. If a school district recommends an applicant for a loan under provisions of this section and grants a leave of absence to the employee to pursue certification, the employee shall be enrolled as a full-time undergraduate or graduate student as defined by the institution in which he or she is enrolled.

(5) *The Education Professional Standards Board shall establish an accelerated certification program for teachers employed in local school districts to obtain certification in chemistry, physics, or mathematics. Teachers enrolled in an accelerated program shall not be liable for repayment of loans as identified in subsections (9) and (10) of this section.*

(6) A participant in a local district alternative certification program as defined in KRS 161.048(2) may be eligible for a loan under provisions of this section to offset costs associated with the program. The authority shall establish by administrative regulation the specific requirements, notwithstanding requirements in subsection (4) of this section.

~~(7)(6)}~~ A loan shall not be awarded or a promissory note cancellation shall not be granted to any person who is in default on any obligation to the authority under any program administered pursuant to KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.

~~(8)(7)}~~ Recipients shall render one (1) semester of qualified teaching service for each semester or summer term for which a loan was received. Upon completion of each semester of qualified teacher service, the authority shall cancel the appropriate portion of the promissory notes.

~~(9)(8)}~~ If the recipient of a loan fails to complete the certification at a participating institution or fails to render qualified teaching service in any semester following certification, unless the failure is temporarily waived for cause by the authority, the recipient shall immediately become liable to the authority for repayment of the sum of all outstanding promissory notes and accrued interest. Persons liable for repayment of loans under this subsection shall be liable for interest accruing from the dates on which the loans were disbursed.

~~(10)(9)}~~ Failure to meet repayment obligations imposed by this section shall be cause for the revocation of a person's certification, subject to the procedures set forth in KRS 161.120.

~~(11)(10)}~~ All moneys repaid to the authority under this section shall be added to the fund in this section. Any fund balance at the close of a fiscal year shall not lapse but shall be carried forward to the next fiscal year and continuously appropriated for the purposes specified in this section.

~~(12)(11)}~~ The authority may execute appropriate contracts and promissory notes for administering this section.

~~(13)(12)}~~ If available funds are insufficient for all requested loans for eligible applicants during any fiscal year, the authority shall give priority consideration to eligible applicants who previously received loans. If funds are insufficient to make all requested renewal loans to eligible applicants, the authority shall reduce all loans to the extent necessary to provide loans to all qualified renewal applicants. If, after awarding all eligible renewal applicants, funds are not depleted, priority shall be given to loans for those applicants who are seeking certification in critical shortage areas.

Section 50. Sections 20 and 21 shall apply to tax years beginning after December 31, 2008.

The Senate Committee Amendment No. 1 to HB 5 is as follows:

HB 5, On page 80, after line 9, by inserting:

"SECTION 50. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) *The Academy of Mathematics and Science in Kentucky is hereby created at Western Kentucky University. The academy shall provide a residential, coeducational program to highly motivated and talented high school juniors and seniors from across the state who are interested in pursuing careers in mathematics, science, technology, and engineering.*

(a) *The purposes of the academy are to:*

1. *Provide advanced educational opportunities for a select number of Kentucky's exceptional students to study mathematics and science in an environment that prepares them for leadership roles in the Commonwealth;*
2. *Increase the number of professionals in the fields of mathematics, science, technology, and engineering;*
and
3. *Meet the intellectual needs of a select number of high school students who would benefit from early participation in a postsecondary education setting.*

(b) *Long-term goals of the academy are to:*

1. *Increase Kentucky's intellectual capital in the fields of mathematics, science, technology, and*

engineering; and

2. Increase innovation and advances in these fields with application for Kentucky as well as the rest of the nation.

- (2) The academy shall be under the control and management of the Western Kentucky University board of regents. The university shall provide the facilities, support services, and staff, including university faculty members, to teach all academic courses for the students at the academy. Notwithstanding KRS 161.020, 161.030, and 161.048, the Education Professional Standards Board shall recognize faculty of the Academy of Mathematics and Science in Kentucky as certified. This certification applies only to teaching at the academy and is nontransferable to another public school. Faculty may use teaching experience at the academy towards Option 3. alternative certification under KRS 161.048(4). The academy shall report to the Education Professional Standards Board the names of instructors and courses taught at the academy each semester.
- (3) The president of the university, with approval of the board of regents, shall appoint an advisory board to provide oversight to the academy. The size and makeup of the advisory board shall be at the discretion of the president; however, the president shall ensure representation from all geographic regions of the state and include P-16 educators and business and industry representatives, as well as ensure representation from both sexes and racial diversity. The president shall determine the length of terms, the duties of the advisory committee, and the operational procedures.
- (4) Students shall be selected on the basis of criteria established by the academy. The academy shall solicit recommendations and applications of potential students from all Kentucky public school districts and private, parochial, or church schools located in Kentucky that have been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160. Prior to the selection process, the administrator of the academy shall provide a detailed description of the selection process, including how priority for geographic, racial, ethnic, and gender diversity will be used.
- (5) Based on available funds as described in subsection (8) of this section, the university may provide all or a portion of the costs of tuition, room, board, and other fees to the academy students. Books, instructional supplies, and incidental fees shall be the responsibility of the students. The university shall define what services and privileges shall be made available to the students while in residence.
- (6) Students in the academy shall take the assessments required of all high school students as required by the Commonwealth Accountability Testing System described in KRS 158.6453. The assessment scores shall be reported to the home high schools of the students and counted in the accountability index as described in KRS 158.6455(3).
- (7) Students who complete the program at the academy may use the courses to qualify for a high school diploma and to earn college credit hours. The earned college credit hours shall be transferable to any public postsecondary education institution in Kentucky.
- (8) The academy shall be funded with appropriations by the General Assembly from the general fund and funds from the Support Educational Excellence in Kentucky Program as described in Section 51 of this Act. The academy may receive donations, grants, and bequests, and may charge tuition and fees.

Section 51. KRS 157.360 is amended to read as follows:

- (1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.
- (2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:
 - (a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly. Funds generated under this paragraph may be used to pay for:
 - 1. Alternative programs for students who are at risk of dropping out of school before achieving a diploma; and
 - 2. A hazardous duty pay supplement as determined by the local board of education to the teachers who work in alternative programs with students who are violent or assaultive;
 - (b) The number and types of exceptional children in the district as defined by KRS 157.200. Specific weights for each category of exceptionality shall be used in the calculation of the add-on factor for exceptional children; and
 - (c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370. Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.
- (3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year.
- (4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (5) of this section, the maximum number

2007 Regular Session

of pupils enrolled in a class shall be as follows:

1. Twenty-four (24) in primary grades (kindergarten through third grade);
 2. Twenty-eight (28) in grade four (4);
 3. Twenty-nine (29) in grades five (5) and six (6);
 4. Thirty-one (31) in grades seven (7) to twelve (12).
- (b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.
- (c) The chief state school officer, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).
- (d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.
- (5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.
- (6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.
- (7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.
- (8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.
- (9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.
- (10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).
- (11) (a) Instructional salaries for vocational agriculture classes shall be for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of Career and Technical Education in the Department of Education. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

- (b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.
- (12) (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and
- (b) Pursuant to administrative regulations of the Kentucky Board of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported annually on forms provided by the Department of Education.
- (13) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.
- (14) Effective July 1, 2001, there shall be no deduction applied against the base funding level for any pupil in average daily attendance who spends a portion of his or her school day in a program at a state-operated career and technical education or vocational facility.
- (15) Based on the 2007-2008 school year and each year thereafter, the Department of Education shall provide the statewide guaranteed base funding level for each student in the prior year's average daily attendance in the Academy of Mathematics and Science in Kentucky to Western Kentucky University for operation of the academy.**
- Section 52. KRS 158.140 is amended to read as follows:
- (1) When a pupil in any public elementary school or any approved private or parochial school completes the prescribed elementary program of studies, he is entitled to a certificate of completion signed by the teacher or teachers under whom the program was completed. The certificate shall entitle the pupil to admission into any public high school. Any promotions or credits earned in attendance in any approved public school are valid in any other public school to which a pupil may go, but the superintendent or principal of a school, as the case may be, may assign the pupil to the class or grade to which the pupil is best suited. In case a pupil transfers from the school of one (1) district to the school of another district, an assignment to a lower grade or course shall not be made until the pupil has demonstrated that he is not suited for the work in the grade or course to which he has been promoted.
- (2) Upon successful completion of all state and local board requirements, the student shall receive a diploma indicating graduation from high school.
- (3) (a) The Academy of Mathematics and Science in Kentucky may award a diploma to any student who completes his or her high school program at the academy. If the academy issues a diploma, the board of regents shall provide to the commissioner of education a letter of assurance that the program of study completed by its students, in combination with previously earned secondary credits, meets the minimum graduation requirements established by the Kentucky Board of Education under KRS 156.160(1)(c).**
- (b) A local school district may award a joint diploma with the Academy of Mathematics and Science in Kentucky to any student who was enrolled in a district high school and completed his or her high school program at the academy.**
- (c) The academy and the home school district shall ensure that student transcripts from each institution accurately reflect the dual credit coursework.**
- ~~(4){(3)}~~ A local school board may award a diploma indicating graduation from high school to any student posthumously with the high school class with whom the student was expected to graduate.
- ~~(5){(4)}~~ (a) A local board of education shall award an authentic high school diploma to an honorably discharged veteran who did not complete high school prior to being inducted into the United States Armed Forces during:
1. World War II, as defined in KRS 40.010;
 2. The Korean conflict, as defined in KRS 40.010; or

3. The Vietnam War. As used in this paragraph, "Vietnam War" means the period beginning August 5, 1964, and ending May 7, 1975. However, for a member of the United States Armed Forces serving in Vietnam prior to August 5, 1964, the period shall begin February 28, 1961.

(b) Upon recommendation of the commissioner, the Kentucky Board of Education in consultation with the Kentucky Department of Veterans' Affairs shall promulgate administrative regulations to establish the guidelines for awarding the authentic diplomas referred to in paragraph (a) of this subsection.

~~(6)(5)}~~ The Department of Education shall establish the requirements for a vocational certificate of completion. A student who has returned to school after dropping out shall receive counseling concerning the vocational program. A student who has completed the requirements established for a vocational program shall receive a vocational certificate of completion specifying the areas of competence.

Section 53. KRS 164.002 is amended to read as follows:

As used in KRS Chapter 164, unless the context requires otherwise:

- (1) "Advanced placement" means a college-level course for the College Board Advanced Placement examination that incorporates all topics and instructional strategies specified by the College Board on its standard syllabus for a given subject area.
- (2) "College Board Advanced Placement examination" means the advanced placement test administered by the College Entrance Examination Board.
- (3) "College Board" means the College Entrance Examination Board, a national nonprofit association that provides college admission guidance and advanced placement examinations.
- (4) "Dual credit" means a college-level course of study developed in accordance with KRS 164.098 in which a high school student receives credit from both the high school and postsecondary institution in which the student is enrolled upon completion of a single class or designated program of study, including participating in the Academy of Mathematics and Science in Kentucky.
- (5) "Dual enrollment" means a college-level course of study developed in accordance with KRS 164.098 in which a student is enrolled in a high school and postsecondary institution simultaneously, including participating in the Academy of Mathematics and Science in Kentucky.

Section 54. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

- (1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the authority;
- (2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;
- (3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the authority, on the Scholastic Assessment Test;
- (4) "Authority" means the Kentucky Higher Education Assistance Authority;
- (5) "Award period" means two (2) consecutive academic terms;
- (6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic year;
- (7) "Council" means the Council on Postsecondary Education created under KRS 164.011;
- (8) "Eligible high school student" means any person who:
 - (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;
 - (b) Was enrolled after July 1, 1998:
 1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year; ~~{or}~~
 2. In a Kentucky high school for the fall academic term of the senior year and who:
 - a. Was enrolled during the entire academic term;
 - b. Completed the high school's graduation requirements during the fall academic term; and
 - c. Was not enrolled in a secondary school during any other academic term of that academic year; or
 3. In the Academy of Mathematics and Science in Kentucky during the senior year for the full academic year while meeting the Kentucky educational excellence scholarship curriculum requirements; and
 4. ~~{3-}~~ Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and

- (c) Is not a convicted felon;
- (9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:
 - (a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;
 - (b) Has the required postsecondary G.P.A. required under KRS 164.7881;
 - (c) Has remaining semesters of eligibility under KRS 164.7881;
 - (d) Is enrolled in a participating institution as a part-time or full-time student; and
 - (e) Is not a convicted felon;
- (10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;
- (11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;
- (12) "High school" means any Kentucky public high school, the Academy of Mathematics and Science in Kentucky, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;
- (13) "KEES" means Kentucky educational excellence scholarship;
- (14) "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection (8)(b)2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the authority;
- (15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;
- (16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;
- (17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(c). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;
- (18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:
 - (a)
 - 1. Is publicly operated; or
 - 2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or
 - 3. Is designated by the authority as an approved out-of-state institution that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and
 - (b) Continues to commit financial resources to student financial assistance programs;
- (19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and
- (20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3).

Section 55. KRS 164.7885 is amended to read as follows:

- (1) Not later than August 1, 1999, and each June 30 thereafter, each Kentucky high school shall submit to the authority, a compiled list of all high school students during the academic year. A high school shall report the grade point average of an eligible high school student pursuant to KRS 164.7874 by January 15 following the end of the fall academic term in which the student completed the high school graduation requirements. The list shall identify the high school and shall contain each high school student's name, Social Security number, address, grade point average for the academic year, expected or actual graduation date, and highest ACT score. The Academy of Mathematics and Science in Kentucky shall report the data on its students with their home high schools noted to the authority. The list need not contain the ACT score if the authority receives the ACT score directly from the testing services. The authority shall notify each eligible high school student of his or her Kentucky educational excellence scholarship award earned each academic year. The authority shall determine the final Kentucky educational excellence scholarship and supplemental award based upon the actual final grade point average and highest ACT score and shall notify each eligible twelfth-grade high school student of the final determination. The authority shall make available a list of eligible high school and postsecondary students to participating

2007 Regular Session

institutions.

- (2) The authority shall provide data access only to participating institutions that have either received an admission application from an eligible high school or postsecondary student or have been listed by the eligible high school or postsecondary student on the Free Application For Federal Student Aid.
- (3) For each eligible postsecondary student enrolling in a participating institution after July 1, 1999, the participating institution shall verify to the authority:
 - (a) The student's initial eligibility for a Kentucky educational excellence scholarship, Kentucky educational excellence scholarship and supplemental award, or supplemental award only pursuant to KRS 164.7879(3)(c) through the comprehensive list compiled by the authority or an alternative source satisfactory to the authority;
 - (b) The student's highest ACT score attained by the date of graduation from high school, provided that the participating institution need not report the ACT score if the authority receives the ACT score directly from the testing services;
 - (c) The eligible postsecondary student's full-time or part-time enrollment status at the beginning of each academic term; and
 - (d) The eligible postsecondary student's cumulative grade point average after the completion of each award period.
- (4) Each participating institution shall submit to the authority a report, in a form satisfactory to the authority, of all eligible postsecondary students enrolled for that academic term. Kentucky educational excellence scholarships and supplemental awards shall be disbursed by the authority to each eligible postsecondary student attending a participating institution during the academic term within thirty (30) days after receiving a satisfactory report.
- (5) The Kentucky educational excellence scholarship and the supplemental award shall not be reduced, except as provided in KRS 164.7881(4).
- (6) Kentucky educational excellence scholarships and supplemental awards shall not be awarded or disbursed to any eligible postsecondary students who are:
 - (a) In default on any loan under Title IV of the federal act; or
 - (b) Liable for any amounts that exceed annual or aggregate limits on any loan under Title IV of the federal act; or
 - (c) Liable for overpayment of any grant or loan under Title IV of the federal act; or
 - (d) In default on any obligation to the authority under any programs administered by the authority until financial obligations to the authority are satisfied, except that ineligibility may be waived by the authority for cause.
- (7) Notwithstanding the provisions of KRS 164.753, the authority may promulgate administrative regulations for the administration of Kentucky educational excellence scholarships and supplemental awards under the provisions of KRS 164.7871 to 164.7885 and KRS 164.7889.

Section 56. The Academy of Mathematics and Science in Kentucky shall enroll its first students for the 2007-2008 academic year.

Section 57. Whereas the Academy for Mathematics and Science in Kentucky intends to enroll students for the 2007-2008 academic year and whereas there are several time-sensitive policy and operational decisions that need to be made in order to recruit and enroll the first class of students, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law."

The Senate Committee Amendment No. 2 to **HB 5** is as follows:

HB 5, On page 80, after line 9, by inserting:

"Section 50. KRS 45A.345 is amended to read as follows:

As used in KRS 45A.343 to 45A.460, unless the context indicates otherwise:

- (1) "Aggregate amount" means the total dollar amount during a fiscal year of items of a like nature, function, and use the need for which can reasonably be determined at the beginning of the fiscal year. Items the need for which could not reasonably be established in advance or which were unavailable because of a failure of delivery need not be included in the aggregate amount.
- (2) "Capital cost avoidance" means moneys expended by a local public agency to pay for an energy conservation measure identified as a permanent equipment replacement and whose cost has been discounted by any additional energy and operation savings generated from other energy conservation measures identified in the guaranteed energy savings contract, except that for school districts capital cost avoidance shall also mean moneys expended by the district from one (1) or more of the following sources:
 - (a) General fund;
 - (b) Capital outlay allotment under KRS 157.420; and
 - (c) State and local funds from the Facilities Support Program of Kentucky under KRS 157.440.

- (3) "Chief executive officer" means the mayor, county judge/executive, superintendent of schools, or the principal administrative officer of a local public agency, or the person designated by the chief executive officer or legislative body of the local public agency to perform the procurement function.
- (4) "Construction" means the process of building, altering, repairing, or improving any public structure or building, or other public improvements of any kind to any public real property. It does not include the routine operation, routine repair, or routine maintenance of existing structures, buildings, or real property.
- (5) "Contract" means all types of local public agency agreements, including grants and orders, for the purchase or disposal of supplies, services, construction, or any other item. It includes awards and notices of award; contracts of a fixed-price, cost, cost-plus-a-fixed-fee, or incentive type; contracts providing for the issuance of job or task orders; leases; letter contracts; and purchase orders. It also includes supplemental agreements with respect to any of the foregoing. It does not include labor contracts with employees of local public agencies.
- (6) "Document" means any physical embodiment of information or ideas, regardless of form or characteristic, including electronic versions thereof.
- (7) "Established catalogue price" means the price included in the most current catalogue, price list, schedule, or other form that:
 - (a) Is regularly maintained by the manufacturer or vendor of an item; and
 - (b) Is either published or otherwise available for inspection by customers; and
 - (c) States prices at which sales are currently or were last made to a significant number of buyers constituting the general buying public for that item.
- (8) "Evaluated bid price" means the dollar amount of a bid after bid price adjustments are made pursuant to objective measurable criteria, set forth in the invitation for bids, which affect the economy and effectiveness in the operation or use of the product, such as reliability, maintainability, useful life, residual value, and time of delivery, performance, or completion.
- (9) "Invitation for bids" means all documents, whether attached or incorporated by reference, utilized for soliciting bids in accordance with the procedures set forth in KRS 45A.365.
- (10) "The legislative body or governing board" means a council, commission, or other legislative body of a city, consolidated local government, or urban-county; a county fiscal court; board of education of a county or independent school district; board of directors of an area development district or special district; or board of any other local public agency.
- (11) "Local public agency" means a city, county, urban-county, consolidated local government, school district, special district, or an agency formed by a combination of such agencies under KRS Chapter 79, or any department, board, commission, authority, office, or other sub-unit of a political subdivision which shall include the offices of the county clerk, county sheriff, county attorney, coroner, and jailer.
- (12) "May" means permissive. However, the words "no person may . . ." mean that no person is required, authorized, or permitted to do the act prescribed.
- (13) "Negotiation" means contracting by either the method set forth in KRS 45A.370, 45A.375, or 45A.380.
- (14) "Noncompetitive negotiation" means informal negotiation with one (1) or more vendor, contractor, or individual without advertisement or notice.
- (15) "Objective measurable criteria" means sufficient information in the invitation to bid as to weight and method of evaluation so that the evaluation may be determined with reasonable mathematical certainty. Criteria which are otherwise subjective, such as taste and appearance, may be established when appropriate.
- (16) "Person" means any business, individual, union, committee, club, or other organization or group of individuals.
- (17) "Procurement" means the purchasing, buying, renting, leasing, or otherwise obtaining any supplies, services, or construction. It also includes all functions that pertain to the obtaining of any public procurement, including description of requirements, selection, and solicitation of sources, preparation and award of contract, and all phases of contract administration.
- (18) "Request for proposals" means all documents, whether attached or incorporated by reference, utilized for soliciting proposals in accordance with the procedures set forth in KRS 45A.370, 45A.375, 45A.380, or 45A.385.
- (19) "Responsible bidder or offeror" means a person who has the capability in all respects to perform fully the contract requirements, and the integrity and reliability which will assure good faith performance.
- (20) "Responsive bidder" means a person who has submitted a bid under KRS 45A.365 which conforms in all material respects to the invitation for bids, so that all bidders may stand on equal footing with respect to the method and timeliness of submission and as to the substance of any resulting contract.
- (21) "Services" means the rendering, by a contractor, of its time and effort rather than the furnishing of a specific end product other than reports which are merely incidental to the required performance of service. It does not include labor contracts with employees of local public agencies.
- (22) "Shall" means imperative.

- (23) "Specifications" means any description of a physical or functional characteristic of a supply, service, or construction item. It may include a description of any requirement for inspecting, testing, or preparing a supply, service, or construction item for delivery.
- (24) "Supplemental agreement" means any contract modification which is accomplished by the mutual action of the parties.
- (25) "Supplies" means all property, including but not limited to leases on real property, printing, and insurance, except land or a permanent interest in land.
- (26) "Energy conservation measure" means a ~~training program or~~ facility alteration, and any training program provided with such alteration designed to reduce energy consumption or operating costs, and may include one (1) or more of the following:
- (a) Insulation of the building structure or systems within the building;
 - (b) Storm windows or doors, caulking or weatherstripping, multiglazed windows or doors, heat absorbing or heat reflective glazed and coated window or door systems, additional glazing, reductions in glass area, or other window and door system modifications that reduce energy consumption;
 - (c) Automated or computerized energy control systems;
 - (d) Heating, ventilating, or air conditioning system modifications or replacements;
 - (e) Replacement or modification of lighting fixtures to increase the energy efficiency of the lighting system without increasing the overall illumination of a facility, unless an increase in illumination is necessary to conform to the applicable state or local building code for the lighting system after the proposed modifications are made;
 - (f) Energy recovery systems;
 - (g) Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a building or complex of buildings;
 - (h) Energy, water, or wastewater conservation measures that provide long-term operating cost reductions or billable revenue increases;
 - (i) Any life safety measures that provide long-term operating cost reductions;
 - (j) Water and wastewater conservation measures, including plumbing fixtures and infrastructure;
 - (k) Equipment upgrades that improve the accuracy of billable revenue generating systems; or
 - (l) Automated, electronic, or remotely controlled systems or measures that reduce direct personnel costs.
- (27) "Guaranteed energy savings contract" means a contract for the evaluation and recommendation of energy, water, and wastewater conservation measures and for implementation of one (1) or more of those measures. The contract shall provide that all payments, except obligations on termination of the contract before its expiration, are to be made over time and the savings are guaranteed to the extent necessary to make payments for the cost of the design, installation, and maintenance of energy, water, and wastewater conservation measures.
- (28) "Qualified provider" means a person or business experienced in the design, implementation, and installation of energy, water, and wastewater conservation measures and is determined to be qualified by the local public agency. The qualified provider shall be responsible for and shall provide the local public agency with the following information regarding guaranteed energy, water, and wastewater savings contracts:
- (a) Project design and specifications;
 - (b) Construction management;
 - (c) Construction;
 - (d) Commissioning;
 - (e) On-going services as required;
 - (f) Measurement and verification of savings for guaranteed energy, water, and wastewater savings contracts; and
 - (g) Annual reconciliation statements as provided in KRS 45A.352(8)."; and by renumbering subsequent sections accordingly.

The Senate Committee Amendment No 3 Title to **HB 5** is as follows:

HB 5, Amend the title to read "AN ACT relating to the sciences."

Representative Adkins moved that the House refuse to concur in the Senate Committee Substitute, and Senate Committee Amendments No. 1, 2, and 3 Title to **HB 5**. Agreed.

Representative Adkins moved that the House request the Senate return **HB 156**. Agreed.

HB 476, with Senate Committee Substitute and Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 476** is as follows:

HB 476, AN ACT relating to elections, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.245 is amended to read as follows:

- (1) The candidate for office, other than the offices of Governor and Lieutenant Governor, receiving the highest number of votes in a primary election for the office for which he is a candidate shall be the nominee of his party for that office and shall receive the certificate of nomination.
- (2) ~~A slate of candidates for Governor and Lieutenant Governor that receives not less than forty percent (40%) of its party's votes cast shall be the nominee of its party for those offices and that slate of candidates shall receive the certificate of nomination; except that if two (2) slates of candidates receive forty percent (40%) or more of their party's votes, the slate receiving the higher number of votes shall be its party's nominee, and no runoff primary shall be conducted.~~
- (3) ~~A slate of candidates for Governor and Lieutenant Governor that receives the highest number of its party's votes but which number is less than forty percent (40%) of the votes cast for all slates of candidates of that party, shall be required to participate in a runoff primary with the slate of candidates of the same party receiving the second highest number of votes.~~
- (4) The slate of candidates for Governor and Lieutenant Governor receiving the highest number of votes in a ~~runoff~~ primary shall be the nominees of that party for Governor and Lieutenant Governor, and that slate of candidates shall receive the certificate of nomination.
- ~~(3)(5) [Subject to the foregoing provisions relating to a runoff primary, if two (2) or more slates of candidates in a primary election are found to have received the next highest and equal number of votes for the nomination for election to the offices of Governor and Lieutenant Governor, the slate which will appear on the ballot in a runoff primary shall be determined by lot in the manner the state board directs, in the presence of not less than three (3) other persons.~~
- ~~(6) Subject to the foregoing provisions relating to a runoff primary, if two (2) or more candidates or slates of candidates in a runoff primary or primary election are found to have received the highest and an equal number of votes for nomination to the same office, the election shall be determined by lot in the manner the board directs, in the presence of not less than three (3) other persons. This section does not apply to presidential primaries.~~

Section 2. KRS 116.055 is amended to read as follows:

Before a person shall be qualified to vote in a primary election, he shall possess all the qualifications required of voters in a regular election. In addition, he shall be a registered member of the party in whose primary election he seeks to vote, and shall have been registered as a member of that party on December 31 immediately preceding the primary election, or, in the case of new registrations made after December 31 immediately preceding the primary election, he shall have registered and remained registered as a member of that party. No person shall be allowed to vote for any party candidates or slates of candidates other than that of the party of which he is a registered member. The qualifications shall be determined as of the date of the primary, without regard to the qualifications or disqualifications as they may exist at the succeeding regular election, except that minors seventeen (17) years of age who will become eighteen (18) years of age on or before the day of the regular election shall be entitled to vote in the primary if otherwise qualified. However, any registered voter, whether registered as a member of a party or as an independent, shall be qualified to vote in primary elections for candidates listed in all nonpartisan races. ~~[Any voter eligible to vote in a primary election shall also be eligible to vote in a subsequent runoff primary if one shall be necessary.]~~

Section 3. KRS 117.085 is amended to read as follows:

- (1) All requests for an application for an absentee ballot may be transmitted by telephone, facsimile machine, by mail, or in person. Except as provided in paragraph (b) of this subsection, all applications for an absentee ballot shall be transmitted only by mail to the voter or in person at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to a voter permitted to vote by absentee ballot who appears in person to request the application, or shall mail the application to a voter permitted to vote by absentee ballot who requests the application by telephone, facsimile machine, or mail. The absentee ballot application may be requested by the voter, the spouse, parents, or children of the voter, but shall be restricted to the use of the voter. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, those who are incarcerated in jail but have yet to be convicted, military personnel confined to a military base on election day, and persons who qualify under subparagraph 6. of paragraph (a) of this subsection, no absentee ballots shall be mailed to a voter who resides within the county in which he is registered. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his application.
- (a) The following voters may apply to cast their votes by mail-in absentee ballot if the application is received not later than the close of business hours seven (7) days before the election:
 1. Voters permitted to vote by absentee ballot pursuant to KRS 117.075;

2007 Regular Session

2. Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas;
 3. Students who temporarily reside outside the county of their residence and other voters who temporarily reside outside the state but who are still eligible to vote in this state;
 4. Persons who are incarcerated in jail who have been charged with a crime but have not been convicted of the crime;
 5. Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before an election of electors for President and Vice President of the United States, who shall be permitted to cast an absentee ballot for electors for President and Vice President of the United States only; and
 6. Persons who are prevented from voting in person at the polls on election day and from casting an absentee ballot in person in the county clerk's office on all days absentee voting is conducted prior to election day because their employment location requires them to be absent from the county all hours and all days absentee voting is conducted in the county clerk's office.
- (b) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and overseas citizens, may apply for an absentee ballot by means of the federal post-card application, which may be transmitted to the county clerk's office by mail or by facsimile machine. The application may be used to register, reregister, and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to the application form upon receipt.
- (c) Absentee voting shall be conducted in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections during normal business hours for at least the twelve (12) working days before the election. A county board of elections may permit absentee voting to be conducted on a voting machine for a period longer than the twelve (12) working days before the election.
- (d) Any qualified voter in the county who is not permitted to vote by absentee ballot under paragraph (a) of subsection (1) of this section who shall be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (e) Residents of Kentucky who are members of the Armed Forces, dependents of members of the Armed Forces, and citizens residing overseas who shall be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (f) Students who temporarily reside outside the county of their residence and other voters who temporarily reside outside the state but who are still eligible to vote in this state who shall be absent from the county on any election day may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (g) Voters who have surgery scheduled that will require hospitalization on election day, and the spouse of the voter, may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (h) Voters who change their place of residence to a different state while the registration books are closed in the new state of residence before a presidential election shall be permitted to cast an absentee ballot for President and Vice President only, by making application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (i) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, any alternate precinct election officer, any deputy county clerk, any staff for the State Board of Elections, and any staff for the county board of elections may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. If an alternate precinct election officer or a precinct election officer appointed to serve in a precinct other than that in which he is registered receives his appointment while absentee voting is being conducted in the county, such officer may vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, up to the close of normal business hours on the day before the election. In case of such voters, the verification of appointment shall also contain the date of appointment. The

applications shall be restricted to the use of the voter only.

- (j) Any pregnant woman who is in her last trimester of pregnancy at the time she wishes to vote under this paragraph may at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application to vote on a voting machine in the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections. The application form for those persons shall be prescribed by the State Board of Elections, which shall contain the woman's sworn statement that she is in fact in her last trimester of pregnancy at the time she wishes to vote.
 - (k) The members of the county board of elections or their designees who provide equal representation of both political parties may serve as precinct election officers, without compensation, for all absentee voting performed on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections. If the members of the county board of elections or their designees serve as precinct election officers for the absentee voting, they shall perform the same duties and exercise the same authority as precinct election officers who serve on the day of an election. If the members of the county board of elections or their designees do not serve as precinct election officers for the absentee voting, the county clerk or deputy county clerks shall supervise the absentee voting.
 - (l) Any individual qualified to appoint challengers for the day of an election may also appoint challengers to observe all absentee voting performed at the county clerk's office or other place designated by the county board of elections, and approved by the State Board of Elections, and those challengers may exercise the same privileges as challengers appointed for observing voting on the day of an election at a regular polling place.
 - (m) Residents of Kentucky who are members of the Armed Forces confined to a military base on election day and learn of that confinement within seven (7) days or less of an election and are not eligible for a paper absentee ballot under subsection (1) of this section may, at any time during normal business hours on those days absentee voting is conducted in the county clerk's office, make application in person to the county clerk to vote on a voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections.
- (2) The clerk shall type the name of the voter permitted to vote by absentee ballot on the application form for that person's use and no other. The absentee ballot application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of the reason the person cannot vote in person on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in the precinct, and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.
 - (3) If the county clerk finds that the voter is properly registered as stated in his application and qualifies to receive an absentee ballot by mail, he shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed. An absentee ballot may be transmitted by facsimile machine to a resident of Kentucky who is a member of the Armed Forces, a dependent of a member of the Armed Forces, or a citizen residing overseas.
 - (4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of the ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.
 - (5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election~~and fifteen (15) days prior to each runoff primary~~.
 - (6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address, precinct number, and signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, signatures of two (2) witnesses if the voter signs the form with the use of a mark instead of the voter's signature and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.
 - (7) Any person who has received an absentee ballot by mail but who knows at least seven (7) days before the date of the election that he will be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his absentee ballot and vote in person. He shall return his absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he is properly registered.

2007 Regular Session

- (8) Any voter qualified for a mail-in absentee ballot who does not receive a requested mail-in ballot within a reasonable amount of time shall contact the county clerk, who shall reissue a second ballot. The county clerk shall keep a record of the absentee ballots issued and returned by mail, and the absentee voting that is performed on the voting machine in the county clerk's office or other place designated by the county board of elections and approved by the State Board of Elections, to verify that only the first voted ballot to be returned by the voter is counted. Upon the return of any ballot after the first ballot is returned, the clerk shall mark on the outer envelope of the sealed ballot the words "Cancelled because ballot reissued."

Section 4. KRS 117.275 is amended to read as follows:

- (1) At the count of the votes in any precinct, any candidate or slate of candidates and any representatives to witness and check the count of the votes therein, who are authorized to be appointed as is provided in subsection (7) of this section, shall be admitted and be permitted to be present and witness the count.
- (2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever, mechanism or other device of the voting equipment so that the voting and counting mechanism will be prevented from operation, and they shall sign a certificate stating:
 - (a) That the voting equipment has been locked against voting and sealed;
 - (b) The number of voters, as shown on the public counters;
 - (c) The number registered on the protective or accumulative counter or device, if any; and
 - (d) The number or other designation of the voting equipment, which certificate shall be returned by the judges of election to the officials authorized by law to receive it. The judges shall compare the number of voters, as shown by the counter of the voting equipment, with the number of those who have voted as shown by the protective or accumulative counter or device, if any.
- (3) Where voting equipment is used which does not print the candidates' names, lever numbers, and total votes received on a general return sheet or record for that equipment, the procedure to be followed shall be: the judges, in the presence of the representatives mentioned in subsection (1) of this section, if any, and of all other persons who may be lawfully within the polling place, shall make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the counters, giving full view of all the counter numbers. The judges shall, under the scrutiny of the representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate or slate of candidates and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the election officers. The total votes cast for each candidate, and slate of candidates, and for and against each question, shall be entered on the general and quadruplicate return sheets and statement. The proclamation of the result of the votes cast shall be announced distinctly and audibly by one (1) of the judges, who shall read the name and the vote cast for each candidate, and slate of candidates, and the vote for and against each question submitted. During the proclamation, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the voting equipment, and any necessary corrections shall be made by the judges, and the door or other cover of the voting equipment shall then be closed and locked.
- (4) If any officer shall decline to sign the return, he shall state his reason in writing, and a copy thereof, signed by him, shall be enclosed with the return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the officers shall write his name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and the write-in roll, if any write-in votes were cast in the precinct, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties, but a local governing body of a dominant political party may decline a copy of the precinct election return by filing a written declination with the county board of elections prior to the election, and upon this declination, a printed copy shall not be issued to the political party so declining. The declination on file shall be effective for that election and any subsequent elections until revoked by the local governing body of a dominant political party by filing a written revocation with the county board of elections. The envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes and write-in votes, the county board shall mail the tabulation sheets showing the results from each precinct to the State Board of Elections and the county clerk shall mail or deliver the precinct lists from each precinct to the State Board of Elections.
- (5) ~~In primary elections at which each party's slates of candidates seeking the nomination of their parties for Governor and Lieutenant Governor are voted on, the Secretary of State, upon receiving the certified results of voting from each county's precincts for those offices, shall determine whether a runoff primary shall be necessary for either or both parties pursuant to KRS 118.245. The Secretary of State shall, within twenty-four (24) hours of making his determination, inform the~~

~~affected slates of candidates, the county clerks, the county boards of elections, the State Board of Elections, the Registry of Election Finance, and the news media of his determination, and the date of the runoff primary, which shall be subject to change if an election contest or vote recount shall be requested.~~

- (6)} As soon as possible after the completion of the count, the two (2) judges shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the county clerk in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.

- ~~(6)}~~(7)} In primary elections, each candidate, slate of candidates, or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, independent candidate, or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election.

- ~~(7)}~~(8)} If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed in an envelope. The two (2) judges shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots, and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the Secretary of State. The county board of elections shall authorize the candidates, slates of candidates, or their representatives, and representatives of the news media to be present during the counting of the paper ballots. Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months, the county clerk shall retain the paper ballots for sixty (60) days, after which time they shall be destroyed in a manner to render them unreadable by the county board of elections if no contest or recount action has been filed.

Section 5. KRS 117.295 is amended to read as follows:

- (1) For a period of ten (10) days following any primary election, and for a period of thirty (30) days following any general or special election, the voting machine shall remain locked against voting, except that it may be opened and all the data and figures therein examined, upon the order of any court of competent jurisdiction, or judge thereof, or by direction of any legislative committee authorized and empowered to investigate and report upon contested elections affected by the use of a voting machine, and all the data and figures shall be examined by the court, judge or committee in the presence of the officer having the custody of the machine. In the event of a contest of election, the court in which the contest is pending or the committee before which the contest is being heard may, upon motion of any party to the contest, issue an order requiring that the voting machines shall remain continuously locked for further time as may be reasonable or necessary, with due regard for the preparation of the machines for a succeeding primary,~~runoff primary,~~ regular, or special election, but in no event shall the order compel that the machines remain locked to a time within thirty (30) days next preceding any approaching primary,~~runoff primary,~~ regular, or special election.
- (2) During the period when the machine is required to be kept locked, the keys thereto shall remain in the possession of the county board of elections. After that period, it shall be the duty of the county board of elections to return the keys to the custody of the county clerk.

Section 6. KRS 118.025 is amended to read as follows:

- (1) Except as otherwise provided by law, voting in all elections shall be by secret ballot on voting machines.
- (2) The general laws applying to regular, special, and primary~~, and runoff primary~~ elections shall apply to elections conducted with the use of voting machines, and all provisions of the general laws applying to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.
- (3) Primary elections for the nomination of candidates or slates of candidates to be voted for at the next regular election shall be held on the first Tuesday after the third Monday in May of each year.
- (4) ~~[A runoff primary shall be held thirty five (35) days after the date of the May primary, if it shall be necessary, pursuant to KRS 118.245, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday. However, if either a primary election is contested or a recount of the votes cast in a primary is requested, a runoff primary shall be held on the first Tuesday following the thirty fifth day following the conclusion of any contest proceeding or recount, if it shall be necessary, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday.]~~The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.
- (5) If the law authorizes the calling of a special election on a day other than the day of the regular election in November, the election shall be held on a Tuesday.
- (6) If the law requires that a special election be held within a period of time during which the voting machines must be locked as required by KRS 117.295, the special election shall be held on the fourth Tuesday following the expiration of the period

2007 Regular Session

during which the voting machines are locked.

Section 7. KRS 118.035 is amended to read as follows:

- (1) The polls shall be opened on the day of a primary, ~~runoff primary,~~ special election, or regular election at 6 a.m., prevailing time, and shall remain open until each voter who is waiting in line at the polls at 6 p.m., prevailing time, has voted. At 6 p.m., prevailing time, if voters are waiting at the polls to vote, the precinct election sheriff shall announce that a voter wishing to vote must immediately get in line. When all voters waiting at the polls at that time are in line, the precinct election sheriff shall then determine which voter is the last in line, and that voter shall be the last voter permitted to vote. The precinct election sheriff shall wait in line with the last voter who shall be permitted to vote until that voter has voted and shall inform a voter who subsequently arrives at the polls that no one shall be permitted to vote after the last voter in line at 6 p.m., prevailing time. After the last voter waiting in line at 6 p.m., prevailing time, has voted, the polls shall then be closed.
- (2) As provided in Section 148 of the Constitution of Kentucky, any person entitled to a vote at any election in this state shall, if he has made application for leave prior to the day he appears before the county clerk to request an application for or to execute an absentee ballot, be entitled to absent himself from any services or employment in which he is then engaged or employed for a reasonable time, but not less than four (4) hours on the day he appears before the clerk to request an application for or to execute an absentee ballot, during normal business hours of the office of the clerk or to cast his ballot on the day of the election between the time of opening and closing the polls. The employer may specify the hours during which an employee may absent himself.
- (3) No person shall be penalized for taking a reasonable time off to vote, unless, under circumstances which did not prohibit him from voting, he fails to vote. Any qualified voter who exercises his right to voting leave under this section but fails to cast his vote, under circumstances which did not prohibit him from voting, may be subject to disciplinary action.
- (4) Any person selected to serve as an election officer shall be entitled to absent himself from any services or employment in which he is then engaged or employed for a period of an entire day to attend training or to serve as an election officer. The person shall not, because of so absenting himself, be liable to any penalty. The employer may specify the hours during which the employee may absent himself. No person shall refuse an employee the privilege hereby conferred, or discharge or threaten to discharge an employee or subject an employee to a penalty, because of the exercise of the privilege.

Section 8. KRS 118.215 is amended to read as follows:

- (1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate or slate of candidates for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups, slates of candidates, or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes, with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:
 - (a) Not later than the second Monday after the filing deadline for the primary;
 - (b) ~~Not less than twenty five (25) days before a runoff primary;~~
 - (c) Not later than the second Monday after the filing deadline for the general election, except as provided in paragraph (d) of this subsection; and
 - ~~(d)~~ Not later than the Thursday after the first Tuesday in September preceding a general election, for those years in which there is an election for President and Vice President of the United States.
- (2) Except as otherwise provided in subsection (3) of this section, all independent candidates or slates of candidates whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates or slates of candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.
- (3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid

confusion on the part of the voter.

- (4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate or slate of candidates who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate or slate of candidates who has filed the required nomination papers.
- (5) If the county clerk determines that the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not later than the last Tuesday in February preceding the primary or the last Tuesday in August preceding the general election. The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions, and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates or slates of candidates for an office or offices and public questions submitted for a yes or no vote. All candidates or slates of candidates for any particular office shall be placed either on the machine ballot or on the paper ballot. Supplemental paper ballots may also be used to conduct the voting, in the instance of a small precinct as provided in KRS 117.066.
- (6) The ballot position of a candidate or slate of candidates shall not be changed after the ballot position has been designated by the county clerk.

Section 9. KRS 118.225 is amended to read as follows:

- (1) For the purpose of determining the order in which the names of candidates or slates of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots with the designation of the respective offices, the Secretary of State shall prepare lists of the counties of each congressional district of the state. He shall arrange the surnames of all candidates or slates of candidates for each office in alphabetical order for the First Congressional District, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.
- (2) For all other offices for which nomination papers and petitions are filed with the Secretary of State, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the last Tuesday in January preceding the primary~~[-, twenty-six (26) days before a runoff primary,]~~ or the Thursday following the second Tuesday in August preceding the general election.
- (3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2 p.m., standard time, on the Thursday following the last Tuesday in January before the primary or the Thursday following the second Tuesday in August preceding the general election.
- (4) If the number of certified candidates or slates of candidates cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the State Board of Elections, as provided in KRS 118.215.

Section 10. KRS 121.015 is amended to read as follows:

As used in this chapter:

- (1) "Registry" means the Kentucky Registry of Election Finance;
- (2) "Election" means any primary~~[- runoff primary,]~~ regular, or special election to fill vacancies regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary~~[- runoff primary,]~~ regular, or special election shall be considered a separate election;
- (3) "Committee" includes the following:
 - (a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office, but does not include an entity established solely by a candidate which is managed solely by a candidate and a campaign treasurer and whose name is generic in nature, such as "Friends of (the candidate)," and does not reflect that other persons have structured themselves as a committee, designated officers of the committee, and assigned responsibilities and duties to each officer with the purpose of managing a campaign to support or oppose a candidate in an election;
 - (b) "Caucus campaign committee," which means members of one (1) of the following caucus groups who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election, or a committee:
 1. House Democratic caucus campaign committee;
 2. House Republican caucus campaign committee;
 3. Senate Democratic caucus campaign committee; and
 4. Senate Republican caucus campaign committee;

2007 Regular Session

- (c) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends money in excess of one thousand dollars (\$1,000);
- (d) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee, political issues committee, inaugural committee, caucus campaign committee, or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties, which functions on a regular basis throughout the year;
- (e) An executive committee of a political party; and
- (f) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;
- (4) "Contributing organization" means a group which merely contributes to candidates, slates of candidates, campaign committees, caucus campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by the groups in excess of one hundred dollars (\$100) shall be reported to the registry;
- (5) "Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a political office in this state designed to raise funds for any purpose not charitable, religious, or educational;
- (6) "Contribution" means any:
 - (a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, a slate of candidates, its authorized agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds the contribution limits provided in KRS 121.150;
 - (b) Payment by any person other than the candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;
 - (c) Goods, advertising, or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or
 - (d) Payment by any person other than a candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars (\$100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;
- (7) Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include:
 - (a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, a slate of candidates, committee, or contributing organization;
 - (b) A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; or
 - (c) An independent expenditure by any individual or permanent committee;
- (8) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, except federal office;
- (9) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;
- (10) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists;
- (11) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for a statewide-elected state office or an office in a jurisdiction with a population in excess of two hundred

thousand (200,000) residents;

- (12) "Independent expenditure" means the expenditure of money or other things of value for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them;
- (13) "Electronic reporting" means the use of technology, having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities, by which an individual or other entity submits, compiles, or transmits campaign finance reports to the registry, or by which the registry receives, stores, analyzes, or discloses the reports;
- (14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures;
- (15) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record;
- (16) "Filer" means any candidate, a slate of candidates, committee, or other individual or entity required to submit financial disclosure reports to the registry; and
- (17) "Filer-side software" means software provided to or used by the filer that enables transmittal of financial reports to the registry.

Section 11. KRS 121.150 is amended to read as follows:

- (1) No contribution shall be made or received, directly or indirectly, other than an independent expenditure, to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee. Any person making an independent expenditure, shall report these expenditures when the expenditures by that person exceed five hundred dollars (\$500) in the aggregate in any one (1) election, on a form provided or using a format approved by the registry and shall sign a statement on the form, under penalty of perjury, that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made.
- (2) Except as provided in KRS 121.180(10), the solicitation from and contributions by campaign committees, caucus campaign committees, political issues committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate or a slate of candidates to contribute to religious, civic, or charitable groups.
- (3) No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of fifty dollars (\$50), and all anonymous contributions in excess of fifty dollars (\$50) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall accept anonymous contributions in excess of one thousand dollars (\$1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars (\$1,000) in the aggregate which are received in any one (1) election shall escheat to the state.
- (4) No candidate, slate of candidates, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of fifty dollars (\$50) in the aggregate from each contributor in any one (1) election. No candidate, slate of candidates, committee, or contributing organization, nor anyone on their behalf, shall accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order which identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section. No person shall make a cash contribution in excess of fifty dollars (\$50) in the aggregate in any one (1) election to a candidate, slate of candidates, committee, or contributing organization, nor anyone on their behalf.
- (5) No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars (\$100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.
- (6) No candidate, slate of candidates, campaign committee, political issues committee, nor anyone acting on their behalf, shall accept a contribution of more than one thousand dollars (\$1,000) from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, his campaign committee, nor anyone acting on their behalf shall accept a contribution of more than one hundred dollars (\$100) from any person or more than two hundred dollars (\$200) from any permanent committee or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall contribute more than one thousand dollars (\$1,000) to any one (1) candidate, campaign committee, political issues committee, nor anyone acting on their behalf, in any one (1) election;

2007 Regular Session

except that no person shall contribute more than one hundred dollars (\$100) and no permanent committee or contributing organization shall contribute more than two hundred dollars (\$200) to any one (1) school board candidate, his campaign committee, nor anyone acting on their behalf, in any one (1) election.

- (7) Permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.
- (8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.
- (9) No person shall contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.
- (10) No person shall contribute more than one thousand five hundred dollars (\$1,500) to all permanent committees and contributing organizations in any one (1) year.
- (11) No person shall contribute more than two thousand five hundred dollars (\$2,500) to the state executive committee of a political party and its subdivisions and affiliates in any one (1) year. No person shall contribute more than two thousand five hundred dollars (\$2,500) to a caucus campaign committee in any one (1) year. Contributions a person makes to any executive committee other than the state executive committee in excess of one thousand dollars (\$1,000) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.
- (12) No person shall make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, a slate of candidates, committee, contributing organization, or anyone on their behalf. No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf shall accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a candidate, a slate of candidates, committee, contributing organization, or anyone on their behalf.
- (13) No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars (\$50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars (\$25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars (\$10,000) in any one (1) election.
- (14) Subject to the provisions of subsection ~~(18)~~~~(19)~~ of this section, no candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.
- ~~(15)~~ Subject to the provisions of subsection ~~(19)~~ of this section, no slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall contribute for runoff primary election expenses after the date of the runoff primary.
- ~~(16)~~ Subject to the provisions of subsection ~~(18)~~~~(19)~~ of this section, no candidate or slate of candidates for any state, county, city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.
- ~~(16)~~~~(17)~~ Subject to the provisions of subsection ~~(18)~~~~(19)~~ of this section, no candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.
- ~~(17)~~~~(18)~~ The provisions of subsections (14) and ~~(15)~~~~(16)~~ of this section shall apply only to those candidates in a primary or regular election which shall be conducted subsequent to January 1, 1989. The provisions of subsection (16)~~subsections (15) and (17)~~ of this section shall apply only to those candidates or slates of candidates in a ~~runoff primary or~~ special election which shall be conducted subsequent to January 1, 1993.
- ~~(18)~~~~(19)~~ A candidate, slate of candidates, or a campaign committee may solicit and accept contributions after the date of a primary election, ~~runoff primary election,~~ regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180.
- ~~(19)~~~~(20)~~ No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total

of fifty thousand dollars (\$50,000).

~~(20)~~~~(21)~~ No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.

~~(21)~~~~(22)~~ Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.

~~(22)~~~~(23)~~ No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

~~(23)~~~~(24)~~ (a) A candidate or a slate of candidates for elective public office shall not accept contributions from permanent committees which, in the aggregate, exceed fifty percent (50%) of the total contributions accepted by the candidate or a slate of candidates in any one (1) election or ten thousand dollars (\$10,000) in any one (1) election, whichever is the greater amount. The percentage of the total contributions or dollar amounts of contributions accepted by a candidate or a slate of candidates in an election that is accepted from permanent committees shall be calculated as of the day of each election. Funds in a candidate's or a slate of candidates' campaign account which are carried forward from one (1) election to another shall not be considered in calculating the acceptable percentage or dollar amount of contributions which may be accepted from permanent committees for the election for which the funds are carried forward. A candidate or a slate of candidates may, without penalty, contribute funds to his campaign account not later than sixty (60) days following the election so as not to exceed the permitted percentage or dollar amount of contributions which may be accepted from permanent committees or the candidate or a slate of candidates may, not later than sixty (60) days after the end of the election, refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

(b) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from executive committees of any county, district, state, or federal political party in any one (1) election.

(c) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from caucus campaign committees.

~~(24)~~~~(25)~~ No candidate or slate of candidates for any office in this state shall accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account. No person shall make a contribution, including an in-kind contribution, from funds in a federal campaign account to any candidate or slate of candidates for any office in this state.

Section 12. KRS 121.180 is amended to read as follows:

(1) (a) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any preelection finance reports required by subsection (3) of this section if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that contributions will not be accepted or expended in excess of three thousand dollars (\$3,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot. For a candidate for judicial office who desires to be exempt from filing preelection campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (1)1. or 2. of this subsection. A separate form shall be required for each primary,~~runoff primary,~~ regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(b) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of one thousand dollars (\$1,000) in any one (1) election. For a candidate for judicial office who desires to be exempt from filing any campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (1)1. or 2. of this subsection. A separate form shall be

2007 Regular Session

required for each primary,~~runoff primary,~~ regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

- (c) For a primary election, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline.~~[For a runoff primary election, a slate of candidates shall file its request for exemption not later than five (5) days after the date of the preceding primary election and shall be bound by its terms unless rescinded in writing not later than ten (10) days after the date of the preceding primary election.]~~ For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than twenty-five (25) days after the date of the preceding primary election,~~[or runoff primary, if one is held,]~~ except as provided in subparagraph 2. of paragraph (d) of this subsection. For a special election, a candidate or slate of candidates shall file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date on which the nomination for a special election is made. A political issues committee chairman shall file a request for exemption not later than ten (10) days after the date on which the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the date on which the request for exemption is filed.
- (d)
 1. A candidate or slate of candidates that revokes a request for exemption in a timely manner may exercise the remaining option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars (\$3,000) in an election. If a candidate or slate of candidates elects to exercise a different option, the candidate or slate of candidates shall file the appropriate form with the officer who received the filing papers of the candidate or slate of candidates not later than the deadline for filing a revocation.
 2. A candidate for any city or county office or for any school board office, who is exempted from some or all campaign finance reporting requirements pursuant to paragraph (a) or (b) of this subsection but who accepts contributions or makes expenditures in excess of the exempted amount in an election, shall file all applicable reports required for the remainder of that election, based upon the amount of contributions or expenditures the candidate accepts or receives in that election. The filing of applicable required reports by a candidate after the exempted amount is exceeded shall serve as notice to the registry that the initial exemption has been rescinded. No further notice to the registry shall be required and no penalty for exceeding the initial exempted amount shall be imposed against the candidate, except for failure to file applicable reports required after the exempted amount is exceeded.
- (e) Any candidate or slate of candidates that is subject to an August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in subparagraph 1. of paragraph (d) of this subsection.
- (f) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed either request for exemption for that election may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in subparagraph 1. of paragraph (d) of this subsection.
- (g) Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.
- (h) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.
- (i) If the opponent of a candidate or slate of candidates is replaced due to his withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection

not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.

- (j) A person intending to be a write-in candidate for any office in a regular or special election may execute a request for exemption under paragraph (a) or (b) of this subsection and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline for the regular or special election. A person intending to be a write-in candidate who revokes a request for exemption in a timely manner may exercise the remaining exemption option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars (\$3,000) in an election. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a person intending to be a write-in candidate who elects to exercise a different exemption option shall file the appropriate form with the officer who received the initial request for exemption not later than fifteen (15) days after the filing deadline for the regular or special election.
- (k) Except as provided in subparagraph 2. of paragraph (d) of this subsection, the campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues committee whose chairman has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner and no new request for exemption has been executed.
- (l)
 1. Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate, slate of candidates, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), (e), or (j) of this subsection that accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, in lieu of other penalties prescribed by law, pay a fine of not more than five hundred dollars (\$500) plus the amount by which the spending limit was exceeded.
 2. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate, slate of candidates, campaign committee, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), (e), or (j) of this subsection that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.
- (2) (a) State and county executive committees, and caucus campaign committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, or made, since the date of the last report, including:
 1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
 2. For other contributions in excess of one hundred dollars (\$100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;
 3. The total amount of cash contributions received during the reporting period; and
 4. A complete statement of expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars (\$25), and the amount, date, and purpose of each expenditure.
- (b) This report shall be in the hands of the registry or postmarked within five (5) days after the thirtieth day following the primary~~, runoff primary if slates of candidates of that party participate,~~ and regular elections. If an individual gives a reportable contribution to a caucus campaign committee or to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required, by this subsection, to be in the hands of the registry or postmarked within five (5) days after the thirtieth day following each regular election.
- (3) (a) Except for candidates or slates of candidates, campaign committees, or political issues committees exempted from reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions or expends, expects to accept contributions or expend, or contracts to expend more than three thousand dollars (\$3,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars (\$3,000) in any one (1) election, shall make a full report to the registry, on a form provided or using a format approved by the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:

2007 Regular Session

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
 2. For each contribution in excess of one hundred dollars (\$100) made to a candidate or slate of candidates for a statewide-elected state office, or to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor; and
 3. For each contribution in excess of one hundred dollars (\$100) made to any candidate or campaign committee other than those specified in subparagraph 2. or a political issues committee, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;
 4. The total amount of cash contributions received during the reporting period; and
 5. A complete statement of all expenditures authorized, incurred, or made. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of twenty-five dollars (\$25), and the amount, date, and purpose of each expenditure.
- (b) Reports of all candidates, slates of candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:
1. Candidates as defined in KRS 121.015(8), slates of candidates, campaign committees, political issues committees, and fundraisers which register in the year before the year an election in which the candidate, a slate of candidates, or public question shall appear on the ballot, shall file financial reports with the registry at the end of the first calendar quarter after persons become candidates or slates of candidates, or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates, slates of candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place;
 2. All candidates, slates of candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;
 3. All candidates, slates of candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the election; and
 4. All reports to the registry shall be received by the registry or postmarked within five (5) days after each filing deadline.
- (4) Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(b) of this section, all candidates, regardless of funds received or expended, campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election.
- (5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars (\$100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer and the employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. When any individual purchase or the aggregate purchases of any item enumerated above from any candidate or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars (\$100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer, or if the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years following the date of the election.
- (6) Each permanent committee, except a federally registered out-of-state permanent committee, inaugural committee, or contributing organization shall make a full report to the registry, on a form provided or using a format approved by the registry, of all money, loans, or other things of value, received by it from any source, and all expenditures authorized, incurred, or made, since the date of the last report, including:
- (a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

- (b) For other contributions in excess of one hundred dollars (\$100), the full name, address, age if under the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;
 - (c) An aggregate amount of cash contributions, the amount contributed by each contributor, and the date of each contribution; and
 - (d) A complete statement of all expenditures authorized, incurred, or made, including independent expenditures. This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures on a form provided or using a format approved by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be postmarked or received not later than five (5) days after each filing deadline.
- (7) If the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed annually, to be received by the registry or postmarked not later than ten (10) days after November 1 of each year, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit, or until the year before the candidate or a slate of candidates seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed, in which case the candidate or a slate of candidates shall file the supplemental annual report not later than ten (10) days after November 1 of that year or at the end of the first calendar quarter of that year after the candidate or slate of candidates files nomination papers for the next year's primary or regular election. All contributions shall be subject to KRS 121.150.
- (8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate paper copy of each report filed either on paper or electronically with the registry shall be filed by the candidate, slate of candidates, or committee with the county clerk in the county in which the candidate or persons running as a slate of candidates reside at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.
- (9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate or slate states in writing or on forms provided by the registry that:
- (a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;
 - (b) The candidate or slate of candidates shall not make any unreimbursed expenditure for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and
 - (c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.
- (10) No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public issue which will appear on the ballot to further the candidacy of the person for a different public office, to support or oppose a different public issue, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars (\$100) per event or affair. Any funds or contributions solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in whole or in part to further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to a caucus campaign committee, or to the state or county executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain the funds to further the same public issue or to seek election to the same office or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.

2007 Regular Session

- (11) (a) Any publisher of newspapers or magazines, owner or lessor of billboards, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public who receives funds for the purchase of advertising services or material, shall file with the registry a copy of the material or communication purchased which supports or opposes any slate of candidates or committee; a copy of the receipt for the funds paid; the name and address of each purchaser; and the source of the funds for the purchase if different than the purchaser.
 - (b) A radio or television station or network that receives funds for the purchase of advertising services or material that supports or opposes a slate of candidates or committee shall file with the registry a copy of the documentation of paid political campaign advertisements that is required to be maintained by the Federal Communications Commission, along with a cover letter from the manager of the station or network or the manager's designee.
 - (c) All information required to be reported by paragraphs (a) and (b) of this subsection shall be in the hands of the registry or postmarked not later than the thirtieth day following the primary~~[-runoff primary,-]~~ and regular elections that are held subsequent to the date that the broadcasting or printing of the advertisement occurs.
 - (d) The provisions of this subsection shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor.
 - (e) Notwithstanding KRS 121.990, penalties for violation of this subsection shall be assessed in accordance with the provisions of KRS 121.140(2).
 - (12) (a) For the purposes of this subsection, "election cycle," as applied to contributions, expenditures, or loans to support or oppose a candidate for a particular office, means the period of time beginning January 1 following a regular election for the office and ending December 31 following the next regular election for that office.
 - (b) For the purpose of this subsection, "election cycle," as applied to contributions, expenditures, or loans to support or oppose a constitutional amendment or public question which appears on the ballot, means the period of time beginning January 1 following a regular election for any state legislative office and ending December 31 following the next regular election for any state legislative office.
 - (c) If adequate and appropriate agency funds are available to implement this subsection, beginning on January 1, 2002, the option of electronic reporting shall be made available by the registry for all of the following:
 - 1. Candidates for statewide office and slates of candidates that during the election cycle receive contributions or loans in the aggregate of twenty-five thousand dollars (\$25,000) or more, or at any time have a balance in a campaign account or accounts in the aggregate of twenty-five thousand dollars (\$25,000) or more;
 - 2. Candidates for the General Assembly that during the election cycle receive contributions or loans in the aggregate of twelve thousand five hundred dollars (\$12,500), or at any time have a balance in an aggregate of twelve thousand five hundred dollars (\$12,500) or more; and
 - 3. Campaign committees, political issues committees, permanent committees, registered fundraisers, contributing organizations, and individuals and entities making independent expenditures that during the election cycle receive contributions or loans in an aggregate of twenty-five thousand dollars (\$25,000) or more, make expenditures in an aggregate of twenty-five thousand dollars (\$25,000) or more, or at any time have a balance in an aggregate of twenty-five thousand dollars (\$25,000) or more.
 - (13) Filers specified in subsection (12) of this section shall also continue to file required campaign finance reports in paper format until the registry deems it is no longer necessary. The paper copy shall continue to be the official version for audit and other legal purposes.
 - (14) Filers not required to file reports electronically, as set forth in this section, are strongly encouraged to do so voluntarily.
 - (15) The date that an electronic or on-line report shall be deemed to have been filed with the registry shall be the date on which it is received by the registry.
 - (16) All electronic or on-line filers shall affirm, under penalty of perjury, that the report filed with the registry is complete and accurate.
 - (17) Filers who submit computer disks which are not readable, cannot be copied, or are not accompanied by any requisite paper copy shall be deemed to not be in compliance with the requirements set forth in this section.
 - (18) No candidate is obligated to file any reports electronically.
- Section 13. KRS 117.066 is amended to read as follows:
- (1) In the case of a precinct comprised of a small number of registered voters, the county board of elections may, pursuant to KRS 117.055, utilize the facilities of another precinct as a voting location. Additionally, the county board of elections may petition the State Board of Elections to allow the precinct election officers of the larger precinct to serve as precinct election officers for the precinct that is the subject of the petition. The petition shall designate both the smaller precinct and the larger precinct with which it is to be included, the type of voting machine or machines to be used, and whether supplemental paper ballots are to be used. The petition shall contain a full explanation of the reasons why inclusion is desirable.
 - (2) If the petition submitted pursuant to subsection (1) of this section is approved by the State Board of Elections, the election

shall be conducted according to the following provisions:

- (a) One voting machine may be utilized for both precincts if the State Board of Elections certifies that separate ballots may be placed upon the voting machine to be used without endangering the integrity of the ballots or without violating any other election law. Otherwise, separate voting machines shall be used for each precinct. In the instance of a precinct which has a small number of voters such that the use of a separate voting machine would be cost-prohibitive, the county clerk may make application to the State Board of Elections to use supplemental paper ballots under KRS 118.215 to conduct the voting for the small precinct on election day. If the use of supplemental paper ballots is approved by the State Board of Elections, at the close of voting on election day, the locked ballot box shall be transported to the county board of elections and ballots shall be counted by the county board of elections as provided by KRS 117.275(2)(~~8~~);
- (b) Separate precinct voter rosters shall be maintained for each precinct, and steps shall be taken to insure that voters cast their ballot in their duly authorized precinct; and
- (c) A separate set of elections forms and reports required by this chapter and the State Board of Elections shall be maintained for each precinct.

Section 14. Whereas local governments have been burdened with the technical, logistical, and financial cost of runoff elections for candidates who have essentially been nominated by their party to run in the regular election, and such candidates have to invest more time and money in the primary instead of focusing on the regular election, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Senate Committee Amendment No. 2 to HB 476 is as follows:

HB 476, On page 50, after line 23, by inserting the following:

"Section 14. KRS 117.255 is amended to read as follows:

- (1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.
- (2) Except for those voters who have been certified as requiring assistance on a permanent basis, no voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, because of blindness, other physical disability, or an inability to read English, he is unable to vote without assistance. The oath shall be upon a voter assistance form prescribed by the State Board of Elections. Any person assisting a voter shall complete the voter assistance form.
- (3) Upon making and filing the oath with the precinct clerk, the voter requiring assistance shall retire to the voting machine or ballot completion area with the precinct judges, and one (1) of the judges shall, in the presence of the other judge and the voter, operate the machine or complete the ballot as the voter directs. A voter requiring assistance in voting may, if he prefers, be assisted by a person of his own choice who is not an election officer, except that the voter's employer, an agent of the voter's employer, or an officer or agent of the voter's union shall not assist a voter.
- (4) The precinct election clerk shall swear a person assisting a voter in voting to operate the voting machine or complete the ballot in accordance with the directions of the voter, and the person sworn shall enter the voting booth or ballot completion area and operate the machine or complete the ballot for the voter as the voter directs.
- (5) A voter who requires voting assistance on a permanent basis because of blindness or other physical disability may apply to the county board of elections for certification. Application may be made when registering to vote or completing the voter assistance form by indicating that the reason for obtaining assistance is permanent. The county board of elections shall determine whether the applicant requires assistance on a permanent basis. The county board of elections shall notify the county clerk of persons certified as requiring permanent voting assistance and the county clerk shall enter the certification on the voter's registration record. The State Board of Elections shall indicate on the precinct roster of voters those voters who are certified to receive assistance permanently without signing the voter assistance form at the precinct.
- (6) "Voting booth" or "ballot completion area" means an area in which a voter casts his vote or completes his ballot which is designed to insure the secrecy of the vote. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific reason that requires him to receive assistance.
- (7) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it, except that those voters who because of a disability need extra time to cast a ballot shall be given a reasonable amount of time to vote.
- (8) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.
- (9) If the machine is so constructed as to require adjustment after one person has voted before another person may vote, the judges of election shall adjust it after each person has voted.
- (10) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.
- (11) If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in

a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

- (12) The election sheriff shall be responsible for reporting violations of this section."
Renumber subsequent section accordingly.

The Senate Committee Amendment No. 1 Title to **HB 476** is as follows:

HB 476, Amend title to read as follows: "AN ACT relating to elections and declaring an emergency."

Representative Nelson moved that the House refuse to concur in the Senate Committee Substitute, and Senate Committee Amendment Nos. 1 Title, and 2 to **HB 476**. Agreed.

HB 430, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 430** is as follows:

HB 430, AN ACT relating to consumer telemarketing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.46951 is amended to read as follows:

As used in KRS 367.46951 to 367.46999 and 367.990, unless the context otherwise requires:

- (1) "Telephone solicitation" means:
- (a) A live or recorded communication sent by a telephone or message sent by a facsimile machine to a residential, mobile, or telephone paging device telephone number, including a call made by an automatic dialing or recorded message device, for the purpose of:
 - 1. Soliciting a sale of consumer goods or services, offering an investment, business, or employment opportunity, or offering a consumer loan to the person called;
 - 2. Obtaining information that will or may be used for the solicitation of a sale of consumer goods or services, the offering of an investment, business, or employment opportunity, or the offering of a consumer loan to the person called;
 - 3. Offering the person called a prize, gift, or anything else of value, if payment of money or other consideration is required in order to receive the prize or gift, including the purchase of other merchandise or services or the payment of any processing fees, delivery charges, shipping and handling fees, or other fees or charges; or
 - 4. Offering the person called a prize, gift, or other incentive to attend a sales presentation for consumer goods or services, an investment or business opportunity, or a consumer loan; or
 - (b) A live or recorded communication sent by telephone, facsimile machine, mobile telephone, or telephone paging device in response to inquiries generated by unrequested notifications sent by the merchant to persons who have not previously purchased goods or services from the merchant or telemarketer or who have not previously requested credit from the merchant, to a prospective purchaser if the merchant or telemarketer represents or implies to the recipient of the notification that any of the following applies:
 - 1. That the recipient has in any manner been specially selected to receive the notification or the offer contained in the notification;
 - 2. That the recipient will receive a prize or gift if the recipient calls the merchant or telemarketer; or
 - 3. That if the recipient buys one (1) or more items from the merchant or telemarketer, the recipient will also receive additional or other items of the same or a different type at no additional cost or for less than the regular price of the items;
- (2) "Telephone solicitation" does not mean the following:
- (a) A telephone call made in response to an express request of a person called, unless the request was made during a prior telephone solicitation;
 - (b) A telephone call made to the debtor or a party to the contract in connection with the payment or performance of an existing debt or contract, the payment or performance of which has not been completed at the time of the call;

- (c) A telephone call to any person with whom the telemarketer or merchant has a prior or existing business relationship, including but not limited to the solicitation of contracts for the maintenance or repair of items previously purchased from the person making the solicitation or on whose behalf the solicitation is made;
- (d) A telephone call made by the following:
 - 1. A merchant or telemarketer located in Kentucky to a location outside of the Commonwealth of Kentucky;
 - 2. A telephone call made by one (1) merchant to another;
- (3) "Consumer goods or services" means goods, services, or interests in real property used by natural persons primarily for personal, family, or household purposes;
- (4) "Consumer loan" means any extension of credit, including credit cards and other forms of revolving credit, to a natural person primarily for the purposes of purchasing consumer goods or services or for paying existing personal, family, or household debts;
- (5) "Consumer" means a natural person who receives a telephone solicitation;
- (6) "Legal name of the merchant" means the real name of the merchant, as defined in KRS 365.015(1), or the assumed name of the merchant for which all proper certificates have been filed pursuant to KRS 365.015;
- (7) "Merchant" means the individual or business entity offering the consumer goods or services, an investment, business, or employment opportunity, or a consumer loan;
- (8) "Caller" or "sales person" means the individual making the call or operating the automatic dialing or recorded message device and causing the call to be made;
- (9) "Division" means the Consumer Protection Division of the Office of the Attorney General;
- (10) "Automated calling equipment" means any device or combination of devices used to select or dial telephone numbers and to deliver recorded messages to those numbers without the use of a live operator;
- (11) "Telemarketer" means any person who under contract with a merchant or in connection with a telephone solicitation initiates or receives telephone calls to or from a consumer of goods and services. A telemarketer includes but is not limited to any such person that is an owner, operator, officer, director, or partner to the management activities of a business;
- (12) "Publicly traded corporation" means an issuer or subsidiary of an issuer that has a class of securities which is:
 - (a) Subject to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. sec. 78l) and which is registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G), or (H) of subsection (g)(2) of that section;
 - (b) Listed on the New York Stock Exchange, the American Stock Exchange, or the NASDAQ National Market System; or
 - (c) A reported security within the meaning of subparagraph (4) of Regulation Section 240.11Aa3-1.(a) under the Securities Exchange Act of 1934. A subsidiary of an issuer that qualifies for exemption under this paragraph shall not itself be exempt unless at least sixty percent (60%) of the voting power of its shares is owned by the qualifying issuer;
- (13) "Telemarketing company" means a company whose primary business is to engage in telephone solicitation; and
- (14) "Zero call[~~list~~]" means the national Do Not Call Registry maintained by the United States Federal Trade Commission~~[a list]~~ containing the residential or wireless telephone numbers of the individuals that indicate their preference not to receive telephone solicitations.

Section 2. KRS 367.46955 is amended to read as follows:

It is a prohibited telephone solicitation act or practice and a violation of KRS 367.46951 to 367.46999 for any person making a telephone solicitation to engage in the following conduct:

- (1) Advertising or representing that registration as a telemarketer equals an endorsement or approval by any government or governmental agency;
- (2) Requesting a fee in advance to remove derogatory information from or improve a person's credit history or credit record;
- (3) Requesting or receiving a payment in advance from a person to recover or otherwise aid in the return of money or any other item lost by the consumer in a prior telephone solicitation transaction;
- (4) Requesting or receiving payment of any fee or consideration in advance of obtaining a loan or other extension of credit when the telemarketing company has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit for a person;
- (5) Obtaining or submitting for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, or bond or other account without the consumer's express written authorization, or charging a credit card account or making electronic transfer of funds except in conformity with KRS 367.46963;
- (6) Procuring the services of any professional delivery, courier, or other pickup service to obtain immediate receipt or possession of a consumer's payment, unless the goods are delivered with the opportunity to inspect before any payment is collected;

- (7) Assisting, supporting, or providing substantial assistance to any telemarketer when the telemarketing company knew or should have known that the telemarketer was engaged in any act or practice prohibited under this section;
- (8) Making a telephone solicitation to anyone under eighteen (18) years of age. When making a telephone solicitation the telemarketer shall inquire as to whether the person is eighteen (18) years of age or older and the answer shall be presumed to be correct;
- (9) Utilizing any method to block or otherwise circumvent the use of a caller identification service when placing an unsolicited telephone solicitation call;
- (10) Directing or permitting employees to use a fictitious name or not to use their name while making a telephone solicitation;
- (11) Threatening, intimidating, or using profane or obscene language;
- (12) Causing the telephone to ring more than thirty (30) seconds in an intended telephone solicitation;
- (13) Engaging any person repeatedly or continuously with behavior a reasonable person would deem to be annoying, abusive, or harassing;
- (14) Initiating a telephone solicitation call to a person, when that person has stated previously that he or she does not wish to receive solicitation calls from that seller;
- (15) ~~{{a}}—~~ Making or causing to be made an unsolicited telephone solicitation call if the residential number for that telephone appears in the current publication of the ***national Do Not Call Registry*** ~~{zero call list}~~ maintained by the ***United States Federal Trade Commission*** ~~Office of the Attorney General, Division of Consumer Protection. Any holder of a residential telephone number may notify the division and be placed on a zero call list indicating the wish not to receive unsolicited telephone solicitation calls by notification to the division. The telephone numbers of persons requesting to be on the zero call list shall remain on the list until the person rescinds his or her name from the list.~~
~~(b) — The zero call list shall be updated, published, and distributed on a quarterly basis in electronic and hard copy and may be made available in other formats at the discretion of the division. After the publication of the list each quarter each telemarketing company, telemarketer, and merchant shall be deemed to be on notice not to solicit any person whose telephone number appears on the list. The list shall be made available to requesters either on a statewide or county by county basis;~~
- (16) Making telephone solicitations to a person's residence at any time other than between 10 a.m. - 9 p.m. local time, at the called person's location;
- (17) Selling or making available for economic gain any information revealed during a telephone solicitation without the express written consent of the consumer;
- (18) Making a telephone solicitation to any residential telephone using an artificial or prerecorded voice to deliver a message, unless the call is initiated for emergency purposes by schools regulated by the Kentucky Department of Education or the call is made with the prior express consent of the called party; or
- (19) Engaging in any unfair, false, misleading, or deceptive practice or act as part of a telephone solicitation.

Section 3. KRS 367.46971 is amended to read as follows:

- (1) At least ten (10) days prior to doing business in this state, a telemarketing company shall ~~register~~~~{file}~~ with the division ~~by~~ ***filing*** the information described below and ~~paying~~~~{pay}~~ a filing fee of three hundred dollars (\$300). A telemarketing company shall be deemed to do business in this state if the telemarketing company solicits prospective purchasers from locations in this state or solicits prospective purchasers who are located in this state. The information required by this section shall be submitted on a form provided by the Attorney General and shall be verified by a declaration signed by each principal of the telemarketing company, under penalty of perjury. The declaration shall specify the date and location of signing. Information submitted pursuant to KRS 367.46951 to 367.46999 shall be clearly identified and appended to the filing.
- (2) Registration of a telemarketing company shall be valid for one (1) year from the effective date thereof and may be renewed annually by making the filing required by this section and paying a filing fee of fifty dollars (\$50).
- (3) If, prior to expiration of a telemarketing company's annual registration, there is a material change in the information required by KRS 367.46951 to 367.46999, the telemarketing company shall, within ten (10) days, file an addendum updating the information with the division. However, changes in salespersons soliciting on behalf of a telemarketing company shall be updated by filing addenda, if necessary, in quarterly intervals computed from the effective date of registration. The addendum shall include the required information for all salespersons currently soliciting or having solicited on behalf of the telemarketing company at any time during the period between the filing of the registration, or the last addendum, and the current addendum, and shall include information on salespersons no longer soliciting for the telemarketing company as of the date of the filing of the current addendum.
- (4) Upon receiving the filing and the filing fee pursuant to this section, the division shall send the telemarketing company a written confirmation of receipt of the filing. If the telemarketing company has more than one (1) business location, the written confirmation shall be sent to the telemarketing company's principal business location as identified in the telemarketing company's filing in sufficient numbers so that the telemarketing company can meet the requirements of this subsection. Within ten (10) days of receipt of the confirmation, the telemarketing company shall post in a conspicuous

place at each of the telemarketing company's business locations within this state a copy of the entire registration statement which has been filed with the division. Until confirmation of receipt of filing is received and posted, the telemarketing company shall post in a conspicuous place at each of the telemarketing company's business locations within this state a copy of the first page of the registration form sent to the department. The telemarketing company shall also post in close proximity to either the confirmation of receipt of filing or the first page of the submitted registration form the name of the individual in charge of each location from which the telemarketing company does business in this state.

Section 4. KRS 367.46973 is amended to read as follows:

Each filing pursuant to KRS 367.46971 shall contain the following information:

- (1) The name or names of the telemarketing company{merchant}, including the name under which the telemarketing company{merchant} is doing or intends to do business, if different from the name of the telemarketing company{merchant}, and the name of any parent or affiliated organization that will engage in business transactions with purchasers relating to sales solicited by the telemarketing company{merchant}, or that accepts responsibility for statements made by, or acts of, the telemarketing company{merchant} relating to sales solicited by the telemarketing company{merchant};
- (2) The telemarketing company's{merchant's} business form and place of organization and, if the telemarketing company{merchant} is a corporation, a copy of its articles of incorporation and bylaws and amendments to those, or, if a partnership, a copy of the partnership agreement, or if operating under a fictitious business name, the location where the fictitious name has been registered, along with a copy of the registration documents. The same information shall be included for any parent or affiliated organization disclosed pursuant to subsection (1) of this section;
- (3) The complete street address of all locations designating the principal location from which the telemarketing company{merchant} will be conducting business. If the principal business location of the telemarketing company{merchant} is not in this state, then the telemarketing company{merchant} shall also designate which of its locations within this state is its main location;
- (4) A listing of all telephone numbers to be used by the telemarketing company{merchant} and the address where each telephone using each of these telephone numbers is located;
- (5) The name of and the office held by the telemarketing company's{merchant's} officers, directors, trustees, general and limited partners, sole proprietor, and owners and the names of persons having management responsibilities in the telemarketing company's{merchant's} business activities;
- (6) The principal residence, the date of birth, and the driver's license number and state of issuance of each person named pursuant to subsection (5) of this section;
- (7) The name and principal residence of each person the telemarketing company{merchant} leaves in charge at each location in which the telemarketing company{merchant} does business in this state, and the business location at which each of these persons is in charge;
- (8) A statement, meeting the requirements of this subsection, as to both the telemarketing company{merchant}, whether a corporation, partnership, firm, association, joint venture, or any other type of business entity and as to any person identified pursuant to subsection (5) or (7) of this section who:
 - (a) Has been convicted of a felony or a misdemeanor involving a violation of this article, or fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property. For purposes of this paragraph, a plea of nolo contendere shall be considered a conviction;
 - (b) Has had entered against him a final judgment or order in a civil or administrative action, including a stipulated judgment or order, if the complaint or petition in the civil or administrative action alleged acts constituting a violation of KRS 367.46951 to 367.46999, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property, the use of untrue or misleading representations in an attempt to sell or dispose of real or personal property, or the use of unfair, unlawful, or deceptive business practices;
 - (c) Is subject to an injunction or restrictive court order relating to business activity as the result of an action brought by a federal, state, or local public agency or unit of that agency, including, but not limited to, an action affecting any vocational license; or
 - (d) Has during the previous seven (7) tax years filed in bankruptcy, been adjudged a bankrupt, been reorganized due to insolvency, or been a principal, director, officer, trustee, general or limited partner, or had management responsibilities of any other corporation, partnership, joint venture, or business entity that has so filed or was so adjudicated or reorganized, during or within one (1) year after the period that the person held that position.

The statement required by paragraphs (a), (b), and (c) of this subsection shall identify the telemarketing company{merchant} or person, the court or administrative agency rendering the conviction, judgment, or order, the docket number of the matter, the date of the conviction, judgment, or order, and the name of the governmental agency, if any, that brought the action resulting in the conviction, judgment, or order. For purposes of paragraph (d) of this section, the statement required shall include the name and location of the telemarketing company{merchant} or person filing in bankruptcy, adjudged a bankrupt, or reorganized due to insolvency, and shall include the date thereof, the court which

exercised jurisdiction, and the docket number of the matter;

- (9) A list of the names, driver's license numbers and states of issuance, principal residence addresses, and telephone numbers of salespersons who solicit on behalf of the telemarketing company{merchant}, and any names the salesperson uses while soliciting;
- (10) A description of the items the telemarketing company{merchant} is offering for sale and a copy of all sales scripts the telemarketing company{merchant} requires salespersons to use when soliciting prospective purchasers. If no sales script is required to be used, a statement to that effect shall be included;
- (11) A copy of all sales information and literature including, but not limited to, scripts, outlines, instructions, and information regarding how to conduct telephonic sales, sample introductions, sample closings, product information, and contest or premium-award information provided by the telemarketing company{merchant} to salespersons or of which the telemarketing company{merchant} informs salespersons, and a copy of all written materials the telemarketing company{merchant} sends to any prospective or actual purchaser;
- (12) (a) If the telemarketing company{merchant} represents or implies, or directs salespersons to represent or imply, to purchasers that the purchaser will receive certain specific items, including a certificate of any type which the purchaser must redeem to obtain the item described in the certificate, or one (1) or more items among designated items, whether the items are denominated as gifts, premiums, bonuses, prizes, or otherwise, the filing shall include the following:
 1. A list of the items offered;
 2. The actual value or worth of each item described to prospective purchasers and the basis for the valuation; and
 3. The price paid by the telemarketing company{merchant} to its supplier for each of these items and the name, address, and telephone number of each item's supplier;
 (b) If the purchaser is to receive fewer than all of the items described by the telemarketing company{merchant}, the filing shall include the following:
 1. The manner in which the telemarketing company{merchant} decides which item each prospective purchaser is to receive;
 2. The odds a single prospective purchaser has of receiving each described item;
 3. The name and address of each recipient who has, during the preceding twelve (12) months, or if the telemarketing company{merchant} has not been in business that long, during the period the telemarketing company{merchant} has been in business, received the item having the greatest value and the item with the smallest odds of being received; and
 4. All rules, regulations, terms, and conditions a prospective purchaser must meet in order to receive the item; and
- (13) If the telemarketing company{merchant} is offering an investment, business, or employment opportunity, the filing shall include the following:
 - (a) The number of consumers or investors who have participated to date;
 - (b) The actual experience of the consumers or investors as measured by standards used in the sales presentations; and
 - (c) If the opportunity is so recent that no actual performance experience exists, that fact shall be disclosed in all sales presentations, and no other representation of performance shall be made in sales presentations.

Section 5. KRS 367.46994 is amended to read as follows:

- (1) The Office of the Attorney General immediately shall request that the Federal Trade Commission include on the national Do Not Call Registry the residential numbers that were placed on the zero call list on or before the effective date of this Act. If the Federal Trade Commission denies the request, then those households whose residential numbers will be purged from the zero call list shall be informed by the Office of the Attorney General on how to place their telephone number on the national Do Not Call Registry. ~~Any person may apply to the Office of the Attorney General, Division of Consumer Protection, to have his or her residential telephone number listed on the zero call list. The Office of the Attorney General shall provide automated telephone dial-in registration and shall collect only the home phone number from the applicant deemed to be required to administer the zero call list. The Office of the Attorney General shall promulgate administrative regulations to:~~
 - (a) ~~Provide for automatic telephone number referral from the incumbent local exchange carrier or the competitive local exchange carrier to the Office of the Attorney General for the purpose of updating the zero call list to reflect an applicant's change of address or an applicant's termination of telephone service; and~~
 - (b) ~~Develop, modify, or administer the zero call list in such a way as to permit interface with any national registry established by the Federal Trade Commission or the Federal Communications Commission for the purpose of including in Kentucky's zero call list that part of the national database that relates to the Commonwealth or release to the national registry applicants on the zero call list that indicate a preference to be listed on a national registry.~~

~~(2) The Attorney General shall place the residential telephone number provided by the applicant on the list. The Attorney General may update the information on the list as provided in subsection (1) of this section, but shall not remove the information unless requested to do so in writing by the applicant, or upon receiving notice that the given telephone number is no longer held in the name of the applicant.~~

~~(2)(3)~~ Persons whose telephone numbers appear on the zero call list shall not receive telephone solicitations except in accordance with the provisions of KRS 367.46951 to 367.46999.

~~((4) Any person that applies to the Office of the Attorney General to be placed on the zero call list shall be informed about how to add his or her name or telephone number to company-specific and industry-wide no solicitation call lists, including those lists provided by the Direct Marketing Association (DMA) and the Telephone Preference Service (TPS).)~~

~~(3)(5)~~ Information contained in a database established for the purpose of administering the zero call list shall be used only for the purpose of implementing the zero call program in conformance with KRS 367.46951 to 367.46999.

~~((6) The zero call list shall be available at no cost to any merchant or telemarketing company that is required to consult the list. In addition to the formats described in KRS 367.46955(15), the list shall be made available in a format for electronic download from the Internet Web page of the Office of the Attorney General. The Attorney General shall make the electronic list available in a format that is searchable by area code and by local exchange. The electronic format shall be arranged with the last four digits of the telephone numbers in ascending order. The electronic list shall also be searchable by individual number and shall be downloadable in at least five (5) of the most common commercially available data management program formats. Hard copies of the zero call list shall be arranged by area code and local exchange with the last four digits in ascending order. The Office of the Attorney General shall develop procedures to assure that:~~

~~(a) The merchant or telemarketing company requesting the list shall maintain the confidentiality of the information on the list; and~~

~~(b) The merchant or telemarketing company shall use the list only for the purpose of preventing telephone solicitation calls to persons whose telephone numbers appear on the list.]~~

~~(4)(7)~~ The Kentucky Public Service Commission shall produce ~~a~~ consumer education *materials* ~~[pamphlet]~~ that:

~~(a) Describes [the changes made in the year 2002 to] Kentucky's telemarketing laws [including the creation of the zero call list];~~

~~(b) Describes the consumer's rights and responsibilities regarding the receipt of telephone solicitation;~~

~~(c) Explains how consumers can apply to be placed [on the zero call list and] on any federal do not call registry established by the Federal Communications Commission and [or] the Federal Trade Commission;~~

~~(d) Explains how to apply to be placed on company-specific and industrywide no solicitation calls list, including those lists provided by the Direct Marketing Association (DMA) and the Telephone Preference Service (TPS); and~~

~~(e) Describes how a consumer can file a complaint if the consumer receives calls after being placed on the Do Not Call Registry established by the Federal Communications Commission and the Federal Trade Commission [zero call list].~~

~~(5)(8)~~ ~~The~~ At least once a year, the Public Service Commission shall require that, once a year, telephone companies under the jurisdiction of the Public Service Commission shall include the customer education material or portions thereof, at the discretion of the companies, in either the billing inserts, billing messages, or in the Customer Guide pages of their telephone directories ~~[the pamphlet be included in the billing inserts of the telephone companies under the Public Service Commission's jurisdiction].~~

Section 6. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars (\$25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars (\$2,000) per violation, or where the defendant's conduct is directed at a person aged sixty (60) or older, a civil penalty of not more than ten thousand dollars (\$10,000) per violation, if the trier of fact determines that the defendant knew or should have known that the person aged sixty (60) or older is substantially more vulnerable than other members of the public.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys, or falsifies documentary material is guilty of a Class A misdemeanor.

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated, or promoted may

grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars (\$5,000) which shall be for the benefit of the Commonwealth of Kentucky.

- (6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be guilty of a violation. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.
- (7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be guilty of a Class A misdemeanor.
- (8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars (\$5,000) or two hundred dollars (\$200) per day for each and every violation of KRS 367.175.
- (9) Any person who shall willfully and intentionally violate any provision of KRS 367.976 to 367.985 shall be guilty of a Class B misdemeanor.
- (10)
 - (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars (\$5,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties;
 - (b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by KRS 367.667 a penalty of not more than two thousand dollars (\$2,000) per violation; and
 - (c) Any person who knowingly violates any provision of KRS 367.652, 367.653, 367.656, 367.657, 367.658, 367.666, or 367.668 or who knowingly gives false or incorrect information to the Attorney General in filing statements or reports required by KRS 367.650 to 367.670 shall be guilty of a Class D felony.
- (11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars (\$100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.
- (12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars (\$1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.
- (13) Any person who violates KRS 367.805, 367.809(2), 367.811, 367.813(1), or 367.816 shall be guilty of a Class C felony.
- (14) Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.
- (15) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.
- (16) Any person who violates KRS 367.310 shall be guilty of a violation.
- (17) Any person, partnership, or corporation who violates the provisions of KRS 367.850 shall be guilty of a Class A misdemeanor.
- (18) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back, or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be guilty of a Class D felony.
- (19) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.
- (20) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.
- (21)
 - (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and
 - (b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.
- (22)
 - (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be guilty of a violation. Either the Attorney General or the appropriate county health department may prosecute violators of KRS 367.855 or 367.857.
 - (b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor, or processor fails to comply with the provisions of KRS 367.857.
- (23) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant shall be guilty of a Class D felony when that telemarketing company, telemarketer, caller, or merchant three (3) times in one (1) calendar year knowingly and willfully violates KRS 367.46955(15)(a) by making or causing to be made an unsolicited telephone solicitation call to a telephone number that appears in the current publication of the zero call list maintained by the Office of the Attorney General, Division of Consumer Protection.
- (24) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant shall be guilty of a Class A misdemeanor when that telemarketing company, telemarketer, caller, or merchant uses a zero call list

identified in KRS 367.46955(15) for any purpose other than complying with the provisions of KRS 367.46951 to 367.46999.

- (25) (a) Notwithstanding any other provision of law, any telemarketing company, telemarketer, caller, or merchant that violates KRS 367.46951 to 367.46999 shall be assessed a civil penalty of not more than five thousand dollars (\$5,000) for each offense.
- (b) The Attorney General, or any person authorized to act in his or her behalf, shall initiate enforcement of a civil penalty imposed under paragraph (a) of this subsection.
- (c) Any civil penalty imposed under paragraph (a) of this subsection may be compromised by the Attorney General or his or her designated representative. In determining the amount of the penalty or the amount agreed upon in compromise, the Attorney General, or his or her designated representative, shall consider the appropriateness of the penalty to the financial resources of the telemarketing company, telemarketer, caller, or merchant charged, the gravity of the violation, the number of times the telemarketing company, telemarketer, caller, or merchant charged has been cited, and the good faith of the telemarketing company, telemarketer, caller, or merchant charged in attempting to achieve compliance, after notification of the violation.
- (d) If a civil penalty is imposed under this subsection, a citation shall be issued which describes the violation which has occurred and states the penalty for the violation. If, within fifteen (15) working days from the receipt of the citation, the affected party fails to pay the penalty imposed, the Attorney General, or any person authorized to act in his or her behalf, shall initiate a civil action to collect the penalty. The civil action shall be taken in the court which has jurisdiction over the location in which the violation occurred.

Representative Combs moved that the House concur in the Senate Committee Substitute to **HB 430**. Agreed.

Representative Combs moved that **HB 430**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 26, 2007, roll call on **HB 430** - Appendix.)

HB 430, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Combs moved that the vote by which **HB 430**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 191, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendment. Agreed.

The Senate Committee Substitute to **HB 191** is as follows:

HB 191, AN ACT relating to medical parole of prisoners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.3405 is amended to read as follows:

- (1) Notwithstanding any statute eliminating parole or establishing minimum time for parole eligibility for a certain class or status of offender, including KRS 439.340(11)(10), 439.3401, 532.080(7), and 533.060, the board, with the written consent of a majority of the full board, may review the case of any prisoner and release that prisoner on parole despite any elimination of or minimum time for parole eligibility, when the prisoner has a documented terminal medical condition likely to result in death within one (1) year or severe chronic lung disease, end-stage heart disease, severe neuro-muscular disease such as multiple sclerosis; or has severely limited mobility due to paralysis as a result of stroke or trauma; or is dependent on external life support systems and would not pose a threat to society if paroled.
- (2) Medical information considered under this section shall be limited to the medical findings supplied by Department of Corrections medical staff. The medical staff shall provide in writing the prisoner's diagnosis and prognosis in support of the conclusion that the prisoner suffers from a terminal medical condition likely to result in death within one (1) year or because of the conditions set forth in subsection (1) of this section he is totally dependent on others for the activities of daily living.
- (3) The medical information prepared by the Department of Corrections medical staff under this section shall be forwarded to the warden of the institution who shall submit that information and a recommendation for or against parole review under this section to the commissioner of the Department of Corrections or his designee. With the approval of the commissioner of the Department of Corrections, a request for parole review under this section, along with the medical information and warden's recommendation, shall be submitted to the board.
- (4) Medical information presented under this section shall be considered along with other information relevant to a decision regarding the granting of parole and shall not constitute the only reason for granting parole.

(5) Notwithstanding KRS 439.340(5), in addition to or in conjunction with each review conducted under subsection (1) of this section for any prisoner convicted of a Class A, B, or C felony and prior to the granting of parole to any such prisoner, the Parole Board shall conduct a hearing of which the following persons shall receive not less than fifteen (15) nor more than thirty (30) days' notice:

(a) The Commonwealth's attorney, who shall notify the sheriff of every county and the chief of police of every city and county in which the prisoner committed any Class A, B, or C felony for which he is imprisoned; and

(b) All identified victims of the crimes or the next of kin of any victim who is deceased.

Notice to the Commonwealth's attorney shall be by mail, fax, or electronic means at the discretion of the board, and shall be in a manner that ensures receipt at the Commonwealth Attorney's business office. Notices received by chiefs of police and sheriffs shall be posted in a conspicuous location where police employed by the department may see it. Notices shall be posted in a manner and at a time that will allow officers to make comment thereon to the Parole Board. Notice to victims or their next of kin shall be made by mail, fax, or electronic means at the discretion of the board, to their last known address or telephone number as provided by the Commonwealth's attorney to the Parole Board at the time of incarceration of the prisoner. Notice to the victim or the next of kin of subsequent considerations for parole after the initial consideration shall not be sent if the victim or the next of kin gives notice to the board that he or she no longer wants to receive such notices. The notice shall include the time, date, and place of the hearing provided for in this subsection, and the name and address of a person to write if the recipient of the notice desires to attend the hearing or to submit written comments.

SECTION 2. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) When a prisoner in a jail, regional jail, or holdover is injured, is or becomes sick or ill, or requires specialized medical care or long-term medical care which is not available at the local jail, the jailer or other person in charge of the jail, regional jail, or holdover may request that the commissioner of the department, or the commissioner's designee in writing, transfer the prisoner to a facility operated by the department or under contract to the department for the provision of necessary medical treatment and care.

(2) The commissioner, or the commissioner's designee in writing, may authorize the transfer of the prisoner to a facility operated by the department or under contract to the department for the length of time necessary to secure medical treatment and care for the prisoner. Following medical care and treatment the prisoner shall be returned to the jail, regional jail, or holdover.

(3) If the commissioner, or the commissioner's designee in writing, authorizes the transfer of the prisoner to a facility operated by the department or under contract to the department, then the department shall pay:

(a) The costs of transfer to and from the department's facilities;

(b) The room, board, and related costs for the prisoner while the prisoner is in the custody of the department; and

(c) The costs for medical care, treatment, medicines, and supplies for the prisoner while the prisoner is in the custody of the department.

(4) The department shall have no legal duty to transfer any prisoner to the department for medical treatment and care. The decision of the commissioner or the commissioner's designee in writing whether or not to accept a prisoner for transfer to the department shall be subject to appeal to the Secretary of Justice.

(5) The department shall promulgate administrative regulations relating to the transfer of prisoners to the department for medical treatment and care.

(6) When a prisoner is transferred to the department for medical care and treatment, the jailer or other person in charge of the jail, regional jail, or holdover shall notify the following persons of the reason for the transfer, the fact of the transfer, and the general reasons for the transfer:

(a) The prisoner's next of kin;

(b) The prisoner's attorney of record;

(c) The Commonwealth's attorney or county attorney, as appropriate; and

(d) The chief Circuit Judge or chief District Judge, as appropriate.

(7) When a prisoner is returned to the jail, regional jail, or holdover by the department, the jailer or other person in charge of the jail, regional jail, or holdover shall notify the persons specified in subsection (6) of this section of the prisoner's return.

(8) The department's costs of providing care, drugs, medications, travel, and all other expenses authorized by this section shall be a necessary governmental expense.

SECTION 3. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

(1) When a unit of local government, or regional jail authority facilitates medical care for a prisoner confined in the jail, holdover, or regional jail who has not been convicted as a felon and who holds a policy, contract, or certificate of insurance coverage in any form, the insurer shall be primary for payment of medically necessary health care benefit claims provided the following conditions are met:

(a) The reimbursement shall be for medical, dental, or psychological claims that are covered benefits under the

terms and conditions of the health benefit plan held by the prisoner;

- (b) The reimbursement shall be applied under the terms and conditions of the health benefit plan and in the same manner as though the insured were not a prisoner; and
- (c) All premiums for the health benefit plan are current.
- (2) If the unit of local government, combination of units of local government, or regional jail authority has contracted with the Department of Corrections under the Department of Corrections' contract for medical, dental, or psychological care access, or drugs, medicines, or pharmaceutical services, then the rights of the local government, combination of local governments, or regional jail authority shall be subrogated to the contract provider of such services to the Department of Corrections.
- (3) If the unit of local government, combination of units of local government, or regional jail authority has, with the approval of the Department of Corrections, contracted with another pharmaceutical services provider, then the rights of the local government, combination of local governments, or regional jail authority shall be subrogated to the contract provider of medical, dental, or psychological care to the local jail, for access to drugs, medicines, or pharmaceutical services to the unit of local government, combination of units of local government, or regional jail authority.
- (4) If a prisoner has been transferred from a local jail, regional jail, or holdover to the Department of Corrections for medical care pursuant to Section 2 of this Act, then the contract provider of drugs and pharmaceutical services or the contract provider of medical, dental, or psychological care shall be subrogated to the provider of such services to the Department of Corrections.

SECTION 4. A NEW SECTION OF KRS CHAPTER 441 IS CREATED TO READ AS FOLLOWS:

- (1) Except as provided in subsection (2) of this section, each jail, regional jail, holdover, or other correctional facility owned or operated by a unit of local government, combination of units of local government, or regional jail authority shall utilize the Department of Corrections' contract pharmacy plan.
- (2) The Department of Corrections may, on a yearly basis, waive the requirement of subsection (1) of this section if the unit of local government, combination of units of local government, or regional jail authority proves to the Department of Corrections that the unit of local government, combination of units of local government or regional jail authority has contracted with another vendor and that:
 - (a) The prescription plan covers pharmacy services, drugs, and medicine in a manner which is equal to or superior to the Department of Corrections contract pharmacy plan; and
 - (b) The cost of the prescription plan is less in cost than the Department of Corrections contract pharmacy plan.
- (3) Except as provided in subsection (4) of this section, each jail, regional jail, holdover, or other correctional facility owned or operated by a unit of local government, combination of units of local government, or regional jail authority shall utilize the Department of Corrections' contract medical, dental, and psychological care access plan and the administrative service fee for the plan shall be paid by the Department of Corrections subject to the limits of Section 5 of this Act.
- (4) The Department of Corrections may, on a yearly basis, waive the requirement of subsection (3) of this section if the unit of local government, combination of units of local government, or regional jail authority proves to the Department of Corrections that the unit of local government, combination of units of local government, or regional jail authority has contracted with another vendor and that:
 - (a) The medical, dental, and psychological care access plan provides services and access which is equal to or superior to the Department of Corrections contract medical, dental, and psychological care access plan; and
 - (b) The cost of the medical, dental, and psychological care access plan is less in cost than the Department of Corrections contract medical, dental, and psychological care access plan.
- (5) A unit of local government, combination of units of local government, or regional jail authority may appeal a decision of the Department of Corrections denying a waiver under subsection (2) or (4) of this section to the Secretary of Justice.

Section 5. (1) The Secretary of the Justice Cabinet shall have the authority to declare a state of extraordinary circumstances upon a finding that the appropriations to the Department of Corrections for the provision of medical care of prisoners in county jails pursuant to Sections 2, 3, and 4 of this Act, for the provision of drugs, medications, and similar items for prisoners in county jails pursuant to Sections 2, 3, and 4 of this Act and KRS 441.045, and for the medical care of county jail prisoners who are transferred to the Department of Corrections pursuant to Section 2 of this Act, are insufficient to pay the expenses authorized by either section. Upon certification and notwithstanding 2006 Ky. Acts Chapter 252, Part III, General Provisions, 5. Appropriations Expenditure Purpose and Transfer Restrictions, the secretary shall be authorized to transfer general fund moneys, restricted funds, or federal funds, with the approval of the State Budget Director, to the extent funds are available and not otherwise obligated to carry out the provisions of KRS Chapters 196, 197, and 441 in the 2006-2008 fiscal biennium from other budget units within the cabinet to the Department of Corrections to address the immediate needs of a program authorized by Section 2, 3, or 4 and KRS 441.045 of this Act. The transfer of any funds pursuant to this section shall be subject to the provisions and notification requirements of KRS 48.630. Moneys transferred pursuant to this paragraph shall be placed in a trust and agency

account to be used for the purpose set forth in this paragraph.

(2) If, after transferring funds within the cabinet, the secretary finds that extraordinary needs relating to medical care of county jail prisoners still exist, the secretary may then request approval from the Governor for any amount of expenditures not covered by funds transferred from other agencies within the cabinet, not to exceed \$1,500,000, for catastrophic, medical care, and medical care pursuant to Section 2 of this Act and KRS 441.045 to request that expenditures be deemed a necessary governmental expense. Upon approval by the Governor, funds not to exceed \$1,500,000 shall be transferred from the General Fund Surplus (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 84.705). These funds shall be transferred only upon certification of need by the Secretary of the Justice Cabinet to the Secretary of the Finance and Administration Cabinet and upon approval by the Governor. Moneys appropriated pursuant to this paragraph shall be placed in a trust and agency account to be used for the purpose set forth in this paragraph.

(3) If, after transferring funds within the cabinet, the secretary finds that extraordinary needs relating to medical care of county jail prisoners relating to the Department of Corrections medical, dental, and psychological care access plan pursuant to Section 4 of this Act still exist, the secretary may then request approval from the Governor for any amount of expenditures not covered by funds transferred from other agencies within the cabinet, not to exceed \$1,000,000, and to request that expenditures be deemed a necessary governmental expense. Upon approval by the Governor, funds not to exceed \$1,000,000 shall be transferred from the General Fund Surplus (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 84.705). These funds shall be transferred only upon certification of need by the Secretary of the Justice Cabinet to the Secretary of the Finance and Administration Cabinet and upon approval by the Governor. Moneys appropriated pursuant to this paragraph shall be placed in a trust and agency account to be used for the purpose set forth in this paragraph.

(4) The cabinet shall submit monthly updates to the Interim Joint Committees on Appropriations and Revenue and Judiciary on expenditures made pursuant to these paragraphs.

The Senate Committee Amendment No. 1 Title to the Senate Committee Substitute to **HB 191** is as follows:

HB 191, By amending the title to read as follows: "AN ACT relating to crimes and punishments."

Representative Webb moved that the House concur in the Senate Committee Substitute to **HB 191**. Agreed.

Representative Webb moved that **HB 191**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See March 26, 2007, roll call on **HB 191** - Appendix.)

HB 191, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 191**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Webb moved that the motion to reconsider the vote on **HB 191** be removed from the table. Agreed.

Representative Webb moved that the vote by which **HB 191**, by way of Senate Committee Substitute, was passed be reconsidered. Agreed.

Representative Webb moved that the House concur in the Senate Committee Amendment No. 1 Title to **HB 191**. Agreed.

Representative Webb moved that **HB 191** by way of Senate Committee Substitutes, as amended, be passed.

On the roll call on **HB 191** the vote was: **Yeas 96, Nays 1.** (See March 26, 2007, roll call on **HB 191** - Appendix.)

HB 191, by way of Senate Committee Substitute, as amended by the Senate, was passed.

Representative Webb moved that the vote by which **HB 191**, by way of Senate Committee Substitute, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Firkins moved the adoption of the following Conference Committee Report on **HB 402**. The Speaker advised that the Conference Committee Report had already been adopted. (Previously adopted on March 12, 2007.)

Representative Adkins moved the adoption of the following **HR 182**:

HR 182, A RESOLUTION adjourning the House of Representatives in honor of our friend and colleague, Paula Payne, and wishing her a full and speedy recovery.

WHEREAS, Paula Payne has served the people of the Commonwealth of Kentucky since 1974, including many years as an employee of the Legislative Research Commission. Widely respected for her intellect and dedication to her work, Paula is also known for her quick wit, her broad smile, and her sense of style, not to mention her wry sense of humor; and

WHEREAS, recently, Paula has taken an extended leave to attend to personal health issues, and her absence has been felt throughout these hallways by her friends and colleagues, including legislators from both sides of the aisle, and her fellow LRC staff members;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the House of Representatives join together to extend to Paula Payne every good wish for a full and speedy recovery, so that she may soon return to us, lest she be deprived of the long hours, stress, and styrofoam meals that fill our session days.

Section 2. When the House of Representatives adjourns this day, it does so in honor of our friend and colleague, Paula Payne, with sincere thoughts and prayers for her full recovery.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Paula Payne, 100 Windsor Avenue, Bardstown, Kentucky 40004-2513.

There being no objection, **HR 182** was adopted.

The roll call was opened for co-sponsors. On the roll call for co-sponsors of **HR 182** the vote was: Yeas 99. (See March 26, 2007, roll call to show co-sponsors on **HR 182**-Appendix.)

Representative Hoffman moved the adoption of the following **HR 228**:

HR 228, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Christopher Wayne Johnson, public servant.

WHEREAS, Christopher Wayne Johnson, a native of Georgetown, Kentucky, and the son of Carolyn G. Johnson and the late W. Wayne Johnson, passed from this earthly life March 8, 2007, at the age of 52 years. A graduate of the University of Kentucky, he received his law degree from the University of Louisville, and was founder of the Kentucky chapter of Delta Chi fraternity. In recognition of his service, he was the recipient of the Delta Chi Order of the White Carnation, and graciously served as legal advisor and trustee to his fraternity; and

WHEREAS, Mr. Johnson was a former staff member of the Office of Attorney General, served as legal advisor to the Kentucky State Police, and as assistant general counsel for the Kentucky Justice Cabinet. He was also former director of the Kentucky Division of Charitable Gaming. Christopher Wayne Johnson was a member of the First Christian Church, where he served as deacon, elder, and chairman of the board. He was also a member of Mt. Vernon Lodge No. 14, F&AM, the Ancient & Accepted Scottish Rite of Freemasonry, the Frankfort York Rite Bodies, the York Rite of Freemasonry, and the Grand Commandery of Knights Templar of Kentucky; and

WHEREAS, in addition to his father, Christopher Wayne Johnson was preceded in death by a sister and brother-in-law, Rebecca and Harvey Shrout, and two nieces, Kristen and Lauren Shrout. He is survived by his loving wife, Mary Jo McKenna Johnson, and two daughters, Allison Demaree Johnson, of Boston, Massachusetts, and Emily Anne Johnson, of Georgetown, Kentucky;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1: The House of Representatives expresses its profound sense of loss upon the passing of Christopher Wayne Johnson, and extends to his family, friends, and community its sincere condolences.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of the late Christopher Wayne Johnson.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to The Family of Christopher Wayne Johnson, c/o Reverend Scott Cox, 112 East College Street, Georgetown, Kentucky 40324.

There being no objection, **HR 228** was adopted.

The Speaker stated that a Citation had also been filed in honor of Christopher Wayne Johnson and asked that Citation No. 75 be read by title only.

Representative Richards moved the adoption of the following **Legislative Citation No. 75**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory and honor of Christopher Wayne Johnson, Esq. and joins with Speaker Jody Richards and Representative Charlie Hoffman in expressing deepest sympathy to the Johnson Family and all who share in the profound loss of this highly-respected citizen, the former Director of the Division of Charitable Gaming in Kentucky and a native of Georgetown, Kentucky, who died on March 8, 2007. The son of Carolyn G. Johnson and the late W. Wayne Johnson, he was preceded in death by a sister and brother-in-law, Rebecca and Harvey Shrout, and two nieces, Kristen and Lauren Shrout. In addition to his mother, he is survived by his beloved wife, Mary Jo McKenna Johnson; daughters, Allison Demaree Johnson and Emily Anne Johnson; and, a host of other family members, friends, colleagues and loved ones. This highly-respected gentleman, a graduate of the University of Kentucky who received his Juris Doctorate from the University of Louisville; a Founding Father of the Kentucky chapter of the Delta Chi Fraternity, the 1994 recipient of its Order of the White Carnation, and who generously served as the fraternity's legal advisor and trustee; a former member of the staff of the Attorney General's Office, legal officer for the Kentucky State Police, and Assistant General Counsel in the Kentucky Justice Cabinet; an active community participant and member of the Scott County Democratic Executive Committee, who, as a faithful member of the First Christian Church, served as a Deacon, Elder and Board Chairman, and as a Mason, belonged to Mt. Vernon Lodge 14, F&AM, the Ancient & Accepted Scottish Rite of Freemasonry, the Frankfort York Rite Bodies, York Rite of Freemasonry and the Grand Commander of Knights Templar of Kentucky, is remembered on this day for the many and generous contributions he made to his family, the community and this great Commonwealth. Christopher Wayne Johnson will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this twelfth day of March in the year two thousand and seven.

Legislative Citation No. 75 was adopted without objection.

The Speaker announced the appointment of Conference Committees on the following:

HB 5 - Representative Adkins, Chair; Representatives Gooch, Henley, Moberly, Webb, Hall, Pullin, and Vincent

HB 476 - Representative Nelson, Chair; Representatives Owens, Wilkey, Stein, Hoffman, and Henley

Representative Adkins moved that when the House does recess that it does so until 5:00 p.m. and reconvenes for the purposes of receiving Senate Messages, Conference Reports, adopting Simple Resolutions, and Enrollment of Bills; that when it does adjourn it does so until the hour of 10:00 a.m. March 27, 2007; and that when the House adjourns it does so by voice vote. Agreed.

Representative Adkins moved that the House recess until 5:00 p.m. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Announcing passage of **HB 246, 381, 389, 448, and HJR 72**.

Message received in regard to **HB 380**: The Senate has receded from its Floor Amendment to **HB 380** and has the bill with Senate Committee Substitute. (3:04 p.m.)

Message received in regard to **HB 125**: The Senate has refused to recede from its Floor Amendments to **HB 125** and requests a Conference Committee.

Message received in regard to **HB 156**: The Senate has refused to recede from its Floor Amendment to **HB 156** and requests a Conference Committee.

Message received in regard to **HB 476**: The Senate has refused to recede from its Amendments to **HB 476** and has requested a Conference Committee. (3:06 p.m.)

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 246, 381, 389, 448, HJR 72, HB 191, and 430** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -5:20 p.m.)

A Free Conference Committee Report No. 2 was filed on **HB 490**.

A Conference Committee Report was filed on **HB 156**.

Representative Adkins moved the adoption of the following Conference Committee Report on **HB 156**.

HB 156, The Conference Committee on **HB 156** has met as provided in the Rules of the House and Senate and hereby reports that they cannot agree.

Signed March 26, 2007: Representatives Wayne, Ballard, and Siler; Senators Thayer, Boswell, and Roeding.

The above-named members, in separate votes by house, all concur in the provisions of this report.

The Conference Committee Report on **HB 156** was adopted by voice vote.

The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **HB 156**.

A Free Conference Committee Report was filed on **HB 156**.

Representative Adkins moved to continue the recess until 8:00 p.m. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

HB 246, 381, 389, 448, HJR 72, HB 191, 430, 282, and 360 were delivered to the Senate and signed by the President. Delivered to the Governor on March 26, 2007, at 7:40 p.m.

The Committee on Enrollment reported that **SB 25, 100, SJR 109, SB 145, 22, 88, 103, 130, SJR 93, and SB 14** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -8:07 p.m.)

Senate Message

Announcing passage of **HB 469**.

Message received in regard to **HB 156**: The Senate has adopted the Free Conference Committee Report on **HB 156** and is notifying this Honorable Body that it has passed the bill.

Message received in regard to **HB 185**: The Senate has adopted the Free Conference Committee Report on **HB 185** and is notifying this Honorable Body that it has passed the bill.

Message received in regard to **HB 334**: The Senate has passed **HB 334** with Senate Committee Amendment No. 1, Senate Committee Amendment No. 2, and Senate Committee Amendment No. 3 Title, and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 400**: The Senate has passed **HB 400** by way of Senate Committee Substitute with Senate Committee Amendment No. 3 Title and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 490**: The Senate has adopted the Free Conference Committee Report No. 2 on **HB 490** and is notifying this Honorable Body that it has passed the bill. (8:04 p.m.)

Representative Adkins moved that the rules be suspended for the introduction and posting of Bills and Resolutions and for Committee Reports. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 236, by Representatives Dossett and Tilley: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Ann Ruby Bell McCoy.

HR 237, by Representative Riner: A RESOLUTION adjourning the House of Representatives with concern for the health of Elizabeth Edwards, and appreciation for Kentuckians praying for her recovery.

HR 238, by Representative Riner: A RESOLUTION adjourning the House of Representatives in honor of Abraham Bentar and other Indonesian believers who are being persecuted or imprisoned for their faith.

HR 239, by Representative Hoffman: A RESOLUTION honoring the Scott County High School Cardinals Boys Basketball team, 2007 KHSAA Sweet Sixteen Champions.

HR 240, by Representative Riner: A RESOLUTION adjourning the House of Representatives in honor of the persecuted Christians of the East African nation of Eritrea who have faithfully served the spiritual and physical needs of some of the most impoverished Third World citizens.

Representative Adkins moved to extend the recess under the previous terms for 30 minutes. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Announcing passage of **HB 228, 230, 358, and 426**.

Message received in regard to **HB 145**: The Senate has passed **HB 145** by way of Senate Committee Substitute with Senate Committee Amendment No. 1 Title and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 175**: The Senate has passed **HB 175** with the following Senate Floor Amendment No. 1 and respectfully requests concurrence of this Honorable Body.

Message received in regard to **HB 291**: The Senate has passed **HB 291** by way of Senate Committee Substitute with Senate Committee Amendment No. 1 and respectfully requests concurrence of this Honorable Body. (8:37 p.m.)

Floor Amendments

House Floor Amendment No. 1 to **SB 58**, by Representative Graham:

SB 58, On page 12, line 1, by deleting "for Employee and Organizational Development" and removing the opening bracket and strikethrough on "of Government"; and

On page 12, line 2, by removing the strikethrough and closing bracket on "Training"; and

On page 16, line 13, by deleting "for Employee and Organizational Development" and removing the opening bracket and strikethrough on "of Government"; and

On page 16, line 14, by removing the strikethrough and closing bracket on "Training"; and

On page 17, lines 8 to 27, by deleting lines 8 to 27 in their entirety; and

On pages 18 to 19, by deleting pages 18 to 19 in their entirety; and

On page 20, lines 1 to 7, by deleting lines 1 to 7 in their entirety; and

On page 20, line 8, by changing "Section 7" to "Section 3"; and

On page 20, line 12, by changing "Section 8" to "Section 4"; and

On page 20, line 18, by changing "Section 9" to "Section 5".

House Floor Amendment No. 2 to **SB 58**, by Representative Cherry:

SB 58 On page 20, line 12, after "effectuated by" by deleting "the" and inserting in lieu thereof "Sections 1 through 9 of this"; and

On page 20, line 14, after "affected by" by inserting "Sections 1 through 9 of"; and

On page 20, line 15, after "established by" by inserting "Sections 1 through 9 of"; and

On page 20, line 16, after "entities by" by inserting "Sections 1 through 9 of"; and

On page 20, line 20, after "superseded by" by inserting "Sections 1 through 9 of"; and

On page 20, after line 20, by inserting the following:

"Section 10. KRS 18A.150 is amended to read as follows:

- (1) Any person who has served in the active military, military reserves, or National Guard, and was discharged or released therefrom with an Honorable Discharge, Discharge Under Honorable Conditions, or a General Discharge~~[honorably discharged soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment]~~, shall have five (5) points added to the veteran's~~[his]~~ entrance examination score for classified positions. Any current member of the active military, military reserves, or National Guard~~[Kentucky National Guard member, or a former member of the Kentucky National Guard who has been honorably discharged,]~~ shall be entitled to the same number of points.
- (2) Any person who has served in the active military, military reserves, or National Guard, and was discharged or released therefrom with an Honorable Discharge, Discharge Under Honorable Conditions, or a General Discharge~~[honorably discharged soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment]~~, whom the Veterans Administration or any branch of the Armed Forces of the United States determines has service-connected disabilities, shall have ten (10) points added to the veteran's~~[his]~~ entrance examination score for a classified position.
- (3) The spouse of a person who has served in the active military, military reserves, or National Guard, and was discharged or released therefrom with an Honorable Discharge, Discharge Under Honorable Conditions, or a General Discharge~~[an honorably discharged soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment]~~ who would be eligible for a ten (10) point preference, and whose service-connected disability disqualifies the veteran~~[him]~~ for positions along the general line of the veteran's~~[his]~~ usual occupation shall have ten (10) preference points added to the spouse's~~[his]~~ entrance examination score for a classified position. In such a case, the spouse loses the right to preference if the disabled~~[war]~~ veteran recovers.
- (4) Until remarriage, the surviving spouse of a person who has served in the active military, military reserves, or National Guard, and was discharged or released therefrom with an Honorable Discharge, Discharge Under Honorable Conditions, or a General Discharge~~[an honorably discharged soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment]~~, shall have ten (10) preference points added to the spouse's~~[his]~~ entrance examination score for a classified position. This includes the surviving spouse of any military personnel who died while in the Armed Forces, unless circumstances surrounding the death would have been cause for other than honorable or general discharge separation.
- (5) A parent totally or partially dependent on a person who served in the active military, military reserves, or National Guard~~[soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment]~~, and who lost his or her life under honorable conditions while on active duty or active duty for training purposes, or who became permanently and totally disabled as a result of a service-connected disability, shall have ten (10) preference points added to the parent's~~[his]~~ examination score for a classified position.
- (6) The preference points granted by subsections (1) through (5) of this section shall be added to entrance examination scores for classified positions only if the score is determined by the secretary to be a passing score and after verification of the required service. The total of the entrance examination score and the preference points may~~[shall not]~~ exceed one hundred (100).
- (7) (a) When a register certificate is transmitted to a state agency for employment consideration, that certificate shall clearly identify all individuals entitled to preference points under the provisions of subsections (1) to (6) of this section, whether or not an examination is actually a part of the selection method. Regardless of the selection method used to fill a vacancy, these individuals shall be clearly identified.
 - (b) 1. Except as provided in subparagraph 2. of this paragraph, the employing agency shall offer an interview to all individuals identified in paragraph (a) of this subsection, including individuals presently employed by the Commonwealth of Kentucky and applying for another classified position within state government.
 2. When the number of individuals identified in paragraph (a) of this subsection equals or exceeds five (5), the employing agency shall offer an interview to no fewer than the five (5) most qualified of those individuals as identified by the employing agency.

2007 Regular Session

House Floor Amendment No. 3 to **SB 58**, by Representative Cherry:

SB 58, On page 20, line 12, after "effectuated by" by deleting "the" and inserting in lieu thereof "Sections 1 through 9 of this"; and

On page 20, line 14, after "affected by" by inserting "Sections 1 through 9 of"; and

On page 20, line 15, after "established by" by inserting "Sections 1 through 9 of"; and

On page 20, line 16, after "entities by" by inserting "Sections 1 through 9 of"; and

On page 20, line 20, after "superseded by" by inserting "Sections 1 through 9 of"; and

On page 20, after line 20, by inserting the following:

"Section 10. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

- (1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;
- (2) "Board" means the board of trustees of the system as provided in KRS 61.645;
- (3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;
- (4) "Examiner" means the medical examiners as provided in KRS 61.665;
- (5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, interim, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;
- (6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;
- (7) "State" means the Commonwealth of Kentucky;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he serves in the position;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he served in the position prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;
- (12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;
- (13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees, including payments for compensatory time, paid to the employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). For members of the General Assembly, it shall mean all amounts which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation," including employee contributions picked up after August 1, 1982, pursuant to KRS 6.505(4) or 61.560(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's total service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense

reimbursements, lump-sum payments for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);

(14) "Final compensation" of a member means:

- (a) For a member who is not employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or
- (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) years period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

- (c) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose total service credit on or before December 31, 2008, is at least twenty-seven (27) years, whose age and years of service total on or before December 31, 2008, is at least seventy-five (75), and who would be eligible to retire between August 1, 2001, and January 1, 2009, final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. For purposes of this paragraph, a member's total service credit shall mean:

1. All service creditable for retirement as of December 31, 2008; and

2. Service being purchased under an installment payment program established pursuant to KRS 61.552(16) and 61.552(28) for installment purchase of service agreements executed by the employee on or before December 31, 2008. The provisions of this subparagraph shall not apply to service being purchased under the provisions of KRS 61.552(25) unless the employee has attained two-hundred forty (240) months of service as of December 31, 2008, not including the service being purchased under KRS 61.552(25); or

- (d) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

- (15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;
- (16) "Retirement allowance" means the retirement payments to which a member is entitled;
- (17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;
- (18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;
- (20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150. The term shall also apply to assistants who were employed by the General Assembly for at least one (1) regular legislative session prior to July 13, 2004, who elect to participate in the retirement system, and who serve for at least six (6) regular

legislative sessions. Assistants hired after July 13, 2004, shall be designated as interim employees;

- (21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:
 - (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;
 - (b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;
 - (d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; and
 - (e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;
- (22) "Delayed contribution payment" means an amount paid by an employee for purchase of current service. The amount shall be determined using the same formula in KRS 61.5525, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;
- (24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;
- (25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;
- (27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;
- (28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;
- (29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;
- (30) "Person" means a natural person;
- (31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions;
- (33) "Objective medical evidence" means reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including but not limited to chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;
- (34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543; and
- (35) "Month" means a calendar month.

Section 11. KRS 61.595 is amended to read as follows:

- (1) Effective July 1, 1990, upon retirement at normal retirement date or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the

Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:

- (a) Effective February 1, 1999, a member of the Kentucky Employees Retirement System who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two percent (2%) of final compensation multiplied by the number of years of service credit.
- (b) Any Kentucky Employees Retirement System member whose effective date of retirement is between February 1, 1999, and January 31, 2009, and who has at least twenty (20) years of service credit in one of the state-administered retirement systems and who was participating in one of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, shall receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;

(c) Any Kentucky Employees Retirement System member who has at least twenty (20) years of service credit in one (1) of the state-administered retirement systems as of December 31, 2008, and who was participating in one (1) of the state-administered retirement systems as of January 1, 1998, and continues to participate through January 1, 1999, and who would be eligible to retire between February 1, 1999, and January 1, 2009, shall receive an annual retirement allowance, payable monthly during his or her lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) of final compensation multiplied by the number of years of service credit. For purposes of this paragraph, a member's total service credit shall mean:

1. All service creditable for retirement as of December 31, 2008; and
2. Service being purchased under an installment payment program established pursuant to KRS 61.552(16) and 61.552(28) for installment purchase of service agreements executed by the employee on or before December 31, 2008. The provisions of this subparagraph shall not apply to service being purchased under the provisions of KRS 61.552(25) unless the employee has attained two-hundred forty (240) months of service as of December 31, 2008, not including the service being purchased under KRS 61.552(25); or

~~(d)(b)}~~ For a member of the County Employees Retirement System whose participation begins on or after August 1, 2004, the annual retirement allowance upon retirement at normal retirement date or later shall be equal to two percent (2%) of final compensation multiplied by the number of years of service credit and shall be payable monthly during his lifetime;

~~(e)(c)}~~ The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars (\$240) multiplied by the number of years of service as a member of the General Assembly;

~~(f)(d)}~~ The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

~~(g)(e)}~~ Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 Regular Session are eligible for an increased retirement allowance of two hundred forty dollars (\$240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the system, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

~~(h)(f)}~~ The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars (\$512); and

~~(i)(g)}~~ The annual retirement allowance for a member of the Kentucky employees retirement system or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

- (2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual

retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

- (b) A member of the Kentucky Employees Retirement System or the County Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority, may count the vested service toward attaining the necessary years of service credit as provided in KRS 61.559(2)(c) and (d) to qualify for a retirement allowance. The credit from a Kentucky institution of higher education, the Council on Postsecondary Education, or the Higher Education Assistance Authority shall not be used toward the minimum fifteen (15) years of current service required by KRS 61.559(2)(c) and (d) or to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).
- (3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the State Treasurer shall be requested to issue the initial retirement payment.
- (4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is two dollars (\$2) greater or less than the amount of the initial retirement payment. If the member or beneficiary chose an actuarial equivalent refund payment option, the amount of estimated retirement allowance shall be the official retirement allowance unless the new calculation produces an amount which is one hundred dollars (\$100) greater or less than the amount of the initial retirement payment.

Section 12. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

- (1) "System" means the County Employees Retirement System;
- (2) "Board" means the board of trustees of the system as provided in KRS 78.780;
- (3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;
- (5) "Examiner" means the medical examiners as provided in KRS 61.665;
- (6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;
- (7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;
- (8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;
- (9) "Service" means the total of current service and prior service as defined in this section;
- (10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided;
- (11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;
- (12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;
- (13) "Creditable compensation" means all salary, wages, and fees, including payments for compensatory time, paid to the

employee as a result of services performed for the employer or for time during which the member is on paid leave, which are includable on the member's federal form W-2 wage and tax statement under the heading "wages, tips, other compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). A lump-sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the system in which it is recorded if it is equal to or greater than one thousand dollars (\$1,000). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Living allowances, expense reimbursements, lump-sum payments for accrued vacation leave, sick leave except as provided in KRS 78.616(5), and other items determined by the board shall be excluded. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code. Creditable compensation shall also include elective amounts for qualified transportation fringes paid or made available on or after January 1, 2001, for calendar years on or after January 1, 2001, that are not includable in the gross income of the employee by reason of 26 U.S.C. sec. 132(f)(4);

(14) "Final compensation" means:

- (a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; or
- (b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between August 1, 2001, and January 1, 2009, and whose total service credit is at least twenty-seven (27) years and whose age and years of service total at least seventy-five (75), final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provision of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance; or

(c) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose total service credit on or before December 31, 2008, is at least twenty-seven (27) years, whose age and years of service total on or before December 31, 2008, is at least seventy-five (75), and who would be eligible to retire between August 1, 2001, and January 1, 2009, final compensation means the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. For purposes of this paragraph, a member's total service credit shall mean:

1. All service creditable for retirement as of December 31, 2008; and

2. Service being purchased under an installment payment program established pursuant to KRS 61.552(16) and 61.552(28) for installment purchase of service agreements executed by the employee on or before December 31, 2008. The provisions of this subparagraph shall not apply to service being purchased under the provisions of KRS 61.552(25) unless the employee has attained two-hundred forty (240) months of service as of December 31, 2008, not including the service being purchased under KRS 61.552(25); or

(d) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7.5) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same

2007 Regular Session

option computed under early retirement;

- (18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 78.520 to 78.852;
- (19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;
- (20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;
- (21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:
 - (a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;
 - (b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;
 - (c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or
 - (d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;
- (22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);
- (23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;
- (24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;
- (25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;
- (26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;
- (27) "Person" means a natural person;
- (28) "School term or year" means the twelve (12) months from July 1 through the following June 30;
- (29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;
- (30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula in KRS 61.5525, except the determination of the actuarial cost for classified employees of a school board shall be based on their final compensation, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;
- (31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615; and
- (32) "Month" means a calendar month.

Section 13. KRS 61.701 is amended to read as follows:

- (1) There is hereby created and established a trust fund to be known as the "Kentucky Retirement Systems Insurance Fund." All assets received in the fund shall be deemed trust funds to be held and applied solely as provided in this section.
- (2) The fund is created pursuant to 26 U.S.C. secs. 105 and~~see-~~ 106 for the purpose of providing a fund separate from the retirement funds. Fund assets are dedicated to providing~~and is to be used to provide fringe~~ benefits in accordance with the plan described~~as provided~~ in KRS 61.702 to retired recipients and employees of employers participating in the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, and to certain of their dependents or beneficiaries.
- (3) The fund shall be administered by the board of trustees of the Kentucky Retirement Systems, and the board shall serve as trustees of the insurance fund. The board shall manage the assets of the fund in the same manner in which it administers the retirement funds. However, separate accounting and financial reporting shall be maintained for the insurance fund.

House Floor Amendment No. 4 to **SB 58**, by Representative Cherry:

SB 58, On page 20, line 12, after "effectuated by" by deleting "the" and inserting in lieu thereof "Sections 1 through 9 of this"; and

On page 20, line 14, after "affected by" by inserting "Sections 1 through 9 of"; and

On page 20, line 15, after "established by" by inserting "Sections 1 through 9 of"; and

On page 20, line 16, after "entities by" by inserting "Sections 1 through 9 of"; and

On page 20, line 20, after "superseded by" by inserting "Sections 1 through 9 of"; and

On page 20, after line 20, by inserting the following:

"Section 10. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;
- (2) "Commission" means the Executive Branch Ethics Commission;
- (3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;
- (4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;
- (5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;
- (6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;
- (7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet;~~[-]~~ the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, executive directors, principal assistants, and division directors;~~[-]~~ members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Kentucky Occupational Safety and Health Review Commission, the Kentucky Board of Education, the Council on Postsecondary Education;~~[-, and]~~ any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection; and any unpaid executive officer;
- (8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;
- (9) "Public servant" means:
 - (a) The Governor;
 - (b) The Lieutenant Governor;
 - (c) The Secretary of State;
 - (d) The Attorney General;
 - (e) The Treasurer;
 - (f) The Commissioner of Agriculture;
 - (g) The Auditor of Public Accounts; and
 - (h) All employees in the executive branch, including officers as defined in subsection (7) of this section, executive officers as defined in subsection (20) of this section, and merit employees;
- (10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government except advisory committees established for the purpose of providing advice and making recommendations to the agency and having no statutory decision-making authority. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;
- (11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

- (12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;
- (13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (g) of this section;
- (14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;
- (15) "Public agency" means any governmental entity;
- (16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments;
- (17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else;
- (18) "Directly involved" means to work on personally or to supervise someone who works on personally; ~~and~~
- (19) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public; and
- (20) "Executive officer" means any person working in the executive branch of state government who performs advisory, policy-making, personnel, or discretionary duties, regardless of whether the person also performs some ministerial or perfunctory duties.

Section 11. KRS 18A.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

- (1) "Appointing authority" means the agency head or any person whom he has authorized by law to designate to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification, or other position actions. Such designation shall be in writing and signed by both the agency head and his designee. Prior to the exercise of appointing authority, such designation shall be filed with the secretary;
- (2) "Base salary or wages" means the compensation to which an employee is entitled under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and 18A.110. Base salary or wages shall be adjusted as provided under the provisions of KRS 18A.355 and 48.130;
- (3) "Board" means the Personnel Board created by KRS 18A.045;
- (4) "Career employee" shall mean a state employee with sixteen (16) or more years of permanent full-time state service, or the part-time employment equivalent of at least sixteen (16) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof;
- (5) "Certification" means the referral of the name of one (1) or more qualified prospective employees by the secretary on request of an appointing officer for consideration in filling a position in the classified service;
- (6) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;
- (7) "Classified employee" means an employee appointed to a position in the classified service whose appointment and continued employment are subject to the classified service provisions of this chapter;
- (8) "Classified position" means a position in the executive branch of state government that is not exempt from the classified service under KRS Chapter 16, KRS 18A.115, KRS Chapter 151B, or any other provision of law;
- (9) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;
- (10) "Secretary" means the secretary of the Personnel Cabinet as provided for in KRS 18A.015;
- (11) "Demotion" means a change in the rank of an employee from a position in one (1) class to a position in another class having a lower minimum salary range or less discretion or responsibility;
- (12) "Cabinet" means the Personnel Cabinet provided for in KRS 18A.015, unless the context indicates otherwise;
- (13) "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.010 to 18A.200 and who has qualified to be placed on a register;
- (14) "Employee" means a person regularly appointed to a position in the state service for which he is compensated on a full-time, part-time, or interim basis;
- (15) "Federally funded time-limited employee" means an employee in the unclassified service, appointed to a position that is funded one hundred percent (100%) by a federal grant or grants. An employee appointed to a federally funded time-limited position shall be required to meet the minimum requirements for the classification in which he or she is hired and, subject to the provisions of KRS 18A.113, shall serve at the pleasure of the appointing authority during a period of time that shall

not exceed the life of the federal grant that funds the position. A federally funded time-limited employee who has been aggrieved by notice of disciplinary action or termination, other than an action based on expiration of the federal grant funding, may petition the appointing authority of the agency for the opportunity to be heard by the appointing authority or his designee prior to the effective date of the disciplinary action or termination. The decision of the appointing authority shall be final except as provided by KRS 18A.095~~(16)~~~~((15))~~(a) and 18A.140. A federally funded time-limited employee shall not have the right of appeal to the Personnel Board except as provided by KRS 18A.095~~(16)~~~~((15))~~(a) and 18A.140;

- (16) "Federally funded position" means a full-time or a part-time position in which the unclassified employee is eligible for benefits at the same level as a classified employee in a permanent position;
- (17) "Full-time employee" means an employee in a full-time position;
- (18) "Full-time position" means a position, other than an interim position, requiring an employee to work at least thirty-seven and one-half (37.5) hours in a work week, except for the following:
 - (a) Positions in the state parks, where the work assigned is dependent upon fluctuations in tourism, may be assigned work hours from twenty-five (25) hours per week during the off seasons and remain in full-time positions; and
 - (b) Positions in health care facilities, which regularly involve three (3) consecutive days of twelve (12) hour shifts to cover weekends, shall be considered full-time;
- (19) "Initial probation" means the period of service following initial appointment to any position under KRS 18A.010 to 18A.200 which requires special observation and evaluation of an employee's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110 and by the provisions of this chapter. If the appointee is granted leave in excess of twenty (20) consecutive work days during this period, his initial probation shall be extended for the same length of time as the granted leave to cover such absence;
- (20) "Interim employee" means an unclassified employee without status who has been appointed to an interim position that shall be less than nine (9) months duration;
- (21) "Interim position" means a position established to address a one-time or recurring need of less than nine (9) months duration and exempt from the classified service under KRS 18A.115;
- (22) "Part-time employee" means an employee in a part-time position;
- (23) "Part-time position" means a position, other than an interim position, requiring an employee to work less than one hundred (100) hours per month;
- (24) "Penalization" shall include, but not be limited to, demotion, dismissal, suspension, fines, written reprimands, and other disciplinary actions, involuntary transfers; salary adjustments; any action that diminishes the level, rank, discretion, or responsibility of an employee without proper cause, including a reclassification or reallocation; and the abridgment~~abridgement~~ or denial of other rights granted to state employees;
- (25) "Position" means an office or employment in an agency (whether part-time, full-time, or interim, occupied, or vacant) involving duties requiring the services of one (1) person;
- (26) "Promotion" means a change of rank of an employee from a position in one (1) class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility;
- (27) "Promotional probation" means the period of service, consistent with the length of the initial probationary period, following the promotion of an employee with status which must be successfully completed in order for the employee to retain the position to which he has been promoted. If the employee is granted leave in excess of twenty (20) consecutive work days during this period, his promotional probation shall be extended for the same length of time as the granted leave to cover such absence;
- (28) "Qualifying" means the selection method type which results when the knowledge, skills, and abilities necessary for a job classification cannot be accurately measured by written, performance, or training and experience examinations and shall be reserved for classifications which require specialized training and experience or a professional license or certification;
- ~~(29)~~ "Reallocation" means the correction of the classification of an existing position by placement of the position into the classification that is appropriate for the duties the employee has been and shall continue to perform;
- ~~(30)~~~~((29))~~ "Reclassification" shall mean the change in the classification of an employee when a material and permanent change in the duties or responsibilities of that employee occurs;
- ~~(31)~~~~((30))~~ "Reemployment" shall mean the rehiring of an employee with status who has been laid off;
- ~~(32)~~~~((31))~~ "Reemployment register" means the separate list of names of persons who have been separated from state service by reason of layoff. Reemployment registers shall be used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;
- ~~(33)~~~~((32))~~ "Register" means any official list of eligibles for a particular class and, except as provided in this chapter, placed in rank order according to the examination scores maintained for use in making original appointments or promotions to positions in the classified service;
- ~~(34)~~~~((33))~~ "Reinstatement" shall mean the restoration of an employee who has resigned in good standing, or who has been

ordered reinstated by the board or a court to a position in his former class, or to a position of like status and pay;

~~(35)~~~~(34)~~ "Reversion" means either the returning of a status employee to his or her last position held in the classified service, if vacant, or the returning of a status employee to a vacant position in the same or similar job classification as his or her last position held in the classified service. Reversion occurs after a career employee is terminated other than for cause from the unclassified service or after a status employee fails to successfully complete promotional probation. Reversion after unsuccessful completion of promotional probation, or in the case of a career employee after termination from the unclassified service, may only be appealed to the Personnel Board under KRS 18A.095~~(14)~~~~(13)~~;

~~(36)~~~~(35)~~ "Seniority" means the total number of months of state service;

~~(37)~~~~(36)~~ "Status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter after satisfactory completion of the initial probationary period by an employee in the classified service; and

~~(38)~~~~(37)~~ "Transfer" means a movement of any employee from one (1) position to another of the same grade having the same salary ranges, the same level of responsibility within the classified service, and the same salary received immediately prior to transfer.

Section 12. KRS 18A.030 is amended to read as follows:

- (1) The secretary shall be the executive and administrative head of the cabinet and shall supervise and control all examinations and work of the cabinet. He shall advise the board on matters pertaining to the classified service of this state. Within the limitations of the budget, the secretary shall appoint and supervise the staff needed in the cabinet to carry out the purposes of KRS 18A.005 to 18A.200 except employees of the board who shall be appointed as provided in KRS 18A.090.
- (2) Subject to the provisions of this chapter and KRS Chapter 13A, the secretary shall, with the aid of his staff:
 - (a) Attend all meetings of the board;
 - (b) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS Chapters 13A and 18A, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants;
 - (c) Establish general procedures for personnel recruitment, for certification, and for improving the efficiency of employed personnel;
 - (d) Appoint the examiners and technicians necessary for the conduct of the personnel program, whether on a permanent or temporary basis;
 - (e) Prepare and maintain a record of all employees, showing for each employee his name, address, title of position held, rate of compensation, changes in status, compensation, or title, transfer, and to make the data and the class specifications for all positions available to the press and public;
 - (f) Prepare, in accordance with the provisions of KRS 18A.005 to 18A.200 and the administrative regulations adopted thereunder, examinations, eligible lists, and ratings of candidates for appointment;
 - (g) **Propose selection method changes for any classification to the Personnel Board with documentation justifying the need for the selection method change. The Personnel Board shall, at its next regularly scheduled monthly meeting, either approve or reject any proposed selection method change. No classification shall have its selection method changed without final approval of the Personnel Board;**
 - ~~(h)~~ Make certification for appointment or promotion within the classified service, in accordance with the provisions of KRS 18A.005 to 18A.200;
 - ~~(i)~~~~(h)~~ Make investigations concerning all matters touching the enforcement and effect of the provisions of KRS 18A.005 to 18A.200 and administrative regulations prescribed thereunder;
 - ~~(j)~~~~(i)~~ Prepare, in cooperation with appointing authorities and others, programs for employee training, safety, morale, work motivation, health, counseling, and welfare, and exercise leadership in the development of effective personnel administration within the several departments of the Commonwealth, and make available the facilities of the department to this end;
 - ~~(k)~~~~(j)~~ Provide personnel services to unclassified employees in agreement with the agencies involved not otherwise provided for in KRS 18A.005 to 18A.200;
 - ~~(l)~~~~(k)~~ Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel system created by KRS 18A.005 to 18A.200, excluding the board, which shall present its own budget estimates;
 - ~~(m)~~~~(l)~~ Make a report and submit the same to the board, the Legislative Research Commission, and the Governor not later than October first of each year; and
 - ~~(n)~~~~(m)~~ Discharge the other duties imposed upon him by KRS 18A.005 to 18A.200.
- (3) The secretary on behalf of the cabinet may join or subscribe to any association or service having as its purpose the interchange of information relating to the improvement of the public service and especially improvement of personnel administration.
- (4) The secretary shall keep records relative to employee turnover and report to the board, the Governor, and the Legislative

Research Commission quarterly. The report shall reflect employee turnover rates by cabinet, department, bureau, division, and section. If any cabinet, department, bureau, division, or section has a turnover rate of fifteen percent (15%) or more in any twelve (12) month period, the secretary shall conduct an investigation into the reasons for the turnover and report the findings to the board, the Governor, and the Legislative Research Commission.

- (5) The secretary shall provide to each new state employee and to each existing state employee, classified or otherwise, on an annual basis an informational pamphlet about human immunodeficiency virus infection and acquired immunodeficiency syndrome. The pamphlet shall be approved by the Cabinet for Health and Family Services and shall contain information about the nature and extent of these diseases, methods of transmission, preventive measures, and referral services.

Section 13. KRS 18A.037 is amended to read as follows:

- (1) The ~~secretary~~~~commissioner~~ shall develop and propose a new system of classification and compensation to be transmitted to the Legislative Research Commission by November 15, 1997. The system proposed by the ~~secretary~~~~commissioner~~ shall be developed using a nationally-recognized system for evaluating job requirements. The proposed system shall determine the requirements of each job classification by using factors such as, but not limited to, knowledge, skill, effort, responsibility, accountability, problem solving, discretion, challenge, and working conditions, to ensure pay equity as required by KRS Chapters 337 and 344.
- (2) The ~~secretary~~~~commissioner~~ shall include, as a part of the proposal, estimated funding requirements for the implementation of the system.

Section 14. KRS 18A.040 is amended to read as follows:

The board and the ~~secretary~~~~commissioner~~ shall see that rules, regulations and practices meeting federal merit system standards shall, where such standards apply as a prerequisite for federal grants-in-aid, be in effect continuously, notwithstanding any other provision of KRS 18A.005 to 18A.200.

Section 15. KRS 18A.045 is amended to read as follows:

- (1) There is hereby created a Personnel Board in which shall be vested the constitutional powers and responsibilities of officers of the Commonwealth. The board shall consist of nine (9)~~seven (7)~~ members, five (5) of whom shall be appointed by the Governor as provided in KRS 18A.050. Four (4)~~Two (2)~~ members of the board shall be elected by classified employees as provided in KRS 18A.0551, except for the two (2) newly established members who shall be elected by classified employees during a special election to be held prior to July, 2007.
- (2) Personnel Board members shall not accept gifts as provided in KRS 11A.045(1), benefit under any contract or agreement as provided in KRS 11A.040(4), or fail to disclose to other members of the board any direct or indirect conflict of interest as provided in KRS 11A.005(2)(c).
- (3) Any person retaliating in any manner and any person ordering retaliation against a classified employee or a member of his family because he has participated in an election to the board, either by being a candidate or voting for a candidate, shall be subject to the provisions of KRS 18A.990.

Section 16. KRS 18A.050 is amended to read as follows:

- (1) Any person serving on the board on July 15, 1982, shall serve until the expiration of his current term of office. Subsequent appointments shall be for a term of four (4) years from the date of expiration of the term for which his predecessor was appointed as provided in subsections (2) and (3) of this section, except that a person appointed to fill a vacancy prior to the expiration of such term shall be appointed in the same manner as provided in KRS 18A.045 and for the remainder of such term.
- (2) Upon the expiration of the terms of office of the two (2) board members whose terms expire January 1, 1984, the Governor shall appoint two (2) members from a list of four (4) names submitted by the Legislative Research Commission. Thereafter, upon the expiration of these terms, such terms shall be filled in the same manner as provided in this subsection.
- (3) Upon the expiration of the terms of office, of the members whose terms expire December 31, 1982, January 1, 1985, and January 1, 1986, the Governor shall appoint citizens at large who are not associated with state government in any manner. Thereafter upon the expiration of these terms, such terms shall be filled in the same manner as provided in this subsection.
- (4) These five (5) appointments to the board shall be subject to confirmation by the Senate. If the Senate is not in session, these five (5) appointments shall be subject to review by the Interim Joint Committee on State Government which shall hold a public hearing and shall transmit its recommendations to the Senate.
- (5) The initial election of classified employees to the board shall be held as provided in KRS 18A.0551. The two (2) classified employees initially elected to the board shall serve until July 1, 1986. The two (2) classified employees elected to the board pursuant to subsection (1) of Section 15 of this Act shall serve on the board for a term of three (3) years and may seek reelection as provided in this section. Subsequent elections shall be for a term of four (4) years from the date of expiration of the term for which his predecessor was elected. If a vacancy occurs prior to the expiration of such term, the board shall fill the vacancy as provided in KRS 18A.060. For the election cycle beginning June 2010, four (4) classified employees shall be elected to the board to serve four (4) year terms. No classified employee shall be eligible to seek reelection for more than three (3) successive terms on the board. ~~Effective for the election to be held in 1986 and all subsequent elections, a classified employee elected to the board shall not be eligible for reelection to the board for the four~~

2007 Regular Session

~~(4) year term succeeding the expiration of the term for which he shall have been elected. He shall also be ineligible to be appointed to fill a vacancy that occurs during the four (4) year term succeeding the expiration of the four (4) year term for which he shall have been elected. The classified employees elected to the board at the election held in 1982 shall be eligible for the 1986 election].~~

- (6) If an elected board member accepts an unclassified position with state government, his membership on the board shall be terminated immediately and the vacancy shall be filled as provided in KRS 18A.060.
- (7) If an elected board member accepts a classified position in a cabinet employing another board member or if, through no fault of his own, he is placed in that cabinet, his membership on the board shall not be terminated for the remainder of his term.

Section 17. KRS 18A.0551 is amended to read as follows:

- (1) (a) Elections to the board shall be scheduled every four (4) years on or before July 1. The board shall provide written notification of the date of the election to all classified employees on or before May 1; and
 - (b) Upon receipt of the notification provided for by paragraph (a) of this subsection, an employee wishing to serve on the board shall notify the board, in writing, no later than June 1. This notification shall be notarized and shall include the candidate's name, address, Social Security number, job classification, and length of state employment. It shall also include the name and address of his current employer.
- (2) On the last working day of May, the cabinet shall certify a payroll listing to the board that is current on such day and that contains the name, Social Security number, and home address of every classified employee.
- (3) At least fifteen (15) working days prior to the election provided for in subsection (1) of this section, the board shall mail to each classified employee whose name appeared on the payroll listing certified by the cabinet at his home address:
 - (a) A list of candidates for election to the board, in alphabetical order, with a brief biography following the name of each candidate;
 - (b) Instructions for voting;
 - (c) A ballot listing the names of all candidates for election to the board in alphabetical order and providing a blank space next to each name; and
 - (d) Two (2) envelopes for returning the ballot. Prior to mailing the envelopes to a state employee, one (1) envelope shall be addressed by the board to the impartial third party selected by the board to receive, validate, and tabulate the ballots at a post office box rented by the board for the election. The upper left corner of the preaddressed or outer envelope shall contain a sufficient number of blank lines and spaces to permit an employee to print his name and address. The upper left corner of the second or inner envelope shall contain a sufficient number of blank lines and spaces to permit an employee to print his name, address, Social Security number, the date, and to affix his signature.
- (4) Upon receipt of his ballot, a classified employee wishing to participate in the election provided for in subsection (1) of this section shall:
 - (a) Vote for no more than four (4)~~two (2)~~ candidates;
 - (b) Mark his ballot by placing a mark in the blank space next to the name of the candidate for whom he is casting his vote;
 - (c) Print his name and address in the upper left corner of the preaddressed or outer envelope provided by the board;
 - (d) Print his name, address, Social Security number, the date, and affix his signature in the upper left corner of the second or inner envelope provided by the board;
 - (e) Seal his ballot in the second or inner envelope; and
 - (f) Seal the second or inner envelope in the preaddressed or outer envelope, affix a stamp to it, and post it.
- (5) The board shall:
 - (a) Select an impartial third party to receive, validate, and tabulate all returned ballots as provided by this subsection and subsection (6) of this section;
 - (b) Acquire a post office box to which all ballots shall be mailed; and
 - (c) Provide the impartial third party with a computer generated list of the names and Social Security numbers of eligible voters, with the names of the eligible voters in numerical sequence as determined by their Social Security numbers. The names and Social Security numbers listed on the list shall correspond to those appearing on the payroll certified by the cabinet under subsection (2) of this section.
- (6) The impartial third party selected by the board shall collect all ballots, unopened, from the post office box. It shall:
 - (a) Examine the postmark on each envelope;
 - (b) Set aside, unopened, any preaddressed or outer envelope postmarked with a date subsequent to the deadline provided for by this section;
 - (c) Remove the second or inner envelope from the preaddressed or outer envelope;

- (d) Verify the name and Social Security number on the second or inner envelope by comparing them to the computer generated list of names and Social Security numbers of eligible voters provided by the cabinet;
- (e) Set aside, unopened, any second or inner envelope containing a name and Social Security number that does not match the name and Social Security number appearing next to the name on the computer generated list;
- (f) Tabulate the ballots by electronic data entry in duplicate, provided that ballots in envelopes specified in paragraphs (b) and (e) of this subsection shall not be counted;
- (g) Compare the total tabulated vote with the total number of eligible employees appearing on the computer generated list provided by the cabinet;
- (h) Return the ballots; envelopes, including envelopes that have not been opened; and other election material to the board; and
- (i) Certify to the board:
 - 1. That the tabulation does not include two (2) or more ballots with the same Social Security number;
 - 2. The total number of ballots received;
 - 3. The total number of ballots not included in the tabulation, and the reason each such ballot was not included in the tabulation;
 - 4. The total number of ballots included in the tabulation; and
 - 5. The total vote for each candidate.
- (7) For at least sixty (60) days after the completion of the tabulation provided for by subsection (6) of this section, the ballots, envelopes, and other election materials provided for by this section shall be public record and open to inspection, but the home addresses and Social Security numbers of the eligible employees and voters shall be redacted prior to public inspection or disclosure.
- (8) The ~~four (4)~~~~two (2)~~ candidates receiving the greatest number of votes shall be declared the successful candidates. In the event of a tie vote, the tie shall be broken by a coin toss in the presence of the candidates receiving the tie vote.
- (9) Successful candidates shall be notified by the board no later than five (5) working days after the election. Successful candidates shall take office immediately upon notification.
- (10) State employees shall not use state materials or equipment for any purpose related to the election of classified employees to the board, nor shall any activity related to the election of a classified employee to the board be conducted during working hours.

Section 18. KRS 18A.075 is amended to read as follows:

Subject to the provisions of this chapter and KRS Chapter 13A, it shall be the duty of the board to:

- (1) As provided by this chapter, promulgate comprehensive administrative regulations consistent with the provisions of KRS 18A.005 to 18A.200, and with federal standards for the administration of a personnel system in the agencies of the state government receiving federal grants for the purpose of carrying out the provisions of this chapter;
- (2) Make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 18A.005 to 18A.200, and to require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A; and to make such investigation as may be requested by the General Assembly or the Governor and to report thereon;
- (3) Hear appeals from applicants for positions for which examinations are being or have been conducted, from eligibles on examination registers, from unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause, and from officers or employees serving under the personnel systems created by this chapter, as provided by 1986 Acts Ch. 494;
- (4) In cooperation with the secretary, promote public understanding of merit principles in government service;
- (5) Present, in accordance with the provisions of KRS Chapter 48, budget requests for the support of the personnel board;
- (6) Make annual reports to the Governor, the Legislative Research Commission, ~~and~~ the secretary of the Personnel Cabinet, and the co-chairs of the Interim Joint Committee on State Government prior to October 1. The board shall make ~~and~~ biennial reports to the General Assembly, which reports shall be a public record freely available to those persons interested in obtaining a copy. The reports shall include the following:
 - (a) The number of merit state employees at the beginning and the end of the reporting period;
 - (b) The total number of grievances filed and mediation requests made by merit employees during the reporting period;
 - (c) A tabulation of the types of grievances filed during the reporting period, including whether the grievances were filed regarding suspension, fine, demotion, dismissal, discrimination, job working conditions, or other penalization;
 - (d) A tabulation of the types of mediation requests filed during the reporting period, including whether the grievances were filed regarding suspension, fine, demotion, dismissal, discrimination, job working conditions,

or other penalization;

- (e) A comparison of the number of grievances and mediations filed by merit employees in previous reporting periods, including a comparison in the categories listed in paragraphs (c) and (d) of this subsection;
 - (f) A tabulation of the stages in which employee complaints were resolved during the reporting period;
 - (g) The average amount of time taken to resolve employee complaints during the reporting period, by stage; and
 - (h) A comparison of the amount of time taken to resolve employee complaints during the reporting period, by stage, and the amount of time taken during the previous reporting periods;
- (7) Advise the Governor and the secretary with respect to the administration of the personnel system created by this chapter;
 - (8) Consider and act on such matters as may be referred to the board by the secretary;[-and]
 - (9) Represent the public interest in the improvement of personnel administration in the state service, and advise and assist the secretary in fostering the interest of institutions of learning and of civic, professional, and employee organizations in the improvement of personnel standards in the state service; and
 - (10) Make a determination, upon receiving notification of proposed classification selection method changes with proper documentation for the necessity for the change from the secretary, on classification selection method changes prior to those changes occurring. Upon receiving a classification selection method change proposals from the secretary, the board shall, at its next regularly scheduled monthly meeting, either approve or reject the proposed selection method change. No classification shall have its selection method changed without final approval from the board.**

Section 19. KRS 18A.0751 is amended to read as follows:

- (1) The board shall promulgate comprehensive administrative regulations for the classified service governing:
 - (a) Appeals by state employees;
 - (b) Demotion;
 - (c) Dismissal;
 - (d) Fines, suspensions, and other disciplinary measures;
 - (e) Probation, provided that the board may not require an initial probationary period in excess of six (6) months except as provided in subsection (4)(e) of this section and KRS 18A.005;
 - (f) Promotion;
 - (g) Reinstatement;
 - (h) Transfer; and
 - (i) Employee grievances and complaints.
- (2)
 - (a) These administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;
 - (b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and
 - (c) No administrative body, other than the personnel board, shall promulgate administrative regulations governing the subject matters specified in this section.
- (3) Prior to filing an administrative regulation with the Legislative Research Commission, the board shall submit the administrative regulation to the secretary for review:
 - (a) The secretary shall review the administrative regulation proposed by the board not more than twenty (20) days after its submission to him;
 - (b) Not more than five (5) days after his review, the secretary shall submit his recommendations in writing to the board;
 - (c) The board shall review the recommendations of the secretary and may revise the proposed administrative regulation as it deems necessary; and
 - (d) After the board has completed the review provided for in this section, it may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.
- (4) These administrative regulations shall provide:
 - (a) For the procedures to be utilized by the board in the conduct of hearings by the board, consistent with the provisions of KRS Chapter 13B;
 - (b) For reduction in rank or grade as provided by this chapter;
 - (c) For discharge, as provided by this section;
 - (d) For imposition, as disciplinary measures, of a fine of not more than ten (10) working days' pay, or for suspension from the service without pay for no longer than thirty (30) working days and, in accordance with the provisions of

KRS 18A.095, for the manner of notification of the employee of the discipline and his right of appeal;

- (e) No probationary period may exceed twelve (12) months, except as provided in KRS 18A.005. The secretary may recommend an initial probationary period in excess of six (6) months for specific job classifications to the board. This recommendation shall take the form of a proposed administrative regulation that shall be submitted to the board for approval. The subject of the administrative regulation shall be limited to job classifications for which an initial probationary period in excess of six (6) months is required and shall specify:
 - 1. The job classification for which an initial probationary period in excess of six (6) months is required; and
 - 2. The specific number of months constituting the initial probationary period for the job classification. No other administrative regulation shall include any provision prescribing an initial probationary period in excess of six (6) months, except as provided in KRS 18A.005. Upon approval by the board of the proposed administrative regulation provided for in this paragraph, the board shall file the regulation with the Legislative Research Commission as provided by KRS Chapter 13A;
- (f) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct, and seniority. Except as provided by this chapter, vacancies shall be filled by promotion whenever practicable and in the best interest of the service;
- (g) For reemployment of laid-off employees in accordance with the provisions of this chapter;
- (h) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges as provided by the provisions of KRS 18A.1131(3)(a);
- (i) For establishment of a plan for resolving employee grievances and complaints. The board shall provide guidelines for dispute resolution for employees that attempt to resolve any work-related complaint or penalization. There shall be two (2) distinct methods for dispute resolution. Employees may choose to proceed under either the procedure set out in subparagraph 1. of this paragraph or the procedure set out in subparagraph 2. of this paragraph.
 - 1. An employee may seek resolution through an interagency mediation process in which the agency shall participate. If an employee choosing mediation is dissatisfied with the results of the mediation, the employee may appeal the results to a peer review committee which shall be established by the Personnel Cabinet. An employee may appeal the decision of the peer review committee, within thirty (30) days, to the Personnel Board; or
 - 2. An employee may file his or her grievance, and may appeal the appointing authority's decision concerning the grievance to the Personnel Board.

This plan shall not restrict rights granted employees by the provisions of this chapter;
- (j) For promotion of career employees to positions in the unclassified service without loss of status to the individual employees so promoted, as provided by this chapter; and
- (k) For any other administrative regulations not inconsistent with this chapter and KRS Chapter 13A as may be proper and necessary for its enforcement.

Section 20. KRS 18A.095 is amended to read as follows:

- (1) (a) The provisions of this section shall not apply to employees commissioned pursuant to the provisions of KRS 281.770.
- (b) Dismissals, demotions, suspensions, and other penalizations of these commissioned employees, and appeals relating thereto, shall be governed by the provisions of KRS 281.771 and 281.772.
- (2) A classified employee with status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.
- (3) Prior to dismissal, a classified employee with status shall be notified in writing of the intent to dismiss him. The notice shall also state:
 - (a) The specific reasons for dismissal including:
 - 1. The statutory or regulatory violation;
 - 2. The specific action or activity on which the intent to dismiss is based;
 - 3. The date, time, and place of such action or activity; and
 - 4. The name of the parties involved; ~~and~~
 - (b) That the employee has the right to appear personally, or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee; and
 - (c) That the employee, upon receiving an intent to dismiss letter prior to the agency's final action, may be suspended by the appointing authority with pay.
- (4) The Personnel Cabinet shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the head of the cabinet or agency or his designee, to each appointing authority. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

2007 Regular Session

- (a) The right granted an employee under the provisions of this section relating to pretermination hearings; and
 - (b) The time limits and procedures to be followed by all parties in pretermination hearings.
- (5) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives the notice, the employee may request to appear, personally or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.
- (6) Unless waived by the employee, the appearance shall be scheduled within six (6) working days after receipt of an employee's request to appear before the head of the cabinet or agency or his designee, excluding the day his request is received.
- (7) No later than five (5) working days after the employee appears before the head of the cabinet or agency or his designee, excluding the day of the appearance, the cabinet head or agency or his designee shall:
- (a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and
 - (b) Notify the employee in writing of the decision.
- (8) If the cabinet or agency head or his designee determines that the employee shall be dismissed or otherwise penalized, the employee shall be notified in writing of:
- (a) The effective date of his dismissal or other penalization;
 - (b) The specific reason for this action, including:
 - 1. The statutory or regulatory violation;
 - 2. The specific action or activity on which the dismissal or other penalization is based;
 - 3. The date, time, and place of the action or activity; and
 - 4. The name of the parties involved;
 - (c) That he may appeal the dismissal or other penalization to the board within sixty (60) days after receipt of this notification, excluding the day he receives notice.
- (9) A classified employee with status who is demoted, suspended, or otherwise penalized shall be notified in writing of:
- (a) The demotion, suspension, or other penalization;
 - (b) The effective date of the demotion, suspension, or other penalization;
 - (c) The specific reason for the action including:
 - 1. The statutory or regulatory violation;
 - 2. The specific action or activity on which the demotion, suspension, or other penalization is based;
 - 3. The date, time, and place of the action or activity; and
 - 4. The name of the parties involved; and
 - (d) That he has the right to request mediation or file a grievance within thirty (30) days~~appeal to the board within sixty (60) days~~, excluding the day that he or she received notification of the penalization.
- (10) An employee may seek resolution of any work-related complaint or penalization. There shall be two (2) distinct procedures for dispute resolution. Employees may choose to proceed under either the procedure set out in paragraph (a) of this subsection or the procedure set out in paragraph (b) of this subsection.
- (a) An employee may seek resolution through an interagency mediation process in which the agency shall participate. If an employee choosing mediation is dissatisfied with the results of the mediation, the employee may appeal the results to a peer review committee which shall be established by the Personnel Cabinet. An employee may appeal the decision of the peer review committee, within thirty (30) days, to the Personnel Board; or
- (b) An employee may file his or her grievance, and may appeal the appointing authority's decision concerning the grievance to the Personnel Board.
- (11)** Any unclassified employee who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after the dismissal, demotion, suspension, or other form of penalization, appeal to the board for review thereof.
- (12)(11)** (a) An employee whose position is reallocated shall be notified in writing by the appointing authority of:
- 1. The reallocation; and
 - 2. His right to request reconsideration by the secretary within ten (10) working days of receipt of the notice, excluding the day he receives notification;
- (b) He shall be provided with a form prescribed by the secretary on which to request reconsideration; and
- (c) The employee shall file a written request for reconsideration of the reallocation of his position with the secretary in a manner and form prescribed by the secretary and shall be given a reasonable opportunity to be heard thereon by the secretary. The secretary shall make a determination within sixty (60) days after the request has been filed by an employee. After reconsideration of the request by the secretary, the employee may appeal to the board.

~~(13)~~~~(12)~~ Any state employee, applicant for employment, or eligible on a register may appeal to the board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged, or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employee, applicant, or eligible, and whether his right to inspect or copy these records was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy these records has been denied, abridged, or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employee, an applicant for employment, and an eligible on a register shall not have the right to inspect or to copy any examination materials.

~~(14)~~~~(13)~~ Any classified employee may request mediation or file a grievance ~~for appeal to the board~~ an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age forty (40) and above. Nothing in this section shall be construed to preclude any classified or unclassified employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.

~~(15)~~~~(14)~~ When an eligible's name is removed from a register, the secretary shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the secretary or in accordance with the decision of the board.

~~(16)~~~~(15)~~ (a) Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board;

(b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of this rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the secretary pending reconsideration by the board;

(c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of the examination to assure that uniform rating procedures have been applied equally and fairly;

(d) An appeal to the board by applicants or eligibles under subsections ~~(12)~~~~(11)~~ and ~~(14)~~~~(13)~~ of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.

~~(17)~~~~(16)~~ An employee may request interagency mediation or file a grievance concerning his or her evaluation ~~may be appealed to the board~~ if an employee has complied with the review procedure established in KRS 18A.110(7)(j).

~~(18)~~~~(17)~~ (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The Personnel Cabinet shall be responsible for the distribution of these forms;

(b) The appeal form shall be attached to any final grievance or peer review committee decision ~~notice, or copy of any notice, of dismissal, demotion, suspension, fine, involuntary transfer, or other penalization, reallocation, or notice of any other action an employee may appeal under the provisions of this section~~. The appeal form shall instruct the employee to state whether he is a classified or unclassified employee, his full name, his appointing authority, work station address and telephone number, and, if he has retained counsel at the time he files an appeal, the name, address, and telephone number of his attorney;

(c) The form shall also instruct a classified employee to state the grievance or peer review committee decision ~~action~~ he is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employee to make a short, plain, concise statement of the reason for the appeal and the cause given for his dismissal; and

(d) Upon receipt of the appeal by the board, the appointing authority and the Personnel Cabinet shall be notified and the board shall schedule a hearing.

~~(19)~~~~(18)~~ All administrative hearings conducted by the board shall be conducted in accordance with KRS Chapter 13B.

~~(20)~~~~(19)~~ (a) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the reasons for the appeal and the cause for which he has been dismissed. The board may deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 18A.100;

(b) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing.

~~(21)~~~~(20)~~ Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

~~(22)~~~~(21)~~ Board members shall abstain from public comment about a pending or impending proceeding before the board.

This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

~~(23)~~~~(22)~~ An appeal to the board may be heard by the full board or one (1) or more of the following: Its executive director, its general counsel, any non-elected member of the board, or any hearing officer secured by the board pursuant to KRS 13B.030.

- ~~(24)~~~~(23)~~
- (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to, his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or disability, the appointing authority shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;
 - (b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;
 - (c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall direct the appointing authority to alter, modify, or rescind the disciplinary action;
 - (d) In all other cases, the board shall direct the appointing authority to rescind the action taken or otherwise grant specific relief or dismiss the appeal.

~~(25)~~~~(24)~~ If a final order of the board is appealed, a court shall award reasonable attorney fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. This award shall not include attorney fees attributable to the hearing before the board.

~~(26)~~~~(25)~~ When any employee is dismissed and not ordered reinstated after the appeal, the board in its discretion may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he had been removed.

~~(27)~~~~(26)~~ After a final decision has been rendered by the board or court, an employee who prevails in his appeal shall be credited with the amount of leave time used for time spent at his hearing before the board or court. Employees who had an insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.

~~(28)~~~~(27)~~ If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employee shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.

~~(29)~~ **After a final decision in a contested case has been rendered by the board or court, the board shall make the decision available to the public in electronic format on its Web site and shall organize the decisions according to the statutory basis for which the appeal was based.**

~~(30)~~~~(28)~~ For the purposes of subsections (3), (4), (5), (6), (7), and (8) of this section, the word "agency" means any agency not assigned to a cabinet for organizational purposes.

~~(31)~~~~(29)~~ Notwithstanding any other prescribed limitation of action, an employee that has been penalized, but has not received a written notice of his or her right to appeal as provided in this section, shall file his or her appeal with the Personnel Board within one (1) year from the date of the penalization or from the date that the employee reasonably should have known of the penalization.

Section 21. KRS 18A.110 is amended to read as follows:

- (1) The secretary shall promulgate comprehensive administrative regulations for the classified service governing:
 - (a) Applications and examinations;
 - (b) Certification and selection of eligibles;
 - (c) Classification and compensation plans;
 - (d) Incentive programs;
 - (e) Layoffs;
 - (f) Registers;
 - (g) Types of appointments;
 - (h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the secretary shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985; and
 - (i) Employee evaluations.

- (2) The secretary shall promulgate comprehensive administrative regulations for the unclassified service.
- (3)
 - (a) Except as provided by KRS 18A.355, the secretary shall not promulgate administrative regulations that would reduce an employee's salary; and
 - (b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.
- (4) The secretary may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.
- (5)
 - (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;
 - (b) Administrative regulations promulgated by the secretary shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and
 - (c) No administrative body other than the Personnel Cabinet shall promulgate administrative regulations governing the subject matters specified in this section.
- (6) Prior to filing an administrative regulation with the Legislative Research Commission, the secretary shall submit the administrative regulation to the board for review.
 - (a) The board shall review the administrative regulation proposed by the secretary not less than twenty (20) days after its submission to it;
 - (b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the secretary;
 - (c) The secretary shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and
 - (d) After the secretary has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.
- (7) The administrative regulations shall provide:
 - (a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class. The secretary shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The secretary shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;
 - (b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the state budget director. The plan shall take into account such factors as:
 - 1. The relative levels of duties and responsibilities of various classes of positions;
 - 2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and
 - 3. The state's financial resources.Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;
 - (c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly and applications accepted at least ten (10) days prior to certification of a register, and may be advertised through the press, radio, and other media. The secretary shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The secretary shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;
 - (d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the secretary for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a

2007 Regular Session

new examination is established;

- (e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the secretary in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;
- (f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;
- (g) For annual, sick, and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);
- (h) For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;
- (i) For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility without written examination;
- (j) For a uniform system of annual employee evaluation for classified employees, with status, that shall be considered in determining eligibility for discretionary salary advancements, promotions, and disciplinary actions. The administrative regulations shall:
 - 1. Require the secretary to determine the appropriate number of job categories to be evaluated and a method for rating each category;
 - 2. Provide for periodic informal reviews during the evaluation period which shall be documented on the evaluation form and pertinent comments by either the employee or supervisor may be included;
 - 3. Establish a procedure for internal dispute resolution with respect to the final evaluation rating;
 - 4. Permit a classified employee, with status, who receives either of the two (2) lowest possible evaluation ratings to appeal, as provided in subsection (4)(i) of Section 19 and subsection (10) of Section 20 of this Act ~~[to the Personnel Board for review]~~ after exhausting the internal dispute resolution procedure. The final evaluation shall not include supervisor comments on ratings other than the lowest two (2) ratings;
 - 5. Require that an employee who receives the highest possible rating shall receive the equivalent of two (2) workdays, not to exceed sixteen (16) hours, credited to his or her annual leave balance. An employee who receives the second highest possible rating shall receive the equivalent of one (1) workday, not to exceed eight (8) hours, credited to his or her annual leave balance; and
 - 6. Require that an employee who receives the lowest possible evaluation rating shall either be demoted to a position commensurate with the employee's skills and abilities or be terminated; and
- (k) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

Section 22. KRS 18A.111 is amended to read as follows:

- (1) Except when appointed to a job classification with an initial probationary period in excess of six (6) months, and except as provided in KRS 18A.005 and this section, an employee shall serve a six (6) months probationary period when he is initially appointed to the classified service. An employee may be separated from his position, reduced in class or rank, or replaced on the eligible list during this initial probationary period and shall not have a right to appeal, except as provided by KRS 18A.095. The employee may be placed on an eligible list but shall not be certified to the agency from which he was separated unless that agency so requests. Unless the appointing authority notifies the employee prior to the end of the initial probationary period that he is separated, the employee shall be deemed to have served satisfactorily and shall acquire status in the classified service.
- (2) An employee who satisfactorily completes the initial probationary period for the position to which he was initially appointed to the classified service shall be granted status and may not be demoted, disciplined, dismissed, or otherwise penalized, except as provided by the provisions of this chapter.
- (3) An employee ordered reinstated by the board shall not be required to serve a probationary period unless the board rules otherwise.
- (4) An employee with status, who has been promoted, shall serve a promotional probationary period of six (6) months, except for those employees granted leave in excess of twenty (20) consecutive work days during this period. Such probationary periods shall be extended as prescribed in KRS 18A.005. During this period, he shall retain the rights and privileges granted by the provisions of this chapter to status employees.
- (5) An employee with status may request that he be reverted to a position in his former class at any time during the promotional probationary period.
- (6) A laid-off employee who accepts a bona fide written offer of appointment to a position shall not be required to serve an initial probationary period. He shall be an employee with status and shall have all rights and privileges granted employees with status under the provisions of this chapter.

- (7) *A former unclassified employee under the provisions of KRS 18A.115 (d), (e), (f), (g), (h), and (i) shall serve an initial probationary period of twelve (12) months if the employee is appointed to a position in the classified service, unless that employee had previously had status in the classified service or had been separated from his or her previous unclassified position for at least one hundred eighty (180) days prior to the effective date of his or her appointment to the classified service.*

Section 23. KRS 18A.140 is amended to read as follows:

- (1) No person shall be appointed or promoted to, or demoted or dismissed from, any position in the classified service, or in any way favored or discriminated against with respect to employment in the classified services because of his political or religious opinions or affiliations or ethnic origin or sex or disability. No person over the age of forty (40) shall be discriminated against because of age.
- (2) No person shall use or promise to use, directly or indirectly, any official authority or influence, whether possessed or anticipated, to secure or attempt to secure for any person an appointment or advantage in appointment to a position in the classified service, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.
- (3) No employee in the classified service or member of the board or its executive director or secretary shall, directly or indirectly, pay or promise to pay any assessment for political purposes, or solicit or take any part in soliciting for any political party, or solicit or take any part in soliciting any political assessment, subscription, contribution, or service. No person shall solicit any political assessment, subscription, contribution, or service of any employee in the classified service.
- (4) No employee in the classified service or member of the board or its executive director shall be a member of any national, state, or local committee of a political party, or an officer or member of a committee of a partisan political club, or a candidate for nomination or election to any paid partisan public office, or shall take part in the management or affairs of any political party or in any political campaign, except to exercise his right as a citizen privately to express his opinion and to cast his vote. Officers or employees of the classified service may be candidates for and occupy an elected office if a town or school district office if the office is one for which no compensation, other than a per diem payment, is provided and the election is on a nonpartisan basis, the officers or employees have complied with the requirements of KRS 61.080, and the duties of the elective office do not interfere with or create any conflicts of interest with the state duties of the officer or employee in the classified service. The employee shall give notice to the appropriate entity of his or her intent to run for elective office upon the employee filing to run.

Section 24. KRS 18A.195 is amended to read as follows:

- (1) A state employee who is authorized to work one (1) or more hours in excess of the prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis. Upon the written request of an employee who is not exempt from the provisions of the Federal Fair Labor Standards Act, 29 U.S.C. sec. 201 et seq., an appointing authority may grant compensatory time, in lieu of overtime pay, at the rate of one and one-half (1.5) hours for each hour the employee is authorized to work in excess of forty (40) hours in a work week. An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.
- (2) No executive officer or officer, as defined in Section 10 of this Act, shall be eligible to receive any level of block payment for compensatory leave hours except as provided in subsection (3) of this section.
- (3) Any employee who leaves state service shall be paid for the balance of unused compensatory time not to exceed two hundred forty (240) hours.

Section 25. The secretary of the Personnel Cabinet shall study the feasibility of establishing and implementing procedures regarding background checks and employment reference checks for all executive branch applicants. The feasibility study shall include comprehensive administrative regulations for the procedures and guidelines for the cabinet to follow when performing background and reference checks, along with potential budget appropriation language for performing such checks. The secretary of the Personnel Cabinet shall report his findings to the chairmen of Interim Joint Committee on State Government no later than November 1, 2007."

House Floor Amendment No. 5 Title to SB 58, by Representative Cherry:

SB 58, Change the title to read "AN ACT relating to state personnel."

House Floor Amendment No. 1 to SB 46, by Representative Glenn:

SB 46, On page 17, following line 1, by inserting the following:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) As part of campus orientations for undergraduate students, public postsecondary education institutions shall provide all entering undergraduates with educational materials relating to credit cards and personal debt management and are encouraged to conduct new student informational sessions relating to these topics.
- (2) As part of campus orientations for undergraduate students, nonpublic postsecondary education institutions are

encouraged to provide all entering undergraduates with educational materials relating to credit cards and debt management and to conduct student informational sessions relating to credit cards and debt management.

- (3) For the purposes of this section, postsecondary education institutions may utilize existing debt education materials and curricula prepared and distributed by nonprofit entities. The Council on Postsecondary Education shall assist institutions in identifying appropriate curricula and materials."

House Floor Amendment No. 2 Title to SB 46, by Representative Glenn:

SB 46, Amend the title to read "AN ACT relating to university students."

House Floor Amendment No. 1 to SB 57, by Representative Glenn:

SB 57, On page 1, following line 3, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

- (1) As part of campus orientations for undergraduate students, public postsecondary education institutions shall provide all entering undergraduates with educational materials relating to credit cards and personal debt management and are encouraged to conduct new student informational sessions relating to these topics.
- (2) As part of campus orientations for undergraduate students, nonpublic postsecondary education institutions are encouraged to provide all entering undergraduates with educational materials relating to credit cards and debt management and to conduct student informational sessions relating to credit cards and debt management.
- (3) For the purposes of this section, postsecondary education institutions may utilize existing debt education materials and curricula prepared and distributed by nonprofit entities. The Council on Postsecondary Education shall assist institutions in identifying appropriate curricula and materials."

House Floor Amendment No. 2 Title to SB 57, by Representative Glenn:

SB 57, Amend title to read "AN ACT relating to education."

House Floor Amendment No. 7 Title to SB 58, by Representative Graham:

SB 58, Amend the title to read: "AN ACT relating to state government."

House Floor Amendment No. 6 to SB 58, by Representative Graham:

SB 58, On page 20, between lines 7 and 8 by inserting the following:

"Section 7. KRS 18A.196 is amended to read as follows:

As used in this section, KRS 18A.197, and Sections 8 and 9 of this Act, unless the context requires otherwise:

- (1) "Eligibility date" means the date the member exhausts all accumulated sick, compensatory, and annual leave;
- (2) "Employee" means any employee of the Commonwealth of Kentucky who is entitled to accrue sick leave and for whom accurate leave records are maintained; and
- ~~(3)(2)~~ "Member" means any state employee who has voluntarily opted to become a participant in the Sick Leave Bank Program by making the initial donation of the minimum number of days necessary and continues to maintain membership in the bank by donating any necessarily assessed number of days as deemed necessary by the board of trustees to ensure its solubility;
- (4) "Sick leave" means a designated amount of compensated leave accumulated and used by the employee pursuant to standards set forth in administrative regulations;
- (5) "Sick Leave Bank" or "bank" means a system of accounting for voluntarily pooled and irrevocably donated accumulated personal sick leave, which is collected for the purpose of providing sick leave to members of the program who have suffered a personal illness, surgery, disability, or quarantine and whose leave balances have been exhausted;
- (6) "Sick Leave Bank trustees" or "trustees" means those persons appointed to govern the activities of the Sick Leave Bank pursuant to Sections 8 and 9 of this Act; and
- (7) "State agency" or "agency" means any agency of the executive, legislative or judicial branch of the state government.

SECTION 8. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

- (1) The state employee Sick Leave Bank is hereby created and attached to the Personnel Cabinet for administrative purposes. The Sick Leave Bank shall be available to all employees who choose to participate and meet the requirements

established in Section 9 of this Act. The purpose of the bank shall be to provide emergency sick leave to member employees who have suffered a disability due to an injury, an unplanned personal illness, surgery, or medical condition requiring a prolonged absence from the work place. Employees shall only be eligible to receive sick leave from the bank if the employee has been a contributing member of the Sick Leave Bank pursuant to Section 9 of this Act and after all sick, annual, and compensatory leave balances have been exhausted.

- (2) The state employee Sick Leave Bank shall only become operational upon petition to the secretary of the Personnel Cabinet by at least one hundred fifty (150) employees who meet the guidelines established in Section 9 of this Act.
- (3) The bank shall be governed by a board of trustees. The board shall be composed of the following seven (7) members:
 - (a) Secretary of the Personnel Cabinet or a designee;
 - (b) The Executive Director of the Office for Employee Relations or a designee;
 - (c) The Division Director of the Division of Employee Benefits or a designee;
 - (d) Two (2) members appointed by the Secretary of the Personnel Cabinet, who represent state employees as a recognized state employee organization; and
 - (e) Two (2) classified personnel branch managers who shall be appointed by the Secretary of the Personnel Cabinet and serve four (4) year terms. Upon completion of the four (4) year term, the secretary may reappoint the personnel branch manager to serve another term. Upon the resignation of the personnel branch manager from the board of trustees, the board shall fill the appointment and the newly appointed personnel branch manager shall serve the remainder of the unexpired term.

SECTION 9. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

The state employee Sick Leave Bank shall operate as follows:

- (1) All employees of state government who meet the regulatory requirements established by the secretary pursuant to KRS 18A.110 regarding sick leave accrual, have been employed by state government for twelve (12) consecutive months immediately preceding application for participation, are in leave accrual status, and have a sick leave balance of at least eight (8) days as of October 31 of the current enrollment year shall be eligible to participate in the program.
- (2) State employees who elect to participate in the program shall do so through the application process during the months of August and September of each year. Applications shall be made on forms approved by the board of trustees and made available to state employees by the Personnel Cabinet.
- (3) A member is considered to have applied and filed in a timely manner if the application for Sick Leave Bank benefits is submitted no earlier than two (2) weeks prior, but no later than thirty (30) days after, a member's eligibility date, absent any extraordinary circumstances. If a member's application is received more than thirty (30) days after the member's eligibility date and no extraordinary circumstances are found, the application for benefits shall be denied and no further applications for benefits regarding that specific illness or injury shall be accepted.
- (4) Any state employee electing to participate in the bank shall initially have the equivalent of four (4) days of sick leave deducted from his or her accumulated sick leave account and donated to the bank. Each subsequent year, each member who has already made the initial contribution to the bank shall have one (1) day of sick leave deducted on October 1. The board of trustees shall reserve the right to determine if the bank has a sufficient balance and may suspend the annually mandated deduction.
- (5) All donations to the Sick Leave Bank shall be nonrefundable and nontransferable.
- (6) At any time the number of days in the Sick Leave Bank is less than one hundred fifty (150), or one (1) day per member if there are more than one hundred fifty (150) members, or at any other time deemed advisable, the board of trustees shall assess each member one (1) or more days of accumulated sick leave. For any member who is not in leave accruing status and does not have sufficient accumulated sick leave available to meet the obligation, the first earned leave days shall be donated as they are accrued by the member. It is the sole responsibility of the member to satisfy the assessment within one (1) year or the member shall lose the right to membership and all of the benefits associated with it.
- (7) Upon retirement, any member of the Kentucky Employees Retirement System may designate excess accumulated sick leave, which is not used during the conversion of sick leave into service credit at retirement, to transfer to the state employee Sick Leave Bank established by Section 8 of this Act.
- (8) The Sick Leave Bank trustees shall establish the criteria for distributing sick leave from the bank, hear appeals regarding denials of requests for sick leave, and prescribe the form and manner of participation in the bank.
- (9) The Division of Employee Benefits within the Personnel Cabinet shall be responsible for granting or denying all initial requests for sick leave to be distributed from the Sick Leave Bank. The initial decision shall occur within ten (10) calendar days from receipt of all necessary documentation.
- (10) All appeals to the Sick Leave Bank trustees shall be filed with the Division of Employee Benefits within the Personnel Cabinet within fifteen (15) calendar days from receipt of a determination.
- (11) Members of the Sick Leave Bank shall be eligible to make application to the bank for sick leave on February 1 following enrollment. All applications to the bank shall be on forms approved by the board of trustees of the bank.

- (12) Leave grants from the bank shall not be more than twenty (20) consecutive days for which the individual member would have otherwise lost pay. A member may receive a maximum of ninety (90) days from the Sick Leave Bank as a result of an accident, illness, or an illness related to, resulting from, or recurring from a previously diagnosed illness for which Sick Leave Bank benefits were granted.
- (13) Grants of sick leave from the bank shall not exceed ninety (90) days within any twelve (12) month period. The initial twelve (12) month period shall begin on the date the member first received a benefit from the Sick Leave Bank and shall extend twelve (12) months forward from that date. A new twelve (12) month period shall begin the first time Sick Leave Bank benefits are begun after completion of the previous twelve (12) month period.
- (14) A member shall not initially receive any sick leave from the bank until after having exhausted all accumulated sick, annual, and compensatory leave and after having been without pay status for five (5) consecutive days.
- (15) Any application for sick leave from the Sick Leave Bank shall require a withdrawal request application completed by the member. All withdrawal request applications shall be completed by the member and forwarded to the member's agency personnel office.
- (16) A medical certification form shall be completed in its entirety by the current attending medical doctor or surgeon at the time of application. All medical certification forms shall be forwarded by the medical office directly to the Sick Leave Bank. Medical certification forms received directly from anyone other than the medical office shall not be accepted by the Sick Leave Bank. The medical certification form shall be based on the timeline as established in subsection (12) of this section. The treatment visit shall be as close as possible to the date the member exhausts all leave balances. A treatment visit may include a visit while in the hospital or the date of surgery.
- (17) Members may submit subsequent applications for extensions of sick leave grants before or after prior grants expire. Any subsequent applications for benefits relating to the same injury or illness shall be based on a follow-up treatment visit and shall require a withdrawal request application and a medical certification form. The medical certification form shall be completed by the current medical doctor or surgeon or by a nurse practitioner or physician's assistant working directly under the supervision of the medical doctor or surgeon. All medical certification forms shall be forwarded by the medical office directly to the Sick Leave Bank. Any medical certification forms received directly from anyone other than the medical office shall not be accepted by the Sick Leave Bank.
- (18) The member shall have exhausted all Sick Leave Bank benefits prior to being eligible to receive any donated sick leave. Members who are temporarily disabled due to an injury or illness and have received the maximum ninety (90) days pursuant to subsection (11) or (12) of this section shall continue to submit withdrawal request applications and medical certification forms from follow-up treatment visits prior to approval and use of donated sick leave.
- (19) If a member becomes physically or mentally unable to submit a request to the Sick Leave Bank for use of donated sick leave days, an immediate family member or the family's council may file the request.
- (20) Grants of sick leave from the bank shall not be made to any member on account of elected surgery, illness of any family member, while the member is receiving income from other employment, or during any period in which the member is receiving disability benefits from Social Security, the state retirement plan, workers' compensation benefits, or any other employment.
- (21) Leave grants from the bank for conditions determined to be pre-existing shall not be eligible for Sick Leave Bank benefits until twelve (12) months following the effective date of the employee's membership.
- (22) The board of trustees or a designee of the board may require a second medical opinion concerning any member's application for benefits.
- (23) A member who sustains an injury or illness in the workplace shall submit a workers' compensation claim for lost time and receive a determination prior to requesting sick leave from the Sick Leave Bank.

 - (a) If the workers' compensation claim is denied, a request for Sick Leave Bank benefits shall be considered.
 - (b) If the workers' compensation claim is approved, a request for Sick Leave Bank benefits shall not be considered.
- (24) Members who received lost time or a settlement for future lost time based on a workers' compensation claim from the state or from other employment shall not be eligible for Sick Leave Bank benefits for any claims involving the work-related injuries or illnesses.
- (25) Sick Leave Bank benefits shall terminate upon the date that the member is released to return to work, even if certain restrictions apply. If a member returning to work with medical restrictions is prohibited by the employing agency, the member shall be eligible to continue receiving benefits if all other eligibility requirements are met.
- (26) An employee receiving benefits from the Sick Leave Bank shall be deemed to be a state employee and shall receive the same treatment with respect to salary, wages, annual increments, and employee benefits.
- (27) A member shall lose the right to membership and to obtain the benefits of the Sick Leave Bank by:

 - (a) Resignation or termination of employment with the Commonwealth of Kentucky;
 - (b) Transferring to any state agency or institution that does not accrue leave in accordance to administrative regulations;
 - (c) Changing from full-time to part-time employment status;

(d) Cancellation of participation on June 30 of any year;

(e) Refusal to honor assessments from the board of trustees in order to maintain sufficient leave balance levels within the bank; or

(f) Retirement.

(28) Upon written notification from a member to the trustees, the member may withdraw from bank participation on any June 30. Membership withdrawal shall result in forfeiture of all days contributed to the bank.

(29) Upon a finding by the Sick Leave Bank administrator of any material misrepresentation of facts by a member in making application for use of sick leave from the Sick Leave Bank, the board of trustees may vote to expel or deny benefits to the member.

(30) Any member who receives any Sick Leave Bank benefits through the use of any material misrepresentation of facts shall be liable for the reimbursement of all salary and benefits expended by the bank. All members shall consent to payroll deduction for the reimbursement of Sick Leave Bank benefits expended through the use of any material misrepresentation of facts.

(31) In the event that the Sick Leave Bank is dissolved, the total number of days still deposited within the bank shall be distributed to participating members and credited to the employee's personal sick leave balances in proportion to the number of days each has contributed individually. All days returned under this subsection and credited to the individual member's balance shall be rounded to the nearest one-half (1/2) day.

Section 9. KRS 18A.025 is amended to read as follows:

(1) The Governor shall appoint the secretary of personnel as provided in KRS 18A.015, who shall be considered an employee of the state. He shall be a graduate of an accredited college or university and have at least five (5) years' experience in personnel administration or in related fields, have known sympathies with the merit principle in government and shall be dedicated to the preservation of this principle. Additional education may be substituted for the required experience and additional experience may be substituted for the required education.

(2) The secretary of the Personnel Cabinet or his designee, shall be responsible for the coordination of the state's affirmative action plan, established by KRS 18A.138.

(3) There is established within the Personnel Cabinet the following offices, departments, and divisions, each of which shall be headed by either a commissioner, executive director, or division director appointed by the secretary, subject to the prior approval of the Governor pursuant to KRS 12.040 or 12.050, depending on the level of the appointment. The Kentucky Employees Deferred Compensation Authority shall be headed by an executive director who shall be appointed by the authority's board of directors:

(a) Office of the Secretary, which shall be responsible for the administration and coordination of the following programs:

1. The state Equal Employment Opportunity Program;
2. The state Minority Management Program; and
3. The state's affirmative action plan established in KRS 18A.138.

Kentucky Public Employees Deferred Compensation Authority shall be attached to the Office of the Secretary for administrative purposes only. The authority shall be governed by a board of trustees composed of seven (7) members including the secretary of finance and administration, ex officio; the secretary of personnel, ex officio; the state controller, ex officio; and four (4) at large members appointed by the Governor, one (1) of whom shall have at least five (5) years of investment or banking experience and one (1) of whom shall represent a nonstate employer. The authority shall be headed by an executive director who shall be appointed by the board of directors of the authority without the limitations imposed by KRS 12.040 and KRS Chapter 18A;

(b) Department for Personnel Administration, composed of the:

1. Division of Employee Management, which shall be responsible for payroll, records, classification, compensation, and performance management functions. The division shall also be responsible for implementing lay-off plans mandated by KRS 18A.113 to 18A.1132 and shall monitor and assist state agencies in complying with the provisions of the Federal Fair Labor Standards Act (FLSA). The division shall:
 - a. Maintain the central personnel files mandated by KRS 18A.020 and process personnel documents and position actions;
 - b. Operate and maintain a uniform payroll system and certify payrolls as required by KRS 18A.125;
 - c. Maintain plans of classification and compensation for state service and review and evaluate the plans; and
 - d. Coordinate and implement the employee performance evaluation systems throughout state government;
2. Division of Staffing Services, which shall be responsible for employment counseling, applicant processing,

employment register, and staffing analysis functions. The division shall:

- a. Operate a centralized applicant and employee counseling program;
- b. Operate, coordinate, and construct the examination program for State employment;
- c. Prepare registers of candidate employment; and
- d. Coordinate outreach programs, such as recruitment and the Administrative Intern Program;

(c) Office for Employee Relations, composed of the following divisions:

1. Division of Employee Benefits, which shall consist of the following:

- a. Workers' Compensation Program pursuant to KRS 18A.375;
- b. Life Insurance Program pursuant to KRS 18A.205 to KRS 18A.220;
- c. Sick leave Sharing Program, pursuant to KRS 18A.197;
- d. Annual Leave Sharing Program, pursuant to KRS 18A.203;
- e. Health and Safety Programs (OSHA);~~and~~
- f. Employee Assistance Program; and

g. Sick Leave Bank, pursuant to Sections 8 and 9 of this Act.

2. Division of Communications and Recognition, which shall:

- a. Communicate with state employees about personnel issues and other relevant issues through publications;
- b. Administer the employee incentive programs established by KRS 18A.202; and
- c. Provide dispute resolution assistance to state employees and agencies;

(d) Department for Employee Insurance, which shall be responsible for the:

- 1. Health Insurance Program, pursuant to KRS 18A.225; and
- 2. Flexible Benefit Plan, pursuant to KRS 18A.227;

(e) Office of Administrative Services, which shall be responsible for the Personnel Cabinet's Administrative Services;

(f) Office of Legal Services, which shall provide legal services to the Personnel Cabinet and to executive branch agencies and their representatives, upon request; and

(g) Office of Government Training, which shall improve individual and organizational performance throughout state government through employee and managerial training, consultation, and survey research services.

- (4) The cabinet shall include principal assistants appointed by the secretary, pursuant to KRS 12.050 or 18A.115(1)(g) and (h), as necessary for the development and implementation of policy. The secretary may employ, pursuant to the provisions of this chapter, personnel necessary to execute the functions and duties of the department.

Section 10. KRS 61.546 is amended to read as follows:

- (1) Any member of the Kentucky Employees Retirement System or the State Police Retirement System whose retirement date is July 14, 1984, or thereafter, shall receive credit for unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid in accordance with this section.

- (2) Upon the member's notification of retirement as prescribed in KRS 16.576 or 61.590, the employer shall certify the retiring member's unused, accumulated sick leave balance to the system. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in the state service and rounded to the nearest number of whole months. The member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.705 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.705. Accumulated sick leave in excess of six (6) months shall be added to the member's service credit, and the last participating Kentucky Employees Retirement Systems employer shall pay to the retirement system the value of the additional service credit based on the formula adopted by the board. All of a state policeman's sick leave balance, expressed in months, shall be added to his service credit for the purposes of determining his annual retirement allowance and whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652.

- (3) Upon retirement, any member of the Kentucky Employees Retirement System may designate excess accumulated sick leave, which is not used during the conversion of sick leave into service credit at retirement, to transfer to the state employee Sick Leave Bank established by Sections 7, 8, and 9 of this Act.

- (4) The provisions of this section shall not apply to a participating agency whose employees are not employed by the Commonwealth until the agency certifies to the system that a sick leave program has been formally adopted and is universally administered within the agency.

Section 11. The Secretary of the Personnel Cabinet shall provide information regarding the Sick Leave Bank program, established by this Act, to state employees on the Personnel Cabinet Web page. State employees shall be informed of the program's guidelines and requirements and shall also be given the opportunity to petition the secretary for the program to become

operational.;

On page 20, line 8, by renumbering "Section 7" as "Section 12";

On page 20, line 12, by renumbering "Section 8" as "Section 13"; and

On page 20, line 18, by renumbering "Section 9" as "Section 14".

Motions, Petitions, and Communications (Continued)

The following member filed a request to have his name added as a co-sponsor of a Bill:

HB 490, Representative Riggs

Announcement

Majority Caucus, upon recess, Supreme Court Chamber

Adjournment

Representative Adkins moved to adjourn until the hour of 10:00 a.m. on Tuesday, March 27, 2007.

The motion that the House adjourn until 10:00 a.m. on Tuesday, March 27, 2007, was adopted by voice vote.

TUESDAY, MARCH 27, 2007
THIRTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer was offered by Dr. Don Nunnally, First Christian Disciples of Christ Church, Frankfort, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members were present except Representative Marzian.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 26, 2007, be dispensed with and the same approved. Agreed.

Representative Ballard moved to suspend the rules for the purpose of allowing members who want to be co-sponsors of bills and resolutions or to submit vote modifications for recording to do so if they have filed the proper papers with the clerk. Agreed.

Vote Modifications on Bills and Resolutions were filed by the following:

Representative Nesler moved that he be recorded as voting "Yea" on **HB 203, 258, 62, HCR 75, HJR 5, and SB 171**. Agreed.

Representative Richards moved that he be recorded as voting "Yea" on **HB 235**. Agreed.

Representative Glenn moved that he be recorded as voting "Nay" on **SB 29**. Agreed.

Representative Gray moved that he be recorded as voting "Yea" on **HB 145 and 216**. Agreed.

Representative Miller moved that he be recorded as voting "Yea" on **HJR 5**. Agreed.

Representative Horlander moved that he be recorded as voting "Yea" on **HB 287** and "Yea" on the **HR 182** roll call for co-sponsor. Agreed.

Introduction of Bills and Resolutions

HR 241, by Representative Nelson: A RESOLUTION adjourning the House of Representatives in honor of Jackie Crutcher.

HR 242, by Representative Glenn: A RESOLUTION adjourning the House of Representatives in honor of Rev. George E. Sebree upon his retirement as pastor of Fourth Street Baptist Church.

HR 243, by Representative Wayne: A RESOLUTION endorsing a National Health Insurance Act.

HR 244, by Representative Ford: A RESOLUTION recognizing and honoring Bryan Ross Ford and adjourning the House of Representatives in honor of his birth.

HR 245, by Representative Jenkins: A RESOLUTION adjourning the House of Representatives in honor of Rosalee A. Longaker upon the occasion of her ninetieth birthday.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Resolutions:

House Floor: **HR 227, 229, 231, 232, 233, 235, 236, 237, 238, 239, 240, 234**

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 230, 228, 358, 426, and 469** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 10:37 a.m.)

Orders of the Day

Representative Gray moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Gray moved the adoption of the following **Legislative Citation No. 89**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the esteemed members of the KSP Legislative Security Detail for generously and graciously lending their vital and reassuring presence to the proceedings of the 2007 Regular Session of the Kentucky General Assembly, thereby augmenting the safety, dignity and peace of mind of the members of the legislature and the citizens of this Commonwealth who have participated in this complex and challenging process. The professionalism, courtesy and dedication demonstrated by these members of the Commonwealth's "Thin Grey Line" in performance of their momentous duties are worthy of the utmost praise and regard of those for whom they have labored. The members of the Kentucky House of Representatives are honored to join Representative J.R. Gray in offering sincere expressions of gratitude, recognition and admiration to these courageous public servants for their vital contributions and in extending best wishes for their continued success and good fortune. Done in Frankfort, Kentucky, this twenty-seventh day of March, in the year two thousand and seven.

Legislative Citation No. 89 was adopted without objection.

The roll call was opened for co-sponsors. On the roll call for co-sponsors on **Legislative Citation No. 89** the vote was: **Yeas 99**. (See March 27, 2007, roll call to show co-sponsors on **Legislative Citation No. 89-Appendix**.)

The Committee on Committees reported the following members had been appointed to the Conference Committee on **HB 400**.

HB 400 - Representative Wayne, Chair; Representatives Simpson, Clark, Wilkey, and Brinkman

Representative Gray moved the adoption of the following **Legislative Citation No. 88**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the House Doorkeepers and House Security Personnel for their outstanding contributions to the members of the legislature and the citizens of this Commonwealth during the 2007 Regular Session of the Kentucky General Assembly. Having demonstrated the utmost professionalism, courtesy and dedication in performance of their duties, these esteemed recipients are worthy of the high praise and regard of those for whom they have labored. The members of the Kentucky House of Representatives are honored to join Representative J.R. Gray in offering sincere expressions of appreciation, recognition and admiration to these dedicated individuals for their vital efforts on behalf of the members of this honorable body and in extending best wishes for their continued success and good fortune. Done in Frankfort, Kentucky, this twenty-seventh day of March, in the year two thousand and seven.

Legislative Citation No. 88 was adopted without objection.

The roll call was opened for co-sponsors. On the roll call for co-sponsors of **Legislative Citation No. 88** the vote was: **Yeas 99**. (See March 27, 2007, roll call to show co-sponsors on **Legislative Citation No. 88-Appendix**.)

Representative Damron moved that the rules be suspended to act on Resolutions. Agreed.

Representative Damron moved the adoption of the following **HR 233**:

HR 233, A RESOLUTION recognizing the United States Navy.

WHEREAS, the rights of Life, Liberty, and the Pursuit of Happiness which each citizen of the Commonwealth of Kentucky enjoys are made possible in large measure by the unwavering vigilance of the United States Armed Forces; and

WHEREAS, the Commonwealth of Kentucky has enjoyed a strong relationship with the United States Navy, which relationship has been buoyed by the Commonwealth's tradition of energetic support for namesake ships, and the significant contribution of Kentuckians who have served honorably in the United States Navy; and

WHEREAS, the security of our nation and of the people of the world demands a well-balanced integrated, mobile American defense team, of which a strong Navy is an indispensable part; and

WHEREAS, all Armed Services should be supported to the end that each may make its appropriate contributions to national security; and

WHEREAS, in a free nation, an informed public is indispensable to national security and it is essential that the public remain alert to the dangers which threaten the nation, both from without and within; and

WHEREAS, The Navy Chief of Information has designated April 15 to April 22 as Louisville Navy Week in order to promote public awareness of the Navy, its missions, and its people;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hereby recognizes the dedication of the United States Armed Forces and expresses its sincere appreciation to the men and women of the United States Navy for their service and commitment to the American people.

Section 2. The House of Representatives hereby declares that the week of April 15 to April 22 shall be designated throughout Kentucky as: Kentucky Navy Week.

There being no objection, **HR 233** was adopted.

Representative Damron moved the adoption of the following **HR 234**:

HR 234, A RESOLUTION honoring Commander Jeffrey S. Coran.

WHEREAS, it is recognized that the officers and crew of the USS Kentucky (SSBN 737) have always served with honor and distinction giving credit to not only the United States Navy but also her namesake, the Commonwealth of Kentucky; and

WHEREAS, the officers and crew of the USS Kentucky have valiantly distinguished themselves in service, defending our nation by providing strategic deterrence; and

WHEREAS, beyond the USS Kentucky's status as a national strategic asset, it is recognized that many strong local bonds have been forged between the members of her crews and the people of the Commonwealth; and

WHEREAS, Commander Jeffrey S. Coran, as commanding officer of the USS Kentucky (Gold) for the past three years, has provided extraordinary leadership resulting in the USS Kentucky winning her first ever Battle Efficiency Award, or Battle "E," in 16 years of service, bringing great credit and distinction to the Commonwealth of Kentucky and her namesake ship; and

WHEREAS, Commander Jeffrey S. Coran has exhibited remarkable devotion and expended considerable time, energy, and effort, going above and beyond his predecessors and the call of duty, to promote stronger ties between the Commonwealth of Kentucky and USS Kentucky; and

WHEREAS, Commander Jeffrey S. Coran has exhibited true Kentucky "Unbridled Spirit" in educating Kentuckians about the United States Navy and the Submarine Force; and

WHEREAS, Commander Jeffrey S. Coran will successfully complete his tenure as Commanding Officer of the USS Kentucky on July 6, 2007;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hereby expresses its sincere appreciation to Commander Jeffrey S. Coran for his dedication and commitment to the United States Navy and his duties as the Commanding Officer of the USS Kentucky.

Section 2. The House of Representatives hereby congratulates Commander Jeffrey S. Coran for representing the finest traditions of the United States Navy and the Commonwealth of Kentucky as the Commanding Officer of the USS Kentucky and wishes him continued success in the future.

Section 3. The House of Representatives hereby recognizes July 6, 2007, as Commander Jeffrey S. Coran Day throughout Kentucky.

Section 4. The Clerk of the House of Representatives shall transmit a copy of this Resolution to Commander Jeffrey S. Coran, in care of Commander Submarine Group 9, 2150 Thresher Avenue, Naval Base Kitsap, Bangor, Silverdale, Washington 98315-2150.

There being no objection, **HR 234** was adopted.

Representative Damron moved the adoption of the following **HR 235**:

HR 235, A RESOLUTION recognizing May as Armed Forces Appreciation Month.

WHEREAS, the rights of Life, Liberty, and the Pursuit of Happiness which each citizen of the Commonwealth of Kentucky enjoys are directly resultant of the unwavering vigilance of the United States Armed Forces; and

WHEREAS, recognizing the many sacrifices made by members of the United States Armed Forces, as well as their families, will aid in increasing national awareness of the contributions which these members have made to preserve the freedoms and liberties that enrich the lives of every citizen within this Commonwealth; and

WHEREAS, it is essential for the youth of the Commonwealth of Kentucky to understand that the service provided by members of the United States Armed Forces has historically secured and protected the freedoms that each citizen of the Commonwealth of Kentucky enjoys today; and

WHEREAS, it is proper to nurture and cultivate the honor and pride that citizens of the Commonwealth of Kentucky feel toward members of the United States Armed Forces for the protection and service that such members provide; and

WHEREAS, it is only fitting and proper to recognize and honor the dedication and commitment of members of the United States Armed Forces, and to show appreciation for all contributions made by such members since their inception;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hereby recognizes the dedication of the United States Armed Forces and expresses its sincere appreciation to the men and women of the United States Armed Forces for their service and commitment to the American people.

Section 2. The House of Representatives hereby declares that the month of May shall be known throughout Kentucky as Armed Forces Appreciation Month.

There being no objection, **HR 235** was adopted.

Senate Message

Announcing passage of **SCR 239**. (10:56 a. m.)

Representative Nelson moved that the rules be suspended to act on a Resolution. Agreed.

Representative Nelson moved the adoption of the following **HR 241**:

HR 241, A RESOLUTION adjourning the House of Representatives in honor of Jackie Crutcher.

WHEREAS, Jackie Crutcher has been an employee of the Legislative Research Commission for nearly two decades. She originally served the legislative branch from 1983 until 1992, and then returned to the Legislative Research Commission, where she has remained to this day; and

WHEREAS, Jackie Crutcher has, during her service, brought a smile to the faces of all who have been privileged to meet her. As a receptionist for various members of the House of Representatives, she has served legislators, staff, advocates, and the general public with an infectious grace and goodwill; and

WHEREAS, Jackie Crutcher is a longtime member of First Christian Church in Frankfort, where she has maintained a faith that has remained solid throughout her life's trials and joys; and

WHEREAS, Jackie Crutcher is the loving mother of Jennifer Crutcher, whose work at the Louisville Palace and other life accomplishments have brought her mother immense pride and joy; and

WHEREAS, Jackie Crutcher is a cancer survivor, having beaten the disease in early 2006. The cancer has recently resurfaced, and she faces the task of once again defeating the dreaded illness with her characteristic poise and by the power of prayer;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the House of Representatives, both individually and collectively, do hereby thank Jackie Crutcher for her years of service to the Legislative Research Commission and to the citizens of Kentucky, wish her a speedy and complete recovery, and offer their prayers and support.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Jackie Crutcher.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Jackie Crutcher, 3818 Staebler Road, Louisville, Kentucky 40207.

There being no objection, **HR 241** was adopted.

The roll call was opened for co-sponsors. On the roll call for co-sponsors on **HR 241** the vote was: Yeas 99. (See March 27, 2007, roll call to show co-sponsors on **HR 241**-Appendix.)

Representative Jenkins moved the adoption of the following **HR 245**:

HR 245, A RESOLUTION adjourning the House of Representatives in honor of Rosalee A. Longaker upon the occasion of her ninetieth birthday.

WHEREAS, Rosalee A. Longaker was born on April 1, 1917; and

WHEREAS, Mrs. Longaker was the loving wife of Frank Longaker for 64 years until his death in 2004. Together, the couple has raised and nurtured six children, Marilyn Ford, Sharon L. Crutcher, Frank E. Longaker, Mike L. Longaker, Jeffrey Joel Longaker, and Mary René Longaker; 18 grandchildren; and 16 great-grandchildren; and

WHEREAS, Mrs. Longaker has been an active parishioner of St. Paul Catholic Church, where she maintained a faith that

comforted her through life's trials and enhanced her joy in life's peaks. Mrs. Longaker's love of politics and belief in the power of democracy have led her to serve as an election officer since the age of 17; and

WHEREAS, Mrs. Longaker continues to serve the citizens of her community in the library of the National College of Business & Technology's Louisville campus; and

WHEREAS, Mrs. Longaker will celebrate her ninetieth birthday on April 1, 2007;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the House of Representatives, both individually and collectively, do hereby commend Rosalee A. Longaker on a long and fulfilling life, and wish her many more happy years on this Earth with her family and friends.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Rosalee A. Longaker.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Rosalee A. Longaker, care of National College of Business & Technology, 4205 Dixie Highway, Louisville, Kentucky 40216.

There being no objection, **HR 245** was adopted.

Representative Pasley moved the adoption of the following **HR 217**:

HR 217, A RESOLUTION adjourning the House of Representatives in memory and honor of Maurice D. Flynn.

WHEREAS, Maurice D. Flynn was born on March 3, 1918, and was a native son of Clark County; and

WHEREAS, Maurice D. Flynn passed beyond these earthly bounds at the age of 88; and

WHEREAS, Maurice D. Flynn served his fellow citizens as a rural mail carrier for a career that spanned 35 years; and

WHEREAS, Maurice D. Flynn was a farmer and an employee of the New Farmers Tobacco Warehouse, and a man who felt that life could not be too full; and

WHEREAS, Maurice D. Flynn was the loving son of Walton Porter Flynn and Bernice Oakie Flynn; and

WHEREAS, Maurice D. Flynn was the devoted husband of the late Clydella Ramsey Flynn. The couple were committed to their family of two children, Robert D. Flynn and Mary Beth Flynn; four grandchildren, John F. Flynn, James Ramsey Flynn, John Maurice Hendricks, and Charles Wiley Hendricks; and five great-grandchildren, Haleigh, Mallori, and Abby Flynn and James Tanner and Mary Taylor Flynn; and

WHEREAS, Maurice D. Flynn has departed this life and the entire community joins his family in mourning his loss;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its sympathy upon the passing of Maurice D. Flynn and extends its sincere condolences to his family, friends, and community.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Maurice D. Flynn.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the member from Clark 73 for transmission to the family of Maurice D. Flynn.

There being no objection, **HR 217** was adopted.

Representative Denham moved the adoption of the following **HR 227**:

HR 227, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Robert H. Wilcox.

WHEREAS, Robert H. Wilcox was born February 2, 1915, in Crosby, Pennsylvania, the sixth of seven children born to the late E.W. and Maud Donaldson Wilcox, and passed from this earthly life March 14, 2007, at the age of 92 years. He was the widower of Mary Wilcox, who died October 26, 1979; and

WHEREAS, Mr. Wilcox served for 42 years as a teacher in Trimble County, Minerva, and Maysville, until his retirement in 1983 as Supervisor of Instruction in the Maysville city school system. He taught adult civil defense classes in 1960, numerous GED classes from 1970 to 1988, and supervised Maysville's first Head Start program. A devoted member of Central United Methodist Church, he was a long-time teacher of the Men's Bible Class, and was also an active member of Gideon's International for over 50 years; and

WHEREAS, Robert H. Wilcox is survived by a son, Steve, and his wife, Marla Wilcox; two daughters, Bobbie and her husband, John Zeigler, of Maysville, and Becky and her husband, Dick Shelton, of Carrboro, North Carolina; five grandchildren, Elise Ashburn, Jessica Jordan, Wesley Wilcox, Megan Zeigler, and Meredith Zeigler; and one great-grandson, Jeremiah Jordan;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deep sense of loss upon the passing of Robert H. Wilcox, and extends to his family, friends, and community its sincere condolences.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Robert H. Wilcox.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mr. Steve Wilcox, 1091 Smith Terrace, Maysville, Kentucky 41056-8458.

There being no objection, **HR 227** was adopted.

Representative Riner moved the adoption of the following **HR 237**:

HR 237, A RESOLUTION adjourning the House of Representatives with concern for the health of Elizabeth Edwards, and appreciation for Kentuckians praying for her recovery.

WHEREAS, Elizabeth Edwards has been the loving wife of North Carolina Senator John Edwards for some three decades, and has been a devoted helpmate, wife, mother, confidant, and friend. Having enjoyed a stellar legal career in her own right, Mrs. Edwards has been a stalwart support of her husband's desire to provide sound leadership for the nation, campaigning by his side, and as his representative across the United States; and

WHEREAS, the day following the 2004 presidential election, it was announced that Elizabeth Edwards had been diagnosed with breast cancer, but with trust in the Lord, prayer, and effective treatment through surgery, radiation, and chemotherapy, her prognosis for recovery was good. Just days ago, this loving and brave couple revealed that Mrs. Edwards' cancer had returned, this time in her bones, indicating that her cancer that at one time had been considered curable, is now deemed by medical professionals to be incurable, but treatable; and

WHEREAS, John and Elizabeth Edwards have drawn near to God and held fast to one another throughout the years, including the darkest days of their marriage, when they lost their teenage son, Wade, who was tragically killed in an automobile accident in 1996. Finding strength in the Prince of Peace, and in each other, the couple soon established the Wade Edwards Foundation and helped build a free computer lab, the Wade Edwards Learning Lab for high school students in Raleigh, and a similar lab in Goldsboro, in hopes that their son's memory would not fade. Reaffirming their courage and optimism, the couple then added two more children to their family, Emma Claire and Jack, who, along with their daughter, Catharine, filled the hearts of this young couple with love and immeasurable joy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives takes pause to express to Elizabeth Edwards, her husband, John, and her children, Catharine, Emma Claire, and Jack, its sincere best wishes and fervent prayers for successful treatment and a divine touch that might allow her to share a long life of love and laughter with the family she adores, and to whom she means so much.

Section 2. When the House of Representatives adjourns this day, it does so with concern for the health of Elizabeth Edwards, and with the hope that Kentuckians throughout the Commonwealth will join together in prayer for her recovery.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Elizabeth Edwards, c/o John Edwards for President, 410 Market Street, Suite 400, Chapel Hill, North Carolina 27516.

There being no objection, **HR 237** was adopted.

Representative Riner moved the adoption of the following **HR 238**:

HR 238, A RESOLUTION adjourning the House of Representatives in honor of Abraham Bentar and other Indonesian believers who are being persecuted or imprisoned for their faith.

WHEREAS, the Apostle Paul enjoined believers in Hebrews 13:3 to show special love and compassion for those who are persecuted and imprisoned for their faith. "Remember those in bonds as bound with them; and them which suffer adversity, as being yourselves also in the body"; and

WHEREAS, the House of Representatives commends Voice of the Martyrs, one of the oldest international human rights organizations in America bringing comfort and assistance to families of Christian believers persecuted and imprisoned for their faith; and

WHEREAS, Abraham Bentar, a 55-year-old clothes trader from West Java, an island of Indonesia, is currently imprisoned in a cell in Tasikmalaya, Indonesia. Falsely accused of blasphemy against the Prophet Mohammed, he is currently serving a four and a half year sentence. His only crime was to share his faith in Jesus with customers, family, and friends; and

WHEREAS, as a Muslim, Abraham had studied the Koran since childhood. In 1998, at the age of 48, he had a stroke related to hypertension and diabetes. After a pastor prayed for his healing, Abraham had a dream of a man in a white robe. He thought the man's face was the same face he had seen on a painting of Jesus at a neighbor's house. He bargained with the man in

the vision, saying he would accept Jesus as Lord and Savior if he were healed from the stroke. He was healed, and the same pastor arranged for a church near Abraham to disciple him. Abraham attended a school for Bible study, was eventually baptized in 2003, and evangelized Muslims as he sold clothing in villages in West and Central Java. He shared how Jesus had appeared to him in a dream and had subsequently helped him; and

WHEREAS, his brother-in-law filed charges against him saying that Abraham had tried to force Christianity on him and had blasphemed the Prophet Mohammed. On March 7, 2006, Abraham was visiting relatives in West Java when he was attacked by a group of Muslims who beat him severely. They rolled his van over and helped themselves to its contents, including the new clothing merchandise. As the melee continued, they were joined by other Muslims and began shouting, "Burn him!" They set fire to the van before police arrived just in time to rescue him. His hands were tied as he was dragged naked for four miles while being beaten and spit upon by hundreds of radical Muslims. Television reporters filmed the whole incident. Neither the regent nor the police chief found him guilty of any crime. Abraham was detained in the Tasikmalaya police station, where he was formally charged with blasphemy. During his trial and sentencing in May, 2006, Abraham's own brothers were among the witnesses for the prosecution; and

WHEREAS, Abraham requested three Bibles for his six cellmates, with whom he is sharing the gospel. The Voice of Martyrs visited his wife, Kristiyowati, in June, 2006. She cried, saying no one had come to encourage her family; but God sent people she didn't know (Voice of Martyrs staff) to encourage her and their 14-year-old daughter, Rinda. Voice of Martyrs readers have since sent Abraham more than 1,300 letters through www.PrisonerAlert.com. Voice of Martyrs is assisting Abraham, who still suffers psychologically from his traumatic torture experience. Adding to his suffering, he received bad hot water burns on the soles of his feet while in prison. Since Abraham is diabetic, the burns put him at risk of amputation of his feet;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby applaud Abraham Bentar and other Indonesian believers who are being persecuted and imprisoned for their faith.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Abraham Bentar and other Indonesian believers who are being persecuted and imprisoned for their faith.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Ambassador of Indonesia, Embassy of Indonesia, 2020 Massachusetts Avenue NW, Washington, DC. 20036; the Voice of Martyrs, P.O. Box 443, Bartlettville, Oklahoma 74005; and Amnesty International, 5 Penn Plaza - 14th Floor, New York, New York 10001.

There being no objection, **HR 238** was adopted.

Representative Riner moved the adoption of the following **HR 240**:

HR 240, A RESOLUTION adjourning the House of Representatives in honor of the persecuted Christians of the East African nation of Eritrea who have faithfully served the spiritual and physical needs of some of the most impoverished Third World citizens.

WHEREAS, The Voice of The Martyrs is one of the oldest international human rights organizations in America; and it has been providing comfort and assistance to the families of Christian believers who have been persecuted and imprisoned for their faith since 1967; and

WHEREAS, the Apostle Paul, in Hebrews 13:3, enjoined believers, to show special love and compassion for those who are persecuted and imprisoned for their faith: "Remember those in bonds as bound with them and them which suffer adversity, as being yourselves also in the body", and

WHEREAS, approximately 150 Full Gospel House churches in Eritrea were closed by government decree after a meeting with a government official on May 15, 2003; and at that time the church groups were given an application form for government registration; the form was completed and submitted, but no reply was ever received from the government; twice in 2001, Bibles were burnt on the streets of the Capital, Asmara; in an escalation of events, Dr. Kiflu Gebremeskel, Chairman of the Eritrean Evangelical Alliance, and a key leader of the Full Gospel Church, one of Eritrea's largest Pentecostal denominations, was arrested at his home in Asmara on May 23, 2004, at 5 a.m.; during the arrest, police officials confiscated the keys to the pastor's church offices and verbally threatened his wife; and Dr. Kifku was initially held at the 6th police station in Asmara; and

WHEREAS, Gebremeskel's arrest occurred within a week of the arrest of another Eritrean Christian leader, Pastor Tesfatsion Hagos of the Rema Evangelical Church; they remain incarcerated in the notorious Karsheli Security Prison in Asmara; and Karsheli Prison is a maze of cells and rooms that houses a number of high profile political and military prisoners, as well as Christian leaders and pastors; and

WHEREAS, when Dr. Gebremeskel's family tried to contact him on one occasion, word came saying, "don't expect my release anytime soon"; a recent Amnesty International report suggested he may have been sentenced extra-judicially to five years' imprisonment by a secret security committee; Eritrea has a constitution promising religious freedom; before the constitution took effect, the government suspended it; and the ruling party in Eritrea is the Popular Front for Democracy and Justice (PFDJ); and

WHEREAS, Dr. Gebremeskel obtained a Ph.D. in Mathematics in the United States; he is a member of the executive

committee to the Full Gospel Church of Eritrea; and he was a mathematics lecturer, and department and faculty head at the University of Asmara until 1999, when he became a full-time pastor at the Southwest Full Gospel Church; his wife and four children did not have permission to visit him since his arrest; prior to his arrest, and he said "if God sees that we have enough fire, and it purifies the church, then may be he will use that to bring more freedom . . . I am very grateful to have been called a Christian."; and

WHEREAS, more than 2,000 Eritrean Christians are currently under detention because of their religious beliefs in 12 known locations in Eritrea; and Dr. Gebremeskel is one of 28 clergymen held; and

WHEREAS, jailed Christians are routinely subjected to physical beatings and severe psychological pressure to abandon their religious beliefs; Helen Berhane, a young Gospel singer, was arrested in 2004 for attending an unregistered church and imprisoned in a metal shipping container in the Mai-Sirwa military camp; after thirty months of imprisonment, she was hospitalized and released in 2006 to her parents due to prayers and pressure from the international community; police and military authorities continue to demand that the over 2,000 Eritreans jailed for their faith, return to one of the three "official" Christian denominations recognized by the government; and even the legally recognized denominations—the nation's historical Orthodox, Catholic, and Lutheran churches have come under government disfavor, incurring threats and arrests by security police officials; and

WHEREAS, the Embassy of the United States of America in Asmara, Eritrea, has experienced interruptions in the Diplomatic Pouch services since January 22nd; the delivery of required documents and articles necessary for embassy operations has been impeded; the Embassy closed on February 14th to public services with the exception of basic consular services to American citizens; the Embassy is hoping for a resolution of this matter with the Government of Eritrea; and the United States Department of State has urged caution in travel for American citizens going to Eritrea;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby applaud the efforts of two renowned Christian leaders, Dr. Kiflu Gebremeskel and Pastor Tesfatsion Hagos, for their extraordinary leadership in educating, feeding, and ministering to the destitute people in and around Asmara, Eritrea, as well as the efforts of pastors of 150 home churches closed by the government of Eritrea, and hopes and prays for the immediate release of Dr. Kiflu Gebremeskel and Pastor Tesfatsion Hagos from the Karchele Security Prison so that their humanitarian work may continue.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Dr. Kiflu Gebremeskel, Pastor Tesfatsion Hagos, the pastors of 150 home churches closed by the government of Eritrea and the 2,000 other Eritrean believers persecuted for their faith.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Ambassador of Eritrea (Attention: Veronica), Embassy of Eritrea, 1708 New Hampshire Avenue, NW, Washington, D. C. 20009; The Voice of the Martyrs, P.O. Box 443, Bartlesville, OK 74005-0443; Open Doors, P.O. Box 27001, Santa Ana, CA 92799; Amnesty International, 5 Penn Plaza – 14th Floor, New York, New York 10001.

There being no objection, **HR 240** was adopted.

Representative Wayne moved the adoption of the following **HR 243**:

HR 243, A RESOLUTION endorsing a National Health Insurance Act.

WHEREAS, every person in Kentucky and in the United States deserves access to affordable, quality health care; and

WHEREAS, there is a growing crisis in health care in the United States of America, manifested in rising health care costs, increased premiums, out-of-pocket spending, decreased international business competitiveness, and massive layoffs; and

WHEREAS, approximately 582,000 Kentuckians lacked health insurance in 2004; and

WHEREAS, those insured now often experience unacceptable medical debt and sometimes life-threatening delays in obtaining health care; and

WHEREAS, one-half of all personal bankruptcies are due to illnesses or medical bills; and

WHEREAS, the increasing expense of Medicaid and the rising cost of insuring state employees and teachers can best be met not by limiting benefits, but by expanding them under a national, publicly-funded health insurance program; and

WHEREAS, the complex bureaucracy arising from our system of fragmented, for-profit, multi-payer system of health care financing consumes approximately thirty percent (30%) of United States health care spending; and

WHEREAS, researchers from Harvard University found that this bureaucracy consumed more than \$4 billion of Kentucky's health care spending in 2003, which equals \$8,216 per uninsured Kentucky resident, and these expenditures are enough to provide comprehensive coverage to everyone in Kentucky; and

WHEREAS, United States Representative John Conyers has introduced H.R. 676, the United States National Health Insurance Act, in the United States House of Representatives for the 110th Congress, and this act would provide a universal, comprehensive, single-payer system of high quality national health insurance;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives of the Kentucky General Assembly respectfully urges the United States Congress to enact H.R. 676, the United States National Health Insurance Act, sponsored by Representative John Conyers in the United States House of Representatives for the 110th Congress.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the President of the United States and the members of the Kentucky Congressional Delegation.

There being no objection, **HR 243** was adopted.

Representative McKee moved the adoption of the following **HR 223**:

HR 223, A RESOLUTION urging the staff of the Legislative Research Commission to study how workers who are not citizens of the United States affect Kentucky's labor market and how the Kentucky Cabinet for Economic Development/Kentucky Department of Agriculture office in Guadalajara could be utilized to address the issue of labor shortages in Kentucky.

WHEREAS, segments of Kentucky's business sectors, particularly in the agricultural sector, are experiencing labor shortages; and

WHEREAS, employing noncitizen workers in such areas as professional services, construction, and agriculture could benefit Kentucky's economy; and

WHEREAS, understanding and complying with federal and state laws relating to employing noncitizen workers is critical for the employers of our state; and

WHEREAS, Kentucky has an office in Guadalajara that is active in promoting trade between Mexico and Kentucky; and

WHEREAS, the Mexico office could possibly serve as a clearinghouse to help assist in the process of providing noncitizen workers to areas of our state where there are labor shortages;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The staff of the Legislative Research Commission is urged to study how workers who are not citizens of the United States affect Kentucky's labor market and how the Kentucky Cabinet for Economic Development/Kentucky Department of Agriculture office in Guadalajara could be utilized to address the issue of labor shortages in Kentucky. If undertaken, the study shall include but not be limited to:

- (1) Describing federal laws and regulations associated with the employment of noncitizen workers in the United States;
- (2) Describing how Kentucky employers are currently utilizing noncitizen workers;
- (3) Examining the impact that hiring noncitizen workers has on the state's economy;
- (4) Examining the impact that hiring noncitizen workers has on labor market shortages;
- (5) Examining the impact that hiring noncitizen workers has on domestic workers; and

(6) Identifying issues relating to whether the Kentucky Cabinet for Economic Development/Kentucky Department of Agriculture office in Guadalajara could facilitate the recruitment of noncitizen workers to address labor shortages in Kentucky.

Section 2. If undertaken, the study shall address the issues described in Section 1 of this Resolution as they relate to Kentucky's labor market in general, and shall specifically address how the issues relate to the agricultural labor market.

Section 3. Staff shall report the results of the study to the Legislative Research Commission for referral to the appropriate interim joint committee or committees prior to the 2008 Regular Session of the General Assembly.

There being no objection, **HR 223** was adopted.

Representative Hoffman moved that the rules be suspended to grant floor privileges, and to act on a Resolution. Agreed.

Representative Hoffman moved the adoption of the following **HR 239**:

HR 239, A RESOLUTION honoring the Scott County High School Cardinals Boys Basketball team, 2007 KHSAA Sweet Sixteen Champions.

WHEREAS, on the evening of March 24, 2007, before a crowd of 18,377 at Lexington's Rupp Arena, the Scott County Cardinals won the 2007 KHSAA Boys Sweet Sixteen Championship by defeating the Ballard Bruins by a score of 56-50; and

WHEREAS, the triumph capped off an incredible season of 34 wins against only two losses, and a perfect 30-0 record against in-state competition; and

WHEREAS, the Cardinals were led on the court by Tournament MVP Bud Mackey, a junior who scored 22 points in the Championship game, including 11 during the decisive fourth quarter when Scott County overcame a seven-point deficit and held

Ballard scoreless over the final 3:41 of the game; and

WHEREAS, Scott County was also led on the floor by senior Matt Walls, the Cardinal's leading scorer in both the regular season and the Tournament, and junior Cam Hundley, who were named to the all tournament team, and starters Jordan Lee and Jimmie Warren; and

WHEREAS, the Cardinals also received contributions from seniors Chris James, Cameron Mingua, and Mason Karrick, who received a Sweet Sixteen Academic Scholarship; juniors Tyler Portwood, Jordan Adams, Markus Burchfield, Adrian Givens, and Tyler Royse; and sophomores Richie Phares and Aaron Ford; and

WHEREAS, the Cardinals were coached and mentored by Billy Hicks, who in more than a decade at Scott County has developed one of the finest high school basketball programs in Kentucky, including winning the 1998 state championship, and who has become one of the few high school basketball coaches in this state to win more than one state title; and

WHEREAS, Coach Hicks was ably assisted by Assistants Tim Glenn, Chris Wilhite, Keith Griesser, Scott Hundley, Dudley Mattingly, and Nick Napier; and

WHEREAS, the dedication, hard work, and efforts of these young men have brought notoriety and accomplishment to themselves, their school, and their community; and

WHEREAS, The 2006-07 Scott County Cardinals shall be remembered as one of the finest teams in the long and storied annals of Kentucky high school basketball history;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, do hereby applaud the dedication and accomplishments of the Scott County Cardinals, and declare these young men to be examples to student athletes all across the Commonwealth.

Section 2. The members of this body congratulate the Scott County Cardinals, head coach Billy Hicks, the assistant coaches and staff, Athletic Director Jim McKee, Principal Chip Southworth, and Superintendent Dr. Dallas Blankenship upon winning the 2007 KHSAA Boys Sweet Sixteen Basketball Championship.

Section 3. The Clerk of the House of Representatives shall deliver a copy of this Resolution to Principal Chip Southworth, Scott County High School, 1080 Cardinal Drive Georgetown, KY 40324 9442.

There being no objection, **HR 239** was adopted.

A Conference Committee Report was filed on **HB 362**.

Representative Ford moved that the rules be suspended to act upon a Legislative Citation and a Resolution. Agreed.

Representative Ford moved the adoption of the following **Legislative Citation No. 85**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory and honor of Rekel Isaacs McClure and joins with Representative Danny Ford in expressing deepest sympathy to the McClure and Isaacs Families and all who share in the profound loss on the passing of this esteemed citizen on March 16, 2007. The daughter of the late Myrt and Nettie Evans Isaacs, and also preceded in death by brothers, Delbert Isaacs, Cossie Isaacs, Emerdale Isaacs, M.E. Isaacs and Hubert Isaacs; sisters, Evie Morris, Zora Bullock and Clercy Renner; and, grandson, James Reece Ford, she is survived by her beloved husband of sixty years, Zade McClure; son and daughter-in-law, Ronald and Donna McClure; daughters and sons-in-law, Judy and Sam Ford, Genievee and Gary Reppert, Connie and Ryan Riddle and Lois and Jackie Sewell; sisters, Janie Sowder and Bon Ami Halcomb; grandchildren, Devin Ford, John Ford, Amy Ford Lewis, Ronny Lee McClure, Ronna Dee McClure Owens, Marcus Reppert, Emily Reppert Craig, Nathan Sewell, Richard Sewell, Natalie Sewell Daniels, Rachelle Riddle, Jessica Riddle and Jacob Riddle; great-grandchildren, Hannah, Megan, Sarabeth, Rachel, Elijah, Cainan, Chloe and Seth, Madilyn, Landon and Walker; and, a host of other family members, friends and loved ones. This beloved and highly-respected citizen, native of Rockcastle County and resident of Mt. Vernon, Kentucky; a retired cook for Mt. Vernon High School and Rockcastle County High School; a faithful member of the Blue Springs Church of Christ for more than sixty-five years; and, a loving daughter, wife, mother, grandmother and friend who had a great sense of humor, was a wonderful quilter, gardener, and cook, is remembered on this day for the many and generous contributions she made to her family, friends and community. Rekel Isaacs McClure will be profoundly missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, Kentucky, this twenty-seventh day of March, in the year two thousand and seven.

Legislative Citation No. 85 was adopted without objection.

Representative Ford moved the adoption of the following **HR 244**:

HR 244, A RESOLUTION recognizing and honoring Bryan Ross Ford and adjourning the House of Representatives in

honor of his birth.

WHEREAS, Bryan Ross Ford was born in on March 17, 2007; and

WHEREAS, Bryan Ross Ford was born a healthy child weighing seven pounds, 1 1/2 ounces, and measuring 20 inches in length; and

WHEREAS, Bryan Ross Ford is the beloved new son of Charles Matthew Ford and Rebecca Singleton Ford; and

WHEREAS, Bryan Ross Ford will be the be apple of the eye of his paternal grandparents, Danny and Sue Ford and joy of his maternal grandparents, Glen Barney and Debra Singleton; and

WHEREAS, Bryan Ross Ford will be blessed with his loving great grandparents Glen and Edith Singletons;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives recognizes one of the newest citizens of the Commonwealth and the latest addition to Ford Brothers Auctioneers and Realty.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Bryan Ross Ford.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the gentleman from Rockcastle 80 for presentation to the family of Bryan Ross Ford.

There being no objection, **HR 244** was adopted.

Representative Glenn moved that the rules be suspended to act on a Resolution. Agreed.

Representative Glenn moved the adoption of the following **HR 242**:

HR 242, A RESOLUTION adjourning the House of Representatives in honor of Rev. George E. Sebree upon his retirement as pastor of Fourth Street Baptist Church.

WHEREAS, George E. Sebree was a native of Hopkinsville, Kentucky, and was one of nine children in a farming family; and

WHEREAS, Rev. Sebree was the loving husband of Ella Mae Sebree until her passing in 2001, rearing two children with his loving wife. Rev. Sebree has been blessed with the gift of marriage a second time, to Lucille Sebree, who will now accompany him in retirement; and

WHEREAS, Rev. Sebree first entered the ministry as a part-time venture, serving the Lord in addition to working for Chrysler Corporation. He commuted to Henderson, Kentucky, from Evansville, Indiana, to minister to his congregation; and

WHEREAS, Rev. Sebree became a pastor in Kirkwood, Missouri, serving the people of his church while pursuing higher education. Rev. Sebree attained his bachelor's, master's, and doctorate degrees during his tenure in Missouri before returning to Kentucky to serve Fourth Baptist Church in Owensboro; and

WHEREAS, over the course of his 24 years in Owensboro, Rev. Sebree has encouraged the demographic and spiritual growth of the members of Fourth Baptist Church, and promoted the unity of all churchgoers in the area, regardless of race; and

WHEREAS, Rev. Sebree has faithfully followed the church's teachings and sought to spread God's word to anyone who would listen, bringing in new church members and aiding his fellow people in reforming their lives to serve Christ; and

WHEREAS, Rev. Sebree now enters an active retirement after 24 years as pastor of Fourth Street Baptist Church, during which he expects to continue to help others tend to their flocks;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the House of Representatives, both individually and collectively, do hereby applaud the accomplishments of Rev. George E. Sebree over the course of his 24 years in the pulpit of Fourth Street Baptist Church, declare him to be a shining example for all Kentuckians, and wish him the full enjoyment of his retirement.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Rev. George E. Sebree.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Rev. George E. Sebree, 915 West Fourth Street, Owensboro, Kentucky 42301.

There being no objection, **HR 242** was adopted.

Representative Montell moved the adoption of the following **HR 231**:

HR 231, A RESOLUTION proclaiming August 25, 2007, as American Saddlebred Day.

WHEREAS, the horse industry is Kentucky's signature industry, and Kentucky is home to the world's most famous horses, including Kentucky's native breed, the American Saddlebred; and

WHEREAS, the finest Saddlebreds from across the country will travel to Louisville in August to compete at the Kentucky State Fair in the 104th World's Championship Horse Show, which is known as the "Kentucky Derby" for Saddlebreds; and

WHEREAS, this grand event attracts thousands of horses and people who come from across the world to see these fine horses;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby proclaim August 25, 2007, as American Saddlebred Day.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Kentucky's native horse breed, the American Saddlebred.

There being no objection, **HR 231** was adopted.

Representative Palumbo moved that the rules be suspended to introduce and act on Resolutions. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 247, by Representatives Palumbo and Denham: A RESOLUTION adjourning the House of Representatives in loving memory and honor of William L. "Willie" Rouse Jr.

HR 246, by Representatives Palumbo, Nesler, Stacy, Ballard, Edmonds, Hall, Couch, DeWeese, Bratcher, Montell, Brinkman, Rollins, Thompson, Crenshaw, Denham, Sims, Keene, Simpson, DeCasare, Kerr, Henley, Wuchner, Koenig, Dossett, and Horlander: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Dr. Robert Cecil Buckner.

HR 248, by Representatives Palumbo and Hall: A RESOLUTION honoring former University of Kentucky basketball head coach Orlando "Tubby" Smith.

Orders of the Day (Continued)

Representative Palumbo moved the adoption of the following **HR 247**:

HR 247, A RESOLUTION adjourning the House of Representatives in loving memory and honor of William L. "Willie" Rouse Jr.

WHEREAS, William L. "Willie" Rouse Jr. departed this life on March 22, 2007, at the age of 74 years; and

WHEREAS, William L. "Willie" Rouse Jr. was the son of the late William Leonard and Margaret Allen Rouse, and received a degree in business administration from the University of Kentucky in 1954; and

WHEREAS, William L. "Willie" Rouse Jr. served his country as a pilot in the United States Air Force, and later became Chairman of the Board and Chief Executive Officer of First Security National Bank and Trust Co.; and

WHEREAS, William L. "Willie" Rouse Jr. served on the boards of Ashland, Inc. and Kentucky-American Water Company, the advisory board of Louisville Gas & Electric, and as Treasurer and member of the Transylvania University Board of Curators; and

WHEREAS, William L. "Willie" Rouse Jr. served as Treasurer and Director of the Triangle Foundation, Vice President of the Downtown Lexington Corporation, Director of the Central Kentucky Concert Association, member of the Kentucky State Racing Commission, Chair of the Fayette County Board of Adjustments, Chairman of the Board of Idle Hour Country Club, and on the boards of KBA, Lexington Industrial Foundation, the Lafayette Club, and Lexington Hearing and Speech Center; and

WHEREAS, William L. "Willie" Rouse Jr. leaves behind his wife of 52 years and sweetheart since junior high, Barbara Hardwick Rouse; his children, Hunter R. Kessinger, William L. "Bill" Rouse III, and Robert W. "Bob" Rouse; grandchildren, Melissa, Todd, and Clay Kessinger; Patrick and Hunt Rouse; and Woods and Hampton Rouse; and great-grandson Hunter, all of Lexington;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deepest sympathy upon the passing of William L. "Willie" Rouse Jr., and extends to his family, friends, and acquaintances its most heartfelt sympathy and condolences.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of William L. "Willie" Rouse Jr.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Barbara Hardwick Rouse, 645 Raintree Road, Lexington, Kentucky 40502.

There being no objection, **HR 247** was adopted.

Representative Palumbo moved the adoption of the following **HR 246**:

HR 246, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Dr. Robert Cecil Buckner.

WHEREAS, Dr. Robert Cecil Buckner, a native of Green County, Kentucky, departed this earthly life March 19, 2007, at the age of 88 years. Prior to World War II, he graduated from Lindsey Wilson College and taught in the Adair and Green County schools, then volunteered to serve his country, enlisting at the beginning of the war to serve with the 5th and 35th Infantry Divisions in Iceland and Europe, and eventually being discharged with the rank of Sergeant. After the war, he received bachelor's and master's degrees from the University of Kentucky, and a Doctorate in genetics from the University of Minnesota; and

WHEREAS, Dr. Buckner was a faculty member of the University of Kentucky College of Agriculture from 1948 to 1986, as professor of Agronomy and as Research Agronomist for the United States Department of Agriculture Research Service, specializing in the breeding and genetics of cool-season grasses. Through the years, he became recognized nationally and internationally for his contributions to the science of genetics and plant breeding, receiving numerous awards and honors. Dr. Buckner was instrumental in organizing a team of University of Kentucky and U.S. Department of Agriculture scientists that successfully found a solution to the blight of fescue toxicosis. He incorporated the findings into a new variety of fescue having great agro-economic importance, for which he received the Unit Award for Superior Service from the U.S. Secretary of Agriculture. Dr. Buckner was a Fellow of the American Society of Agronomy and of the Crop Sciences of America; and

WHEREAS, Dr. Robert Cecil Buckner was a member of Gardenside Christian Church, where he served as a deacon, elder, and trustee. His passing is mourned by his loving wife of 63 years, Nellie S. Buckner; his son, LRC staff member, Dr. John R. Buckner, and his wife, Keiko Hasegawa Buckner; and his beautiful granddaughter, Shizuka Toshiko Buckner;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its deep sense of loss upon the passing of Dr. Robert Cecil Buckner, and extends to his family, friends, and community its sincere condolences upon the loss of their husband, father, grandfather, and friend.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Dr. Robert Cecil Buckner.

Section 3. The Clerk of the House of Representatives is directed to transmit two copies of this Resolution to Mrs. Nellie S. Buckner, 1849 Danen Drive, Lexington, Kentucky 40504-2048.

There being no objection, **HR 246** was adopted.

Representative Palumbo moved the adoption of the following **HR 248**:

HR 248, A RESOLUTION honoring former University of Kentucky basketball head coach Orlando "Tubby" Smith.

WHEREAS, on May 12, 1997, Tubby Smith was introduced as the head coach of the University of Kentucky, becoming the first African American to be appointed to this position; and

WHEREAS, in his ten seasons with the University of Kentucky, Tubby Smith led the school to a National Championship in 1998, a perfect 16-0 regular season conference record in 2003, five SEC regular season championships, five SEC Tournament titles, six Sweet Sixteen finishes, and three Elite Eight finishes; and

WHEREAS, the presence of Tubby Smith was not only felt by the University of Kentucky and their basketball fans, but also by the city of Lexington and Central Kentucky through his many public service endeavors; and

WHEREAS, generosity of both time and money has made Tubby Smith and his wife, Donna, the largest individual donors to the United Way of the Bluegrass, led to the donation of more than \$3 million to more than 21 Central Kentucky charities by the Tubby Smith Foundation, and allowed Tubby's Clubhouses to provide personal computers and training to middle school students who otherwise wouldn't have them; and

WHEREAS, as he leaves Kentucky for future challenges, it is only fitting that Tubby Smith be publicly saluted for his tremendous accomplishments in University of Kentucky basketball, community service to the Commonwealth, and for performing it all with admirable dignity and great pride;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of this body, both individually and collectively, do hereby applaud the accomplishments of Orlando "Tubby" Smith, congratulate him on his career as head coach of the University of Kentucky and for his community service to the Commonwealth, and wish him the best in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Tubby Smith.

Section 3. The Clerk of the House of Representatives shall forward a copy of this Resolution to Orlando "Tubby" Smith, University of Kentucky Athletics, Joe Craft Center, 338 Lexington Avenue, Lexington, KY 40506-0604.

There being no objection, **HR 248** was adopted.

The roll call was opened for co-sponsors. On the roll call for co-sponsors on **HR 248** the vote was: Yeas 99. (See March 27, 2007, roll call to show co-sponsors on **HR 248-Appendix**.)

Representative Pullin moved that the rules be suspended to act on a Resolution. Agreed.

Representative Pullin moved the adoption of the following **HR 224**:

HR 224, A RESOLUTION urging the Council on Postsecondary Education to formalize and continue the work of the council's Science, Technology, Engineering, and Mathematics Task Force to ensure the development of a strategic action plan to improve Kentucky's performance in the science, technology, engineering, and mathematics disciplines.

WHEREAS, there is growing evidence that Kentucky and the nation are experiencing an urgent crisis in the number of graduates in the science, technology, engineering, and mathematics disciplines; and

WHEREAS, significant funding is available through the federal Science, Mathematics Access to Retain Talent (SMART) grants to provide financial support for Kentucky students who are eligible for Pell grants and who pursue degrees in the science, technology, engineering, and mathematics disciplines; and

WHEREAS, education within the science, technology, engineering, and mathematics disciplines is directly linked to the development of innovation and knowledge economy jobs within the Commonwealth; and

WHEREAS, the Commonwealth of Kentucky possesses natural energy resources that enable the state to become a leader in developing sustainable energy solutions; and

WHEREAS, the creation of sustainable energy solutions requires educated, skilled, and innovative engineers, scientists, researchers, practitioners, and entrepreneurs; and

WHEREAS, coordinated efforts between and among citizens within the government, business and industry, and education sectors will stimulate improvement in Kentucky's performance; and

WHEREAS, the Science, Technology, Engineering, and Mathematics Task Force includes leaders from across the state representing all sectors; and

WHEREAS, Kentucky would benefit from a statewide public awareness campaign; and

WHEREAS, Kentucky's students can benefit from improved science, technology, engineering, and mathematics curricular offerings;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body urges that during the 2007-2008 fiscal year, the Council on Postsecondary Education continue the work of the Science, Technology, Engineering, and Mathematics Task Force in developing strategies to improve science, technology, engineering, and mathematics performance in Kentucky.

Section 2. The House of Representatives does hereby request that the Council on Postsecondary Education report to the Interim Joint Committee on Education and Interim Joint Committee on Appropriations and Revenue and the Strategic Committee on Postsecondary Education (SCOPE) regarding the progress and recommendations of the Science, Technology, Engineering, and Mathematics Task Force.

There being no objection, **HR 224** was adopted.

Representative Damron moved that the rules be suspended to act on a Resolution. Agreed.

Representative Damron moved the adoption of the following **HR 232**:

HR 232, A RESOLUTION honoring Dr. Sandra C. Gray on being elected the 17th president and the first female president of Asbury College.

WHEREAS, following her graduation from the University of Kentucky, Sandra Gray began her career in the banking and financial institutions industry; and

WHEREAS, Sandra Gray has worked in the corporate, government, and nonprofit sectors, serving in leadership capacities in finance, strategic visioning, marketing, and team building; and

WHEREAS, Asbury College, founded in 1890, is a four-year multi-denominational institution that has been recognized by U.S. News & World Report in 2006-2007 as the third top comprehensive college in the South, the fourteenth year in a row that the college has been listed as a top ten institution; and

WHEREAS, Sandra Gray joined the faculty of Asbury College in 1989 as a professor of business management within the Department of Business and Economics; and

WHEREAS, Dr. Gray has taught courses at Asbury College on international trade and financial markets in Russia, China, and Austria and her research interests have resulted in several invitations to lecture internationally; and

WHEREAS, Dr. Gray is actively involved with students, faculty, and administrators on the campus at Asbury College, serving as a mentor, counselor, and advisor; and

WHEREAS, in 2005, Dr. Gray led Asbury College's first annual foreign business-related mission trip to impact basic business skills in foreign countries; and

WHEREAS, Dr. Gray has an unabashed commitment to Asbury College's theological and liberal arts foundations, and is well known as an academian and a woman of faith; and

WHEREAS, Dr. Gray has a vision for Asbury College that extends its tradition of service to Kentucky, the nation, and the world; and

WHEREAS, at the 2007 spring meeting of the board of trustees, Dr. Sandra C. Gray was elected to the presidency of Asbury College;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the House of Representatives join with Representative Robert P. Damron in congratulating Dr. Sandra C. Gray on being named the 17th president and the first female president of Asbury College.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Dr. Sandra C. Gray, Asbury College, 1 Macklim Drive, Wilmore, Kentucky 40390, and to Mr. C.E. Crouse, Jr., Chairman, Board of Trustees, Asbury College, 1 Macklim Drive, Wilmore, Kentucky 40390.

There being no objection, **HR 232** was adopted.

Representative Nesler moved the adoption of the following **Legislative Citation No. 78**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Robert Willis Fulcher and joins with Representative Fred Nesler in expressing deepest sympathy to the Fulcher Family and all who mourn the loss of this esteemed citizen of Mayfield, Kentucky, on March 13, 2007. The son of the late Elbert "Ebb" and Lillie Pearl Speed Fulcher, he was preceded in death by a sister, Virginia Blalock, and brothers, Russell and Billy Fulcher. He is survived by his cherished wife, Marilyn June Allen Fulcher; beloved children and their spouses, Vicki June and Greg Terrell and James Willis and Meriel Fulcher; brothers, Elbert "Jr." Fulcher and Marvin Fulcher; four grandchildren; seven great-grandchildren; and, a host of other family members, friends and loved ones. This highly-regarded gentleman, a devoted husband, father and grandfather; the long time owner and operator of Fulcher Termite and Pest Control; and, a faithful and active member of Mayfield Holiness Church who was known throughout the community for his generous and outgoing spirit, is remembered on this day and honored for the many and generous contributions he made to his family, friends and the community. Robert Willis Fulcher will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, Kentucky, this twenty-sixth day of March, in the year two thousand and seven.

Legislative Citation No. 78 was adopted without objection.

Representative Jenkins moved that the rules be suspended to introduce and act on a Resolution. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 249, by Representative Jenkins: A RESOLUTION adjourning the House of Representatives in recognition and honor of Daniel B. Howard.

Orders of the Day (Continued)

Representative Jenkins moved the adoption of the following **HR 249**:

HR 249, A RESOLUTION adjourning the House of Representatives in recognition and honor of Daniel B. Howard.

WHEREAS, with admiration and gratitude, we pay tribute to Dan Howard on the occasion of his retirement as the executive director of the Kentucky Association of Regional Mental Health-Mental Retardation Programs (KARP); and

WHEREAS, Dan Howard was instrumental in the crafting of legislation that created Kentucky's regional community mental health-mental retardation boards, which is the largest system of behavioral health care for our citizens and was the first

statewide system of behavioral health care in the United States; and

WHEREAS, Dan Howard learned early in his career about the complexity of the human spirit and the need to establish understanding and empathy for those who are voiceless and often cast aside; and

WHEREAS, Dan Howard graduated from the University of Kentucky School of Law, served his country with distinction in the U.S. Air Force, and, upon returning to civilian life, worked with Governor Earl Clements on issues concerning mental health in Kentucky; and

WHEREAS, Dan Howard was sent to Washington D.C. on behalf of Governor Bert Combs to work on an initiative for Presidents John F. Kennedy and Lyndon B. Johnson to develop protections for people living with mental illness or mental retardation; and

WHEREAS, Dan Howard served as administrator of Eastern State Hospital and was later named Deputy Commissioner for the newly formed Department for Mental Health-Mental Retardation Services under commissioner Dale Farabee; and

WHEREAS, Dan Howard was again instrumental in writing *A Pattern For Change*, which laid the foundation and established the design for community-based services based on the premise that all citizens should have access to quality behavioral health care in their own communities; and

WHEREAS, Dan Howard came out of his first retirement to establish KARP and to become its executive director, establishing himself as one of the preeminent voices for behavioral health services in the Commonwealth and in the nation; and

WHEREAS, Dan Howard has unselfishly shared his breadth of knowledge for over five decades to make needed reforms both in the Commonwealth and in the nation to the betterment of all people, particularly people with disabilities; and

WHEREAS, by working with consumers, advocates, providers, legislators, Governors, and executive branch personnel, past and present, Dan Howard has given voice to the need for accessible, innovative, locally responsive services in community-based settings, thereby positively impacting public policy from *A Pattern For Change* to the present;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives does hereby express its deepest gratitude to Daniel B. Howard for his many years of service to the citizens of the Commonwealth of Kentucky. The House of Representatives affirms that the good work, dedication, and vision of Daniel B. Howard has helped create a statewide system of behavioral health care in which the needs of the individuals served are paramount.

Section 2. When the House of Representatives adjourns this day, it does so in tribute to Daniel B. Howard.

Section 3. The Clerk of the House of Representatives is directed to transmit six copies of this Resolution to Mr. Daniel B. Howard, 230 Lexington Green Circle, Suite 105, Lexington, Kentucky 40503.

There being no objection, **HR 249** was adopted.

Representative Dossett moved the adoption of the following **HR 236**:

HR 236, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Ann Ruby Bell McCoy.

WHEREAS, Ann Ruby Bell McCoy was born December 18, 1928, in Madisonville, Kentucky, to the late Grace May Ligon and Lexis Kyle Bell, and departed this earthly life March 2, 2007; and

WHEREAS, Mrs. McCoy graduated as salutatorian of her class at Madisonville High School, and later attended Stephens College in Columbia, Missouri, and the University of Kentucky, where she was a member of Delta Delta Delta sorority. Having become the bride of John H. McCoy on September 10, 1949, she and her husband later settled in Hopkinsville, where Mrs. McCoy became a community activist, serving the League of Women Voters, the St. Luke Free Clinic, and Planned Parenthood. A lover of the fine arts, she was a founder of the Community Concerts Association of Hopkinsville, which is now a part of the Pennyrile Arts Council, and was a supporter of the newly completed Schermerhorn Symphony Center in Nashville, Tennessee. Mrs. McCoy also loved all forms of dance, ranging from the Royal Ballet of Convent Garden in London to the indigenous dancers of the Masai people of Tanzania, the American Ballet Theater, and the New York City Ballet. She was a lifelong, devoted member of Grace Episcopal Church, where she served on the Vestry and sang in the choir. She also served on the board of the Kentucky Bank and Trust Company and the local board of Liberty National Bank in Madisonville; and

WHEREAS, Ann Ruby Bell McCoy was preceded in death by her husband, John H. McCoy, who passed in 1991. She is survived by their four children, Alexis Kyle Suttles, of Houston, Texas; Hal Howard McCoy and his wife, Elizabeth, of Hopkinsville; Ann Grace McCoy, of Mill Valley, California; and John Bell McCoy, of Hopkinsville. Her passing also leaves behind four grandchildren, Josephine Dory Suttles Giles, John Howard McCoy Suttles, Ann Bell Ligon Suttles, and Griffen Bell McCoy;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives expresses its sense of profound sorrow upon the passing of Ann Ruby Bell

McCoy, and extends to her family, friends, and community its sincere sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Ann Ruby Bell McCoy.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mr. Hal McCoy, 506 Deepwood Drive, Hopkinsville, Kentucky 42240.

There being no objection, **HR 236** was adopted.

Representative Adkins moved that **HB 145, 291, 334, 400, 175, and 380** be placed in the Orders of the Day. Agreed.

HB 145, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 145** is as follows:

HB 145, AN ACT relating to school attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.150 is amended to read as follows:

- (1) Any student who has attained the age of six (6) years, but has not reached his or her eighteenth birthday, who has been absent from school without valid excuse for three (3) or more days, or tardy without valid excuse on three (3) or more days, is a truant.
- (2) Any student enrolled in a public school who has attained the age of eighteen (18) years, but has not reached his or her twenty-first birthday, who has been absent from school without valid excuse for three (3) or more days, or tardy without valid excuse on three (3) or more days, is a truant.
- (3) Any student who has been reported as a truant two (2) or more times is an habitual truant.
- (4) For the purposes of establishing a student's status as a truant, the student's attendance record is cumulative for an entire school year. If a student transfers from one Kentucky public school to another during a school year, the receiving school shall incorporate the attendance information provided under Section 2 of this Act in the student's official attendance record.
- (5) A local board of education may adopt reasonable policies that:
 - (a) Require students to comply with compulsory attendance laws;
 - (b) Require truants and habitual truants to make up unexcused absences; and
 - (c) Impose sanctions for noncompliance.

Section 2. KRS 159.170 is amended to read as follows:

- (1) Whenever any child of compulsory school age withdraws from school, the teacher of the child shall ascertain the reason. The fact of the withdrawal and the reason for it shall be immediately transmitted by the teacher to the superintendent of schools of the district in which the school is located. If the child has withdrawn because of change of residence, the next residence shall be ascertained and included in the report.
- (2) The Kentucky Department of Education shall assure that the student information system facilitates the collection of student data and the transfer of education records among schools and local districts. ~~The superintendent shall thereupon forward a card showing the essential facts regarding the child and stating the place of his new residence to the superintendent of schools of the district to which the child has moved. The Kentucky Board of Education shall prescribe the forms to be used in the operation of this section.~~
- (3) A school district shall notify the Kentucky Department of Education when a new student enrolls in a school in the district.
- (4) The Kentucky Department of Education, upon notification of a student's enrollment in a school, shall forward within ten (10) working days all records regarding the student collected under this section to the receiving district.

Section 3. KRS 45A.352 is amended to read as follows:

- (1) A local public agency may enter into a guaranteed energy savings contract for innovative solutions for energy conservation measures. The local public agency shall submit a request for proposals. The request for proposals for competitive procurement of guaranteed energy savings contracts shall include the following:
 - (a) The name and address of the governmental unit;
 - (b) The name, address, title, and phone number of a contact person;
 - (c) Notice indicating that the local public agency is requesting qualified providers to propose energy conservation

measures through a guaranteed energy savings contract;

(d) The following evaluation criteria for assessing the proposals:

1. Construction management capabilities;
2. Technical approach to facilities included;
3. Financial attributes, as defined by total cost of contract and guaranteed savings and provider's financial strength demonstrating ability to fulfill the guarantee term; and
4. Provider's capability, personnel, track record, and demonstrated ability to accomplish the contract;

(e) The date, time, and place where proposals must be received;

(f) Any other stipulations and clarifications the local public agency may require; and

(g) An overview prepared by the local public agency stating goals or objectives specific to facility needs to be considered by the qualified providers who are responding to the request. Detailed scope of construction is not required.

(2) Respondents to the request for proposal shall provide the following:

(a) A detailed list of the proposed energy conservation measures and the guaranteed savings which shall be supported with calculations. Any guaranteed energy and operational savings shall be determined by using one of the measurement and verification methodologies listed in the United States Department of Energy's "Measurement and Verification Guideline for Federal Energy Projects" or in the "North American Energy Measurement and Verification Protocol." If due to existing data limitations or the nonconformance of specific project characteristics, none of the methods listed in either the United States Department of Energy's "Measurement and Verification Guideline for Federal Energy Projects" or in the "North American Energy Measurement and Verification Protocol" is sufficient for measuring guaranteed savings, the qualified provider shall develop an alternate method that is compatible with one (1) of the two (2);

(b) The estimated cost of the proposed energy conservation measures including engineering, construction, commissioning, measurement and verification, annual reconciliation statements, and required on-going services; and

(c) Proposed method and costs of financing.

(3) The value for total cost of the contract minus the calculated savings from the energy conservation measures listed in the qualified provider's proposal, shall be within fifteen percent (15%) of the value for the total cost of the contract minus the calculated savings after the final contract has been negotiated. If the difference between the proposed and the final contract is not within fifteen percent (15%) and the local public agency and the qualified provider are unable to renegotiate the final contract to reconcile the difference between the proposed and final contract values, then the local public agency may:

(a) Stop negotiations with the current qualified provider; and

(b) Select an alternate provider.

(4) The local public agency may, as a component of the request for proposal, solicit and negotiate additional maintenance services for the affected proposed energy conservation measures. Additional services shall be subject to budget appropriations on an annual basis and may be discontinued at any time over the guarantee period with no negative impact to the guaranteed savings contract.

(5) The local public agency shall utilize the request for proposal process to enter into a guaranteed energy savings contract. The local public agency may, at its discretion, utilize a request for qualifications, provided that the local public agency solicits qualification statements from multiple potentially qualified providers. The local public agency shall use the qualification statements to select no fewer than two (2) providers and each provider shall then be subject to the request-for-proposal requirement provided in subsections (1) to (4) of this section.

(6) The local public agency shall select the provider best qualified to meet its needs. The local public agency shall provide public notice of the meeting at which it proposes to award a guaranteed energy savings contract, the name of the parties to the proposed contract, and the purpose of the contract. The public notice shall be made at least ten (10) days prior to the meeting. After reviewing the proposals, a local public agency may enter into a guaranteed energy savings contract with a qualified provider if it finds that the amount it would spend on the energy conservation measures recommended in the proposal would not exceed the amount to be saved in either energy or operational costs plus capital cost avoidance within the term of the contract from the date of installation, if the recommendations in the proposal are followed.

(7) The guaranteed energy savings contract shall include a written guarantee of the qualified provider that either the energy or operational costs savings plus capital cost avoidance will meet or exceed the costs of the energy conservation measures within the term of the contract. The qualified provider shall, on an annual basis, reimburse the local public agency for any shortfall in guaranteed energy savings projected in the contract. A qualified provider shall provide a sufficient bond to the local public agency for the installation and the faithful performance of all the measures included in the contract. The guaranteed energy savings contract may provide for payments over a period of time, not to exceed the term of the contract.

(8) The qualified provider shall provide the local public agency with an annual reconciliation statement. The statement shall

disclose any shortfalls or surplus between guaranteed energy and operational savings specified in the guaranteed energy savings contract and actual energy and operational savings incurred during a given guarantee year. The guarantee year shall consist of a twelve (12) month term commencing from the time that the energy conservation measures became fully operational. The qualified provider shall pay the local public agency any short fall in the guaranteed energy and operation savings within thirty (30) days after the total year savings have been determined. If there is a surplus in the actual guaranteed energy and operational savings in a given year, that surplus savings may be carried forward and applied against any possible savings shortfall in the following guarantee year, except that the surplus carried forward is limited to a period not to exceed one (1) year. If the qualified provider pays the local public agency for a short fall in energy or operational savings incurred during a given guarantee year and there is a surplus in energy or operational savings in future guarantee years, the qualified provider shall bill the local public agency for an amount not to exceed the amount of the short fall in the given guarantee year.

- (9) The use of capital cost avoidance shall be subject to the following restrictions:
- (a) The amount expended shall not exceed fifty percent (50%) of the project cost; and
 - (b) Capital cost avoidance shall be restricted to payment for permanent equipment replacement as follows:
 - 1. Storm windows or doors, multiglazed windows or doors, additional glazing, and reduction in glass area;
 - 2. Replacement of heating, ventilating, or air conditioning major components or systems;
 - 3. New lighting fixtures where required to achieve Illuminating Engineering Society of North America (IES) standards, provided the existing light fixtures shall have been determined to be obsolete and incapable of achieving IES standards; and
 - 4. Life safety system replacements or upgrades which shall have been determined to be necessary to conform with existing state and local codes and standards.
- (10) The commissioner of education~~[chief state school]~~ officer shall review, and approve or disapprove projects from local school districts relating to energy conservation measures under a guaranteed energy savings contract, on the basis of the following guidelines:
- (a) The project design's compliance with technical, health, and safety standards as required by administrative regulation;
 - (b) The availability of general funds, capital outlay allotments under KRS 157.420 or local and state funds from the Facilities Support Program of Kentucky as provided by KRS 157.440, for projects that will use capital cost avoidance;
 - (c) The appropriate use of capital outlay allotments under KRS 157.420, local and state funds from the Facilities Support Program of Kentucky as provided by KRS 157.440, for projects using capital cost avoidance, based on the project's compliance with the district's approved facility plan;
 - (d) The funding capability of the school district; and
 - (e) The financing mechanism and proper financing documentation.
- (11) The request for proposal as provided in subsections (1) to (4) of this section shall be deemed to satisfy the requirements set out in KRS 162.070, and shall not be subject to an award determination based on the lowest competitive bid or a separate bidding process for each energy conservation measure listed in the proposal.
- (12) *A guaranteed energy savings contract that does not involve construction or the installation of physical improvements shall not require the approval of the commissioner of education and shall not be subject to other requirements of this section.*

The Senate Committee Amendment No. 1 Title to **HB 145** is as follows:

HB 145, Change title to read "AN ACT relating to school districts."

Representative Pasley moved that the House concur in the Senate Committee Substitute to **HB 145**. Agreed.

Representative Pasley moved that the House concur in the Senate Committee Amendment No. 1 Title to **HB 145**. Agreed.

Representative Pasley moved that **HB 145**, by way of Senate Committee Substitute, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 27, 2007, roll call on **HB 145** - Appendix.)

HB 145, by way of Senate Committee Substitute, as amended by the Senate, was passed and title agreed to.

Representative Pasley moved that the vote by which **HB 145**, by way of Senate Committee Substitute, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 291, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 291** is as follows:

HB 291, AN ACT relating to the Kentucky educational excellence scholarship program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.507 is amended to read as follows:

- (1) The nonremarried spouse, regardless of age, and any child, stepchild, or orphan, under the age of twenty-six (26)~~twenty-three (23)~~, of a person who was a veteran and is now deceased~~[-veteran]~~ shall not be required to pay any matriculation or tuition fees upon admission to any state-supported university, junior college, or vocational training institute for a period not in excess of forty-five (45)~~thirty-six (36)~~ months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion, if the deceased parent or spouse:
 - (a)
 1. Served in the Armed Forces of the United States during a national emergency, wars declared by Congress, or actions of the United Nations; or
 2. Died while on active duty in the Armed Forces of the United States regardless of wartime service; or
 3. Died as a result of a service-connected disability acquired while on active duty with the Armed Forces of the United States regardless of wartime service; and
 - (b)
 1. Was a resident of the Commonwealth of Kentucky at the time of death; or
 2. Was married to a resident of Kentucky at the time of death; and
 3. If discharged, was under honorable conditions.
- (2) In order to obtain the benefits conferred by subsection (1), the parent-child relationship must be shown by birth certificate, adoption papers, marriage certificate, or other documentary evidence. A stepchild must have been a member of the veteran's household at the time of the veteran's death. The spousal relationship must be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death must be evidenced by certification from the records of the Kentucky Department of Military Affairs, the Veterans Administration Records, or the Department of Defense of the United States. In the event one so admitted to a state-supported university, junior college, or vocational training institution under this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

Section 2. KRS 164.515 is amended to read as follows:

- (1) The spouse, regardless of age, and any child, stepchild, or orphan, under the age of twenty-six (26)~~twenty-three (23)~~, of a permanently and totally disabled member of the Kentucky National Guard or Reserve Component injured while on state active duty, active duty for training, or inactive duty training, or a permanently and totally disabled war veteran, or a one hundred percent (100%) service-connected disabled veteran regardless of wartime service, or prisoner of war or member of the Armed Services declared missing in action shall not be required to pay any matriculation or tuition fees upon his admission to any state-supported institution of higher education or to any state-supported vocational training school for a period not in excess of forty-five (45)~~thirty-six (36)~~ months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.
- (2) To be entitled to benefits under this section the parent or stepparent of the child claiming benefits if living must be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the United States Veterans Administration or the Department of Defense. If the veteran is deceased, the claim to benefits is to be based on the rating held by the veteran at the time of death or if a prisoner of war or missing in action, must have been declared as such by the Department of Defense. Members of the Kentucky National Guard must be rated permanently and totally disabled as provided in KRS Chapter 342. The parent's, stepparent's, or spouse's service and rating must be evidenced by certification from the records of the Kentucky Department of Military Affairs, Veterans Administration Records, or the Department of Defense of the United States.
- (3) The parent-child relationship must be shown by birth certificate, legal adoption papers, marriage certificate, or other documentary evidence. A stepchild must be a member of the veteran's household. The spousal relationship must be shown by a marriage certificate or other documentary evidence.
- (4) To entitle a spouse, child, stepchild, or orphan to benefit under this section the disabled member of the National Guard or Reserve Component veteran living or deceased must have served on state active duty, active duty for training, or inactive duty training or active duty with the Armed Forces of the United States, and his discharge must have been under honorable conditions. He must be a resident or, if deceased, have been a resident of the Commonwealth of Kentucky.
- (5) No provision of this section shall serve to deny these benefits to an eligible spouse, child, stepchild, or orphan, who enlists, or who fulfills a military obligation, in the Armed Forces of the United States and is discharged under honorable

conditions; the period of time spent in the military service to be compensated by like time, beyond the age of twenty-six ~~(26) [twenty-three (23)]~~ years if required, but not in excess of the period of enrollment as set forth in subsection (1) of this section.

- (6) The marriage of an eligible child, stepchild, or orphan, shall not serve to deny full entitlement to the benefits provided in this section.

Section 3. KRS 164.7881 is amended to read as follows:

- (1) Eligible high school students who have graduated from high school and eligible postsecondary students who have earned a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and a supplemental award, or a supplemental award only pursuant to KRS 164.7879(3)(c), shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or a supplemental award only for a maximum of eight (8) academic terms in an undergraduate or other postsecondary program of study at a participating institution, except as provided in subsections (5) and ~~subsection~~ (6) of this section.
- (2) To receive the Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, an eligible high school or postsecondary student shall:
 - (a) Enroll in and attend a participating institution as a full-time student or a part-time student; and
 - (b) Maintain eligibility as provided in subsection (3) of this section.
- (3) Eligibility for a Kentucky educational excellence scholarship or a Kentucky educational excellence scholarship and supplemental award shall terminate upon the earlier of:
 - (a) The expiration of five (5) years following the student's graduation from high school, except as provided in subsection (5) or (6) of this section; or
 - (b) The successful completion of an undergraduate or other postsecondary course of study. However, any student who successfully completes the requirements for a degree or certification involving a postsecondary course of study that normally requires less than eight (8) academic terms to complete may continue to receive the benefits of a Kentucky educational excellence scholarship, a Kentucky educational excellence scholarship and supplemental award, or a supplemental award only, for a cumulative total of eight (8) academic terms if the student enrolls as at least a part-time student in a four (4) year program.
- (4)
 - (a) The maximum award amount shall be determined by the authority and shall be adjusted as provided in this subsection. The award amount ultimately determined to be available to an eligible postsecondary student for an award period shall be delivered by the authority to the participating institution for disbursement to the eligible postsecondary student.
 - (b) The authority shall, by promulgation of administrative regulations, provide for the proportionate reduction of the maximum award amount for an eligible postsecondary student for any academic term in which the student is enrolled on a part-time basis. Each academic term for which any scholarship or supplemental award funds are accepted by an eligible postsecondary student shall count as a full academic term, even if the award amount was reduced to reflect the part-time status of the eligible postsecondary student, except if the eligible postsecondary student interrupts enrollment during the award period for any reason specified in subsection (5) of this section, and the participating institution does not certify a cumulative grade point average for that student at the end of that award period.
 - (c)
 1. An eligible postsecondary student who is enrolled full-time in an undergraduate program of study, in the pharmacy program at the University of Kentucky, or in a program of study designated as an equivalent undergraduate program of study by the authority in an administrative regulation, shall receive the maximum award amount for the first award period that the student is enrolled in and attending the program of study.
 2. To retain the maximum award for the second award period, an eligible postsecondary student shall have at least a 2.5 grade point average at the end of the first award period, except that if the eligible postsecondary student demonstrates to the satisfaction of the authority on appeal that ~~interrupts~~ enrollment was interrupted during the award period for any reason specified in subsection (5) of this section, ~~and the participating institution does not certify a cumulative grade point average for that student at the end of that award period,~~ the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the maximum award for the award period in which he or she resumes enrollment.
 3. To retain the maximum award amount for subsequent award periods, an eligible postsecondary student shall have a cumulative grade point average of 3.0 or greater at the end of the prior award period, except that if the eligible postsecondary student demonstrates to the satisfaction of the authority on appeal that ~~interrupts~~ enrollment was interrupted during the award period for any reason specified in subsection (5) of this section, ~~and the participating institution does not certify a cumulative grade point average for that student at the end of that award period,~~ the eligible postsecondary student shall, subject to paragraph (b) of this subsection, retain the same award for the award period in which he or she resumes enrollment as he or she received in the award period in which enrollment was interrupted.
 4. Any eligible postsecondary student who maintains a cumulative grade point average of less than 3.0 but at

- least 2.5 at the completion of any award period shall receive a reduction in the maximum award amount equal to fifty percent (50%) of the maximum award amount for the next award period, except if the eligible postsecondary student demonstrates to the satisfaction of the authority on appeal that enrollment was interrupted during the award period for any reason specified in subsection (5) of this section.
5. Any eligible postsecondary student who maintains a cumulative grade point average of less than 2.5 at the completion of any award period shall lose his or her award for the next award period, except if the eligible postsecondary student demonstrates to the satisfaction of the authority on appeal that enrollment was interrupted during the award period for any reason specified in subsection (5) of this section.
 6. Each participating institution shall certify to the authority at the close of each award period the cumulative grade point average of each Kentucky educational excellence scholarship recipient enrolled as a full-time or part-time student at the participating institution.
 7. Any student who loses eligibility through failure to maintain the required cumulative grade point average may regain eligibility in a subsequent award period upon reestablishing at least a 2.5 cumulative grade point average or its equivalent during a subsequent award period, as certified by the participating institution.
- (5) The expiration of a student's eight (8) academic terms and five (5) year eligibility shall be extended by the authority upon a determination that the student was unable to enroll for or complete an academic term due to any of the following circumstances:
- (a) A serious and extended illness or injury of the student, certified by an attending physician;
 - (b) An injury of the student received as a victim of a crime, certified by an attending physician;
 - (c) The death or serious and extended illness or injury of an immediate family member of the student, certified by an attending physician, which would render the student unable to attend classes;
 - ~~(d)(e)~~ Natural disasters that would render a student unable to attend classes; ~~or~~
 - ~~(e)(d)~~ Active duty status for the student ~~in the United States Armed Forces or~~ as an officer in the Commissioned Corps of the United States Public Health Service, or active service by the student ~~in the Peace Corps Act or~~ the Americorps, for up to three (3) years; or
 - (f) Active duty status for the student in the United States Armed Forces. A student whose eligibility expired prior to the three (3) year time limit on eligibility extensions imposed by paragraph (e) of this subsection prior to the effective date of this Act shall have his or her eligibility reinstated for the number of years beyond the three (3) years during which he or she was on active duty status in the Armed Forces. The number of months served on active duty status shall be rounded up to the next higher year to determine the maximum length of eligibility extension allowed.
- (6) An eligible postsecondary student who is enrolled at a participating institution in a five (5) year undergraduate degree program designated in an administrative regulation promulgated by the authority shall be eligible to receive the Kentucky educational excellence scholarship, the Kentucky educational excellence scholarship and the supplemental award, or the supplemental award only for a maximum of ten (10) academic terms. The expiration of an eligible postsecondary student's five (5) year eligibility shall be extended to six (6) years for eligible postsecondary students meeting the requirements of this subsection.
- (7) Each eligible high school student who attains a 28 or above on the ACT and a 4.0 grade point average for all four (4) years of high school shall be designated as a "Senator Jeff Green Scholar" in honor of the late Senator Jeff Green of Mayfield, Kentucky, First District, and shall be recognized by the high school in a manner consistent with recognition given by the high school to other high levels of academic achievement.

The Senate Committee Amendment No. 1 to **HB 291** is as follows:

HB 291, On page 8, after line 27, insert the following:

"Section 4. KRS 164.7874 is amended to read as follows:

As used in KRS 164.7871 to 164.7885:

- (1) "Academic term" means a semester or other time period specified in an administrative regulation promulgated by the authority;
- (2) "Academic year" means a period consisting of at least the minimum school term, as defined in KRS 158.070;
- (3) "ACT score" means the composite score achieved on the American College Test at a national test site on a national test date or an equivalent score, as determined by the authority, on the Scholastic Assessment Test;
- (4) "Authority" means the Kentucky Higher Education Assistance Authority;
- (5) "Award period" means two (2) consecutive academic terms;
- (6) "Base scholarship amount" means that amount earned by an eligible high school student pursuant to KRS 164.7879 in each academic year as determined by the grade point average earned and reported by the high school at the end of the academic

2007 Regular Session

year;

- (7) "Council" means the Council on Postsecondary Education created under KRS 164.011;
- (8) "Eligible high school student" means any person who:
 - (a) Is a citizen, national, or permanent resident of the United States and Kentucky resident;
 - (b) Was enrolled after July 1, 1998:
 - 1. In a Kentucky high school for at least one hundred forty (140) days of the minimum school term unless exempted by the authority's executive director upon documentation of extreme hardship, while meeting the Kentucky educational excellence scholarship curriculum requirements, and was enrolled in a Kentucky high school at the end of the academic year; or
 - 2. In a Kentucky high school for the fall academic term of the senior year and who:
 - a. Was enrolled during the entire academic term;
 - b. Completed the high school's graduation requirements during the fall academic term; and
 - c. Was not enrolled in a secondary school during any other academic term of that academic year; and
 - 3. Has a grade point average of 2.5 or above at the end of any academic year beginning after July 1, 1998, or at the end of the fall academic term for a student eligible under subparagraph 2. of this paragraph; and
 - (c) Is not a convicted felon;
- (9) "Eligible postsecondary student" means a citizen, national, or permanent resident of the United States and Kentucky resident, as determined by the participating institution in accordance with criteria established by the council for the purposes of admission and tuition assessment, who:
 - (a) Earned a Kentucky educational excellence scholarship base, supplemental, or base and supplemental final award;
 - (b) Has the required postsecondary G.P.A. required under KRS 164.7881;
 - (c) Has remaining semesters of eligibility under KRS 164.7881;
 - (d) Is enrolled in a participating institution as a part-time or full-time student; and
 - (e) Is not a convicted felon;
- (10) "Full-time student" means a student enrolled in a postsecondary program of study that meets the full-time student requirements of the participating institution in which the student is enrolled;
- (11) "Grade point average" means the grade point average earned by an eligible student and reported by the high school or participating institution in which the student was enrolled based on a scale of 4.0 or its equivalent if the high school or participating institution that the student attends does not use the 4.0 grade scale;
- (12) "High school" means any Kentucky public high school, and any private, parochial, or church school located in Kentucky that has been certified by the Kentucky Board of Education as voluntarily complying with curriculum, certification, and textbook standards established by the Kentucky Board of Education under KRS 156.160;
- (13) "KEES" means Kentucky educational excellence scholarship;
- (14) "KEES curriculum" means five (5) courses of study, except for students who meet the criteria of subsection (8)(b)2. of this section, in an academic year as determined in accordance with an administrative regulation promulgated by the authority;
- (15) "Kentucky educational excellence scholarship" means a scholarship provided under KRS 164.7871 to 164.7885;
- (16) "Kentucky educational excellence scholarship trust fund" means the Wallace G. Wilkinson Kentucky educational excellence scholarship trust fund;
- (17) "Maximum award amount" means the sum of the base scholarship amount earned by an eligible high school student in each academic year of high school study plus any supplemental award earned by an eligible high school student or earned pursuant to KRS 164.7879(3)(c). The amount so determined shall be the maximum amount available to the eligible postsecondary student for any award period;
- (18) "Participating institution" means an "institution" as defined in KRS 164.001 that actively participates in the federal Pell Grant program, executes a contract with the authority on terms the authority deems necessary or appropriate for the administration of its programs, and:
 - (a)
 - 1. Is publicly operated; or
 - 2. Is licensed by the Commonwealth of Kentucky and has operated for at least ten (10) years, offers an associate or baccalaureate degree program of study not comprised solely of sectarian instruction, and admits as regular students only high school graduates or recipients of a general equivalency diploma or students transferring from another accredited degree granting institution; or
 - 3. Is designated by the authority as an approved out-of-state institution, which shall include an out-of-state public institution in a contiguous state that participates in a Council on Postsecondary Education approved tuition reciprocity agreement, that offers a degree program in a field of study that is not offered at any institution in the Commonwealth; and

- (b) Continues to commit financial resources to student financial assistance programs;
- (19) "Part-time student" means a student enrolled in a postsecondary program of study who does not meet the full-time student requirements of the participating institution in which the student is enrolled and who is enrolled for at least six (6) credit hours or the equivalent for an institution that does not use credit hours; and
- (20) "Supplemental award" means commitment of scholarship funds under KRS 164.7879(3)."

Representative Henderson moved that the House refuse to concur in the Senate Committee Substitute and Senate Amendment No. 1 to **HB 291**. Agreed.

HB 334, with Senate Committee Amendments attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Committee Amendment No. 1 to **HB 334** is as follows:

HB 334, On page 202, between lines 15 and 16, by inserting the following:

"Section 171. KRS 45.560 is amended to read as follows:

As used in KRS 45.570 to 45.640, unless the context requires otherwise:

- (1) "Contract" means any binding legal relationship between the Commonwealth of Kentucky and a contractor for supplies and services, including construction, or for the use of Commonwealth property, in which the parties, respectively, do not stand in the relationship of employer and employee.
- (2) "Contractor" means any prime contractor holding a contract with the Commonwealth of Kentucky government, and shall include subcontractors when the context so indicates.
- (3) "Contracting agency" means the person or persons, board, commission, court, council, governing body, employee, or official which is authorized by law to purchase or contract for supplies, materials, services, or equipment for the state.
- (4) "Subcontractor" means any person, including a corporation, partnership, or business association of any kind, who holds an agreement or purchase order to perform all or any part of the work or to make or furnish any article or service required for the performance of a negotiated contract or of a subcontract entered thereunder.
- (5) "Cabinet" means the Finance and Administration Cabinet.
- (6) "Equal employment opportunity job categories" means the major employment classifications described by the United States Equal Employment Opportunity Commission.

Section 172. KRS 45.570 is amended to read as follows:

- (1) Except in contracts exempted in accordance with KRS 45.590, all government contracting agencies of the Commonwealth of Kentucky, any county, city, town, school district, water district, hospital district, or other political subdivision of the state shall include in every directly or indirectly publicly funded contract for supplies, materials, services, or equipment hereinafter entered into the following provisions:
- (2) During the performance of this contract, the contractor agrees as follows:
 - (a) The contractor ~~shall~~will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age ~~forty (40) and over, disability, veteran status~~, or national origin;
 - (b) The contractor ~~shall~~will take affirmative action in regard to employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, so as to ensure that applicants are employed and that employees during employment are treated without regard to their race, color, religion, sex, age ~~forty (40) and over, disability, veteran status~~, or national origin; ~~however, when layoffs occur, employees shall be laid off according to seniority with the youngest employee being laid off first. When employees are recalled, this shall be done in the reverse of the way the employees were laid off;~~
 - (c) The contractor ~~shall~~will state in all solicitations or advertisements for employees placed by or on behalf of the contractor that all qualified applicants ~~shall~~will receive consideration for employment without regard to race, color, religion, sex, age ~~forty (40) and over, disability, veteran status~~, or national origin;
 - (d) The contractor ~~shall~~will post notices in conspicuous places, available to employees and applicants for employment, setting forth the provisions of the nondiscrimination clauses required by this section; and
 - (e) The contractor ~~shall~~will send a notice to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding advising the labor union or workers' representative of the contractor's commitments under the nondiscrimination clauses.

Section 173. KRS 45.590 is amended to read as follows:

A contractor or subcontractor otherwise subject to the provisions of KRS 45.570 is exempt as to any affirmative action or

reporting requirements if:

- (1) The contract or subcontract awarded is in the amount of five hundred thousand dollars (\$500,000)~~[\$250,000]~~ or less, and the amount of the contract is not a subterfuge to avoid compliance with the provisions of KRS 45.560 to 45.640;
- (2) The contractor or subcontractor utilizes the services of fewer than eight (8) employees during the course of the contract;
- (3) The contractor or subcontractor employs only family members or relatives;
- (4) The contractor or subcontractor employs only persons having a direct ownership interest in the business, and such interest is not a subterfuge to avoid compliance with the provisions of KRS 45.560 to 45.640; or
- (5) The subcontract is below the second-tier level of contracts.

Section 174. KRS 45.600 is amended to read as follows:

- (1) Any party not otherwise exempted by KRS 45.590 and intending to submit a bid on any contract covered by the provisions of KRS 45.560 to 45.640 shall within a time frame set by the contracting agency in the bid documents~~[reasonable period of time as determined by the Finance and Administration Cabinet]~~ submit to the contracting agency~~[and the cabinet]~~ upon being declared the successful bidder:
 - (a) A statement of intent to comply in full with all requirements of the Kentucky Civil Rights Act, and to submit data required by KRS 45.560 to 45.640 upon being designated the successful bidder.
 - (b) A breakdown of the bidding party's existing work force, indicating the race, ethnicity, gender, and equal employment opportunity job category~~[sex, age, position held, county and state of residence, and date of employment]~~ of each employee.
 - (c) A breakdown of subcontracts valued at five hundred thousand dollars (\$500,000) or more, indicating specific items of work on the contract for which the contractor has submitted or intends to submit a bid to the Commonwealth of Kentucky.

The reports~~[This report]~~ shall be submitted in a manner as shall be prescribed by the cabinet and on forms devised by the cabinet and supplied by the contracting agency.

- (2) Within ten (10) days after the receipt of the reports~~[this report]~~, the cabinet shall determine whether the bidding party's work force is reflective of the percentage of available minorities and women in the area from which the bidding party's employees are drawn. If a determination is made that the bidding party's work force is reflective of the percentage of available minorities and women in this drawn area, the bidding party shall be "certified" and be thereby qualified to bid on any contract covered by KRS 45.560 to 45.640 without filing additional data for a period of one (1) year~~[six (6) months]~~.
- (3) If it is determined by the cabinet that the bidding party's work force reflects an underutilization of minorities or women, the bidding party and contracting agency shall be so notified, and no certification shall be issued. The bidding party shall then have the option of filing with the contracting agency and the cabinet, an affirmative action program, indicating goals and timetables for recruiting and hiring minorities or women throughout the contractors' work force. The cabinet shall be available, upon the request of any contractor, to furnish technical assistance in fulfilling the requirements of KRS 45.560 to 45.640.
- (4) If the bidding party is subsequently awarded the contract being sought, failure to comply with the goals and timetables set forth in the affirmative action plan shall be an unlawful practice under KRS 45.560 to 45.640 and shall constitute a material breach of the contract.
- (5) If the cabinet determines that the submitted affirmative action program does not fulfill the provisions of KRS 45.560 to 45.640, the bidding party and contracting agency shall be so notified, and no certification shall be granted.
- (6) If the bidding party's work force is not reflective of the percentage of minorities or women in the drawing area and the bidding party~~[he]~~ has complied with all other affirmative action requirements in KRS 45.560 to 45.640, the bidding party~~[he]~~ may certify by verified affidavit that the bidding party~~[he]~~ has made every reasonable effort to comply with said percentage requirements, and the bidding party~~[he]~~ shall thereafter be entitled to all the benefits of KRS 45.560 to 45.640.

Section 175. KRS 45.610 is amended to read as follows:

- (1) For the length of the contract, each contractor shall hire minorities and women from other sources within the drawing area, should the union with which he has collective bargaining agreements be unwilling to supply sufficient minorities or women to satisfy the agreed upon goals and timetables.
- (2) Each contractor shall, for the length of the contract, furnish such information as required by KRS 45.560 to 45.640 and by such rules, regulations, and orders issued pursuant thereto and will permit access to all books and records pertaining to his employment practices and work sites by the contracting agency and the cabinet for purposes of investigation to ascertain compliance with KRS 45.560 to 45.640 and such rules, regulations, and orders issued pursuant thereto.

Section 176. KRS 45.620 is amended to read as follows:

- (1) The Finance and Administration Cabinet may investigate the employment practices of any contractor or subcontractor to determine if any of the provisions of KRS 45.560 to 45.640 have been violated. If any contractor is found by the cabinet to have engaged in an unlawful practice under KRS 45.560 to 45.640~~[this chapter]~~ during the course of performing under a contract or subcontract covered under KRS 45.560 to 45.640, the cabinet shall so certify to the contracting agency

and such certification shall be binding upon the contracting agency unless it is reversed in the course of judicial review.

- (2) If the contractor is found to have committed an unlawful practice under KRS 45.560 to 45.640, the contracting agency may cancel or terminate the contract, conditioned upon a program for future compliance approved by the contracting agency and the cabinet. The contracting agency may declare such a contractor ineligible to bid on further contracts with that agency until such time as the contractor complies in full with the requirements of KRS 45.560 to 45.640.
- (3) The equal employment provisions of KRS 45.560 to 45.640 may be met in part by a contractor by subcontracting to a minority or woman contractor or subcontractor. For the provisions of KRS 45.560 to 45.640, a minority or woman contractor or subcontractor shall mean a business that is owned and controlled by one (1) or more persons disadvantaged by racial, ~~or~~ ethnic, or gender circumstances.

Section 177. KRS 45.630 is amended to read as follows:

Any provision of KRS 45.560 to 45.640 notwithstanding, no contractor shall be required to terminate an existing employee ~~upon proof that that employee was employed prior to the date of the contract~~.

SECTION 178. A NEW SECTION OF KRS 45.560 TO 45.640 IS CREATED TO READ AS FOLLOWS:

The Finance and Administration Cabinet may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to carry out the provisions of KRS 45.560 to 45.640.; and

By renumbering the subsequent sections accordingly.

The Senate Committee Amendment No. 2 to HB 334 is as follows:

HB 334, On page 203, after line 10, by inserting the following:

"Section 174. KRS 248.707 is amended to read as follows:

- (1) The Agricultural Development Board is created as a political subdivision of the Commonwealth to perform essential governmental and public functions by administering funds to provide economic assistance to the agriculture community of the Commonwealth. The board shall be a public agency within the meaning of KRS 61.805, 61.870, and other applicable statutes.
- (2) The board shall consist of sixteen (16)~~fifteen (15)~~ members as follows:
 - (a) Five (5)~~Four (4)~~ voting members or their designees, as follows:
 1. The Governor of the Commonwealth of Kentucky, who shall serve as chair;
 2. The Commissioner of the Kentucky Department of Agriculture, who shall serve as vice chair and shall serve as chair in the absence of the Governor;
 3. The secretary of the Cabinet for Economic Development;~~and~~
 4. The director of the University of Kentucky Cooperative Extension Service; and
 5. The president of Kentucky State University; and
 - (b) Eleven (11) voting members appointed by the Governor, who shall be geographically distributed throughout the state and subject to confirmation by the House of Representatives and Senate as provided in KRS 11.160(2). The members shall be as follows:
 1. Seven (7) active farmers, at least four (4) of whom shall be from counties that are substantially tobacco-impacted, as determined by a formula that includes tobacco income as a percentage of total personal income in the county, and at least two (2) of whom shall have experience in agricultural diversification;
 2. One (1) representative of the Kentucky Farm Bureau;
 3. One (1) representative of the Kentucky Chamber of Commerce, who shall be an agribusiness person;
 4. One (1) attorney with farm experience and familiarity with agricultural policy; and
 5. One (1) agricultural lender.
- (3) The members appointed under subsection (2)(b)2. and 3. of this section shall be chosen from a list of three (3) nominees submitted to the Governor by each of the respective organizations.
- (4) Consideration shall be given to racial and gender equity in the appointment of board members.
- (5) The majority of the voting members shall be active farmers.
- (6) Members of the board shall be reimbursed for expenses incurred in the performance of their duties.
- (7) Except as provided in paragraphs (a) to (d) of this subsection, the terms of the members appointed by the Governor shall be for four (4) years and until their successors are appointed and confirmed. A vacancy on the board shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members may be reappointed. The initial appointments shall be for staggered terms, as follows:
 - (a) Two (2) members shall be appointed for one (1) year;

2007 Regular Session

- (b) Three (3) members shall be appointed for two (2) years;
 - (c) Three (3) members shall be appointed for three (3) years; and
 - (d) Three (3) members shall be appointed for four (4) years.
- (8) The Governor shall convene the first meeting of the board by August 1, 2000.
 - (9) The board shall meet monthly, or at the call of the chair or a majority of the voting members.
 - (10) A quorum of the board shall consist of nine (9)~~eight (8)~~ voting members. A majority of the voting members present may act upon matters before the board.
 - (11) The board shall be attached to the Office of the Governor for administrative purposes."

The Senate Committee Amendment No. 3 Title to **HB 334** is as follows:

HB 334, Amend title to read:

"AN ACT relating to postsecondary education."

Representative Brinkman moved that the House concur in the Senate Committee Amendment No. 1 to **HB 334**. Agreed.

Representative Brinkman moved that the House concur in the Senate Committee Amendment No. 2 to **HB 334**. Agreed.

Representative Brinkman moved that the House concur in the Senate Committee No. 3 Title to **HB 334**. Agreed.

Representative Brinkman moved that **HB 334**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 27, 2007, roll call on **HB 334** - Appendix.)

HB 334, as amended by the Senate, was passed and the title agreed to.

Representative Brinkman moved that the vote by which **HB 334**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 400, with Senate Committee Substitute and Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendments. Agreed.

The Senate Committee Substitute to **HB 400** is as follows:

HB 400, AN ACT relating to the Kentucky State Fair Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.140 is amended to read as follows:

(1) The State Fair Board:

- (a) Shall have the custody and control of ~~such~~ property ~~as~~ now ~~is~~ under its custody and control, and off ~~such~~ property that ~~as~~ may hereafter be placed under its control or transferred to it by the State Property and Buildings Commission or any other person or agency, for any purposes mentioned in this section. ~~and~~ The physical properties ~~so~~ under its custody and control or transferred to it include those ~~are hereinafter~~ referred to in this section, and in KRS 247.150 and 247.160, as the "state fairgrounds" and ~~an area in a city of the first class to be used~~ as an "exhibition center."
- (b) May erect and repair buildings on the state fairgrounds and exhibition center, make any and all necessary or proper improvements, and generally carry on a program of development and extension of facilities designed to accomplish the objectives defined in this section.
- (c) Shall promote the progress of the state and stimulate public interest in the advantages and development of the state by providing the facilities of the state fairgrounds for agricultural and industrial exhibitions, public gatherings, cultural activities, and other functions calculated to advance the educational, physical, and cultural interests of the public and by providing the facilities of the exhibition center for conventions, trade shows, public gatherings, and other functions calculated to advance and enhance the visitor industry, economy, entertainment, cultural and educational interests of the public.
- (d) May hold an annual fair on the state fairgrounds, for the exhibition of agricultural, mechanical, horticultural, dairy, forestry, poultry, livestock, mineral, and all other industrial interests of the state, and prepare premium lists and establish rules of exhibition for the fair.
- (e) May purchase liability insurance for the members and executive officers exempted from the classified service of the state by KRS 18A.115.

- (f) Shall operate the North American International Livestock Exposition, which shall be under the direction of a director appointed by the Governor upon the recommendation of the North American International Livestock Exposition Executive Committee.

(g) May enter into written agreements with other persons for the State Fair Board to manage, supervise, operate, or provide other related services with respect to the Louisville Arena referenced in 2006 Ky. Acts ch. 252, Part II, G., 1., project 001, and associated facilities. Any agreement under this subsection shall be conditioned upon compliance of all parties to the agreement with the applicable provisions of KRS Chapter 45A, the provisions of the Kentucky Open Records Act, KRS 61.870 to 61.884, and the Kentucky Open Meetings Act, KRS 61.800 to 61.850.

- (2) The State Fair Board may take, acquire and hold property, and all interest therein, by deed, gift, devise, bequest, lease, or eminent domain, or by transfer from the State Property and Buildings Commission, and may dispose of any property so acquired in the manner provided by law. In the exercise of its power of eminent domain it shall proceed in the manner provided in the Eminent Domain Act of Kentucky.

Section 2. KRS 247.150 is amended to read as follows:

- (1) The State Fair Board may arrange with the county judge/executive or the officer that has charge of the police force of any county, ~~or~~ city, or consolidated local government in which the state fair is held, for the proper policing of the state fairgrounds, and may arrange with the state for the policing of the state fairgrounds by the State Police.**
- (2) The State Fair Board may arrange with the mayor or the officer that has charge of the police force of any county, ~~or~~ city, or consolidated local government in which the exhibition center or any premises that is the subject of an agreement under paragraph (g) of subsection (1) of Section 1 of this Act is located for the proper policing of the exhibition center or other premises, and may arrange with the state for the policing of the exhibition center or other premises by the State Police.**
- (3) If the State Fair Board is unable to arrange with a city, county or state authority for police protection, it may appoint, or may delegate to any agent or employee the power to appoint, subject to the approval of the State Fair Board, necessary special police to properly police the state fairgrounds, ~~the~~ and the exhibition center, or any premises affected by an agreement under paragraph (g) of subsection (1) of Section 1 of this Act. Such police officers shall be ~~are~~ vested with the powers and charged with the duties of peace officers.**

Section 3. KRS 247.190 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, all revenues derived by the State Fair Board from the use of properties and facilities under its custody and control shall be used exclusively for the purpose of defraying the expenses of the board, the cost of the management and operation of such properties and facilities, the payment of interest and principal upon any indebtedness incurred by the board for such properties and facilities, the creation of adequate reserves for the repair and replacement thereof, and for the financing of further extensions, improvements, and additions thereto. Included in the cost of operation may be such promotional activities as the State Fair Board may determine upon as calculated to stimulate and increase the use and the revenues of such facilities, and to increase and stimulate the interest and usefulness of the State Fair. Any surplus revenues remaining after full provision for the above purposes shall be used to reduce the admission fees and charges to the public for attendance upon the State Fair and for public use by the citizens of the Commonwealth of the facilities of the State Fair Board, and shall on no account be appropriated to any other agency or function.**
- (2) If the State Fair Board enters into an agreement under paragraph (g) of subsection (1) of Section 1 of this Act, the State Fair Board shall be prohibited from using any funds in its possession in excess of payments received by the State Fair Board under the agreement to pay any expenses, costs, losses, or other claims relating to the arena, building, location, or facility identified in the agreement. The State Fair Board shall not incur any expense, cost, loss, or claim in relation to the agreement not expressly provided for as a valid obligation of the State Fair Board under the terms of the agreement. The limitations in this subsection shall be in addition to any requirements specified in paragraph (g) of subsection (1) of Section 1 of this Act.**
- (3) The State Fair Board shall generally cause its funds to be deposited in the State Treasurer's office, to be withdrawn on appropriate vouchers approved by the board, but may create special accounts in other depositories for the purpose of securing the prompt payment of interest and principal on any of its bonded indebtedness if in the judgment of the board, or, if as determined by competitive bids, the creation of such special accounts and depositories is advantageous and economical to the board.**

- (4)~~(3)~~ An annual accounting of the funds of the state fair board shall be made by the Auditor of Public Accounts and reported to the Governor for the benefit of Governor and the General Assembly.**

Section 4. The new section of KRS Chapter 65 created in Section 4 of 2007 Ky. Acts ch. 95 (House Bill 549/EN), as it became law, is amended to read as follows:

- (1) Any city or county may establish a local development area pursuant to this section, subject to the following conditions:
- (a) A local development area shall be a previously undeveloped tract of land;
 - (b) No more than one thousand (1,000) acres shall be approved for a local development area in any twelve (12) month

period in any county;

- (c) The establishment or expansion of the local development area shall not cause the assessed value of taxable real property within all local development areas and development areas of the city or county establishing the local development area to exceed twenty percent (20%) of the assessed value of all taxable real property within its jurisdiction. For the purpose of determining whether the twenty percent (20%) threshold has been met, the assessed value of taxable real property within all of the local development areas and development areas shall be valued as of the establishment date; and
- (d) Unless the ordinance establishing a local development area requires an earlier ~~termination~~ date, a local development area shall cease to exist on the termination date.

(2) A city or county shall take the following steps to establish or modify a local development area:

- (a) The city or county shall hold a public hearing to solicit input from the public regarding the local development area. The city or county shall advertise the hearing by causing to be published, in accordance with KRS 424.130, notice of the time, place, and purpose of the hearing and a general description of the boundaries of the proposed local development area. The notice shall include a summary of the projects proposed for the local development area;
- (b) After the public hearing, the city or county shall adopt an ordinance which shall include the following provisions:
 1. A description of the boundaries of the local development area;
 2. The establishment date and the termination date;
 3. A name for the local development area for identification purposes;
 4. Approval of any agreements relating to the local development area;
 5. A provision establishing a special fund for the local development area or any project within the local development area;
 6. A requirement that any entity other than the governing body that receives financial assistance under the local development area ordinance, whether in the form of a grant, loan, or loan guarantee, shall make periodic accounting to the governing body;
 7. A provision for periodic analysis and review by the governing body of the development activity in the local development area;
 8. Designation of the agency or agencies responsible for oversight, administration, and implementation of the local development ordinance; and
 9. Any other provisions, findings, limitations, rules, or procedures regarding the proposed local development area or a project within the local development area and its establishment or maintenance deemed necessary by the city or county; and
- (c) If incremental revenues or other resources are to be pledged from taxing districts other than the city or county establishing the local development area, a local development area agreement shall be executed in accordance with the provisions of subsection (4) of this section.

(3) Funding for projects in a local development area shall be provided in accordance with Section 9 *of 2007 Ky. Acts ch. 95 (House Bill 549/EN), and may include the job development assessment permitted under subsection (6) of this section*~~[of this Act]~~.

(4) A local development area agreement shall be executed among the agencies and taxing districts involved in administering, providing financing, or pledging incremental revenues within the local development area. The local development area agreement shall be adopted by a city or county by ordinance and by any other taxing district or agency by resolution, and shall include but not be limited to the following provisions:

- (a) Identification of the parties to the local development area agreement and the duties and responsibilities of each entity under the agreement;
- (b) Specific identification of the tax increments released or pledged by type of tax by each taxing district;
- (c) The anticipated benefit to be received by each taxing district for the release or pledge, including:
 1. A detailed summary of old revenues collected and projected new revenues for each taxing district on an annual basis for the term of the local development area agreement; and
 2. The maximum amount of incremental revenue to be paid by each taxing district and the maximum number of years the payment will be effective;
- (d) A detailed description of the local development area;
- (e) A description of each proposed project, including an estimate of the costs of construction, acquisition, and development;
- (f) A requirement that pledged incremental revenues *and proceeds from any job development assessment imposed under subsection (6) of this section* will be deposited in a special fund pursuant to Section 11 of *2007 Ky. Acts ch. 95 (House Bill 549/EN)*~~[this Act]~~, including the timing and procedure for depositing incremental revenues and

other pledged amounts into the special fund;

- (g) Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the local development area agreement of any incremental revenues pledged to the special fund if increment bonds are outstanding that are secured by a pledge of those incremental revenues;
- (h) The commencement date, activation date, and termination date; and
- (i) Any other provisions not inconsistent with Sections 1 to 22 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~ deemed necessary or appropriate by the parties to the agreement.

(5) Any pledge of incremental revenues in a local development area agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date set forth in the local area development agreement, supersede any statute, ordinance, or resolution regarding the application or use of incremental revenues. No ordinance in conflict with a local development area agreement shall be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances or resolutions pledging incremental revenues on a subordinate basis to any existing pledges may be adopted.

(6) (a) Any city, county, or combination of cities and counties establishing a local development area may, as a condition of employment, impose a job development assessment against each person employed in the local development area on income earned in the local development area through the adoption of an ordinance. The imposition of the assessment shall be subject to the following:

- 1. The job development assessment shall be imposed only against persons whose jobs are newly created as a result of a project within the local development area. A job is not newly created if it occurs due to the relocation of a job from another location within the Commonwealth;
- 2. The person against whom the assessment is imposed shall be subject to the state tax imposed by KRS 141.020; and
- 3. The job development assessment or any combination of job development assessments imposed by a city, county, or combination of cities and counties pursuant to the authority granted in this subsection shall not exceed two percent (2%) of gross wages earned in the local development area by a person.

(b) 1. Each person against whom an assessment is imposed shall be entitled to a credit against any jurisdictionwide local occupational license fee levied by the city, county, or combination of cities and counties that established the local development area if the jurisdictionwide levy is in existence at the time the assessment is imposed, and if the jurisdictionwide levy has not previously been made available as a credit against assessments imposed under Subchapter 23, 24, or 26 of KRS Chapter 154.

- 2. The amount of the credit shall not exceed the amount of the jurisdictionwide occupational license fee paid to that city, county, or combination of cities and counties by the person subject to the assessment.
- 3. If the city, county, or combination of cities and counties imposing the job development assessment within the local development area does not levy a jurisdictionwide occupational license fee, the person shall not be entitled to a credit against any other city's or county's occupational license fee.

(c) Each employer in the local development area shall, for each employee subject to the job development assessment levied pursuant to this section:

- 1. Collect the job development assessment by deducting the job development assessment from each paycheck of the employee;
- 2. Promptly remit the job development assessment to the official charged with collecting revenues in the local development area;
- 3. Make its payroll, books, and records available to the official charged with collecting revenues in the local development area at a reasonable time as specified by the city, county, or cities and counties establishing the local development area; and
- 4. File with the official charged with collecting revenues in the local development area any documentation with regard to the job development assessment as required by the city, county, or cities and counties establishing the local development area.

(d) Any assessment of a person under this section shall permanently lapse on the earlier of:

- 1. The termination date;
- 2. The date on which any bonds issued in connection with the project are retired; or
- 3. The date on which any loans or other financing incurred in connection with the establishment of the local development area mature or are paid in full.

(e) If a company against whose employees an assessment is levied under this section enters into an agreement with the economic development authority under Subchapter 23, 24, or 26 of KRS Chapter 154 allowing the company to impose a job development assessment fee as part of that agreement, the total assessment levied against the employee for state inducements and the local development area shall not exceed six percent (6%), subject to paragraph (f) of this subsection.

(f) If an eligible company under Subchapter 23, 24, or 26 of KRS Chapter 154 locates or expands within a local development area, the assessment imposed under this section shall not exceed the lesser of two percent (2%) or the difference between two percent (2%) and the local occupational license fee used as a credit against the assessments granted under Subchapter 23, 24, or 26 of KRS Chapter 154.

Section 5. The new section of KRS Chapter 65 created in Section 18 of 2007 Ky. Acts ch. 95 (House Bill 549/EN), as it became law, is amended to read as follows:

- (1) The Signature Project Program is hereby established. The purpose of this program is to encourage private investment in the development of major projects that will have a significant impact on the Commonwealth of Kentucky and are judged to be of such a magnitude that the effect upon the location of such project warrants extraordinary public support.
- (2) There shall be two (2) separate initiatives under this program. The first initiative, the criteria and details of which are set forth in paragraph (a) of this subsection, shall apply to qualifying projects that are not the subject of a contract under KRS 65.495 in effect on or before the effective date of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~, but that have a project grant agreement executed pursuant to Section 20 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~ prior to January 1, 2008. The second initiative, the criteria and details of which are set forth in paragraph (b) of this subsection, shall apply to projects that meet the specified requirements on or after January 1, 2008.
 - (a) For projects that are not the subject of a contract under KRS 65.495 in effect on or before the effective date of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~, but that have a project grant agreement executed pursuant to the provisions of Section 20 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~ prior to January 1, 2008:
 1. The criteria for qualification shall be as follows:
 - a. The project shall represent new economic activity in the Commonwealth; and
 - b. The project shall result in a minimum capital investment of two hundred million dollars (\$200,000,000).
 2. The following provisions shall apply to projects that meet the criteria established in subparagraph 1. of this paragraph:
 - a. Section 6 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~ shall not apply to the establishment of a development area;
 - b. The city or county in which the project is located shall adopt an ordinance establishing the development area. The ordinance shall be adopted in accordance with subsection (1)(a), (b), (c), (d), (e), (h), (i), (j), (k), (l), and (m) of Section 7 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~;
 - c. Section 5, subsections (2) and (3) of Section 7 and Sections 9, 10, 11, 12, 13, and 14 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~, relating to local development areas, shall apply;
 - d. An application for state participation shall be submitted as provided in Section 16 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~. The application shall include the information required by subsection (2)(a)1.a. and b. of Section 16 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~;
 - e. The report provided for in subsection (2)(a)3.b. of Section 16 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~ shall not be required, and the certification required by subsection (6)(b) of Section 16 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~ shall not be required;
 - f. A project grant agreement shall be executed in accordance with Section 20 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~; and
 - g. Sections 21 and 22 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~ shall apply.
 3. Projects that meet the criteria established in subparagraph 1. of this paragraph shall be eligible for the following:
 - a. Up to one hundred percent (100%) of approved public infrastructure costs, excluding any sales and use tax paid, may be recovered;
 - b. Up to one hundred percent (100%) of the financing costs associated with approved public infrastructure costs may be recovered;
 - c. In a county containing a city of the first class, the local participation agreement may provide for the release of up to eighty percent (80%) of the increment from the tax levied under KRS 91A.390 as amended by Section 27 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[Section 27 of this Act]~~ derived by the governing body within the project development area. The amount released shall not exceed a base amount of four hundred thousand dollars (\$400,000) in the first year of the local participation agreement, which base amount shall be increased in each subsequent year of the grant agreement by four percent (4%); and
 - d. Up to one hundred percent (100%) of approved signature project costs, excluding any sales and use taxes paid, and up to one hundred percent (100%) of the financing costs associated with approved signature project costs subject to the following:

JOURNAL OF THE HOUSE OF REPRESENTATIVES
2007 Regular Session

- i. The commission shall review proposed expenditures for inclusion in the project grant agreement. The commission may approve the type of expenditures it determines are necessary for completion of the private development; and
- ii. Approved signature project costs shall be detailed in the project grant agreement.

(b) Beginning January 1, 2008:

1. A project shall meet all of the following criteria to be considered for state participation under this program:
 - a. The project shall represent new economic activity in the Commonwealth;
 - b. The project shall result in a minimum capital investment of two hundred million dollars (\$200,000,000);
 - c. The project shall result in a net positive economic impact to the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses. The net positive impact shall be certified to the commission as required by subsection (6)(b) of Section 16 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~; and
 - d. Not more than twenty percent (20%) of the capital investment or twenty percent (20%) of the finished square footage shall be devoted to the support or development of assets that will be utilized for the retail sale of tangible personal property.
2. Projects that meet the criteria established by subparagraph 1. of this paragraph shall comply with all relevant provisions of Sections 1 to 22 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~.
3. Projects that meet the criteria established by subparagraphs 1. and 2. of this paragraph shall be eligible to recover:
 - a. Up to one hundred percent (100%) of approved public infrastructure costs, excluding any sales and use taxes paid;
 - b. Up to one hundred percent (100%) of the financing costs associated with approved public infrastructure costs; and
 - c. Up to one hundred percent (100%) of approved signature project costs, excluding sales and use taxes paid, and up to one hundred percent (100%) of the financing costs associated with approved signature project costs, subject to the following:
 - i. The commission shall review proposed expenditures for inclusion in the project grant agreement. The commission may approve the type of expenditures it determines are necessary for completion of the private development; and
 - ii. Approved signature project costs shall be detailed in the project grant agreement.
- (3) The commission shall review the application, the certification required by Section 16 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~, if applicable, and supporting information as provided in Section 16 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~.
- (4) The commission shall specifically identify the state taxes from which incremental revenues will be pledged. The commission may pledge up to eighty percent (80%) of the incremental revenues from the identified state tax revenues from the footprint of the project, provided that the maximum amount of incremental revenues that may be pledged for a project during the term of the state participation agreement from all approved state taxes shall not exceed one hundred percent (100%) of approved public infrastructure costs, approved signature project costs, and financing costs.
- (5) As part of the approval process, the commission shall determine the following:
 - (a) The footprint of the project;
 - (b) The maximum amount of approved public infrastructure costs, approved signature project costs, and financing costs;
 - (c) That the local revenues pledged to support the public infrastructure of the project, and local revenues pledged to support the overall project are of a sufficient amount to warrant participation of the Commonwealth in the project;
 - (d) The termination date of the project grant agreement, not to exceed thirty (30) years from the activation date; and
 - (e) Any adjustments to be made to old revenues, in determining incremental revenues during each year of the term of the project grant agreement; ~~and~~
 - ~~(f) Any approved signature project costs;~~
- (6) For the purpose of making the certification required by subsection (2) of Section 28 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~, the commission shall review the projected expenditures for tangible personal property used in the construction of a signature project, as defined in subsection (1) of Section 28 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~, and shall establish an approximate percentage of the total anticipated expenditures that are not included in the project grant agreement as approved public infrastructure costs or approved signature project costs. This percentage shall be communicated by the office to the Department of Revenue, which shall use the information in administering the

sales tax refund permitted by Section 28 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~.

- (7) If state income taxes or local occupational license ~~fees~~~~taxes~~ are included for a project that includes office space, the commission shall consider the impact of pledging these taxes on the ability to utilize ~~other~~ economic development tax incentives created under KRS Chapter 154 ~~[projects]~~ at a later date.
- (8) The pledge of state incremental tax revenues of the Commonwealth by the commission shall be implemented through the execution of a project grant agreement between the Commonwealth and the agency, city, or county in accordance with Section 20 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~.

Section 6. The new section of KRS Chapter 65 created in Section 19 of 2007 Ky. Acts ch. 95 (House Bill 549/EN), as it became law, is amended to read as follows

- (1) The Commonwealth Participation Program for Mixed-use Redevelopment in Blighted Urban Areas is hereby established.
- (2) State participation under this program shall be limited to the support of approved public infrastructure costs and costs associated with land preparation, demolition, and clearance determined to be necessary to support private investment or private development projects that benefit the public, where project economics are unable to support or secure necessary financing to undertake the public improvements, land preparation, demolition, and clearance.

- (3) As used in this section:

- (a) "Mixed-use" means a project that includes at least two (2) qualified uses;
- (b) "Qualified use" means:

- 1. Retail;
- 2. Residential;
- 3. Office;
- 4. Restaurant; or
- 5. Hospitality.

To be a qualified use, the use must comprise at least twenty percent (20%) of the total finished square footage of the proposed project or represent twenty percent (20%) of the total capital investment; and

- (c) "Retail" means an establishment predominantly engaged in the sale of tangible personal property subject to the tax imposed by KRS Chapter 139, but shall not include restaurants.
- (4) To be considered for state participation under this program, a project shall:
 - (a) Be located in an area that has three (3) or more of the conditions listed in subsection (3) of Section 5 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~;
 - (b) Be a mixed-use project;
 - (c) Represent new economic activity in the Commonwealth;
 - (d) Result in a capital investment between twenty million dollars (\$20,000,000) and two hundred million dollars (\$200,000,000);
 - (e) Not include any retail establishment that exceeds twenty thousand (20,000) square feet of finished square footage;
 - (f) Include pedestrian amenities and public space; and
 - (g) Result in a net positive economic impact to the Commonwealth, taking into consideration any substantial adverse impact on existing Commonwealth businesses. The net positive impact shall be certified to the commission as required by subsection (6)(b) of Section 16 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~.
- (5) The following costs may be recovered pursuant to this section:
 - (a) Up to one hundred percent (100%) of approved public infrastructure costs; and
 - (b) Up to one hundred percent (100%) of expenses for land preparation, demolition, and clearance necessary for the development to occur.
- (6) The commission shall review the application, the certification required by Section 16 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~, and supporting information as provided in Section 16 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~.
- (7) The commission shall specifically identify the state taxes from which incremental revenues will be pledged. The commission may pledge up to eighty percent (80%) of the incremental revenues from the identified state tax revenues from the footprint of the project, provided that the maximum amount of incremental revenues that may be pledged for a project during the term of the state participation agreement from all approved state taxes shall not exceed the costs and expenses determined under subsection (5) of this section.
- (8) As part of the approval process, the commission shall determine the following:
 - (a) The footprint of the project;
 - (b) That the proposed project meets the requirements established by subsection (4) of this section;

- (c) The maximum amount of approved public infrastructure costs and expenses for land preparation, demolition, and clearance;
 - (d) That the local revenues pledged to support the public infrastructure of the project and local revenues pledged to support the overall project are of a sufficient amount to warrant participation of the Commonwealth in the project;
 - (e) The termination date of the project grant agreement; and
 - (f) Any adjustments to be made to old revenues, in determining incremental revenues during each year of the term of the project grant agreement.
- (9) If state income taxes or local occupational licenses ~~fees/taxes~~ are included for a project that includes office space, the commission shall consider the impact of pledging these taxes on the ability to utilize ~~other~~ economic development tax incentives created under KRS Chapter 154~~projects~~ at a later date.
- (10) The pledge of state incremental tax revenues of the Commonwealth by the commission shall be implemented through the execution of a project grant agreement between the Commonwealth and the agency, city, or county in accordance with Section 20 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~this Act~~.

Section 7. The new section of KRS Chapter 65 created in Section 20 of 2007 Ky. Acts ch. 95 (House Bill 549/EN), as it became law, is amended to read as follows:

- (1) The terms and conditions of the project grant agreement shall be negotiated between the commission and the agency. The project grant agreement shall include but not be limited to the following provisions:
- (a) Identification of the parties to the project grant agreement and the duties and responsibilities of each party to the project grant agreement;
 - (b) The specific identification of the state tax revenues, by type of tax, to be released or pledged by the Commonwealth for the project;
 - (c)
 - 1. A detailed summary of old revenues collected and projected new revenues for the Commonwealth on an annual basis for the term of the project grant agreement; and
 - 2. The maximum amount of incremental revenue to be released by the Commonwealth and the maximum number of years the pledge of incremental revenues will be effective;
 - (d) A detailed description of each project that is the subject of the project grant agreement, including an estimate of the costs of construction or acquisition and development;
 - (e) Identification of the project footprint from which the state incremental revenues pledged by the Commonwealth are to be derived;
 - (f) The approved public infrastructure costs and, when applicable, approved signature project costs, ~~approved~~ financing costs, and ~~approved~~ costs relating to land preparation, demolition, and clearance that may be recovered;
 - (g) The minimum capital investment required, and the date by which the minimum capital investment is expected to occur;
 - (h) Terms of default and remedies, provided that no remedy shall permit the withholding by any party to the project grant agreement of any incremental revenues if increment bonds are outstanding that are secured by a pledge of those incremental revenues;
 - (i) The termination date;
 - (j) A requirement that the agency, city, or county annually certify to the office the use of incremental revenues for the payment of approved project costs within the development area;
 - (k) A requirement that the agency shall utilize the portion of incremental revenues pledged pursuant to a project grant agreement that exceeds, in a given year, the amounts needed to:
 - 1. Pay the current financing costs; and
 - 2. Maintain a fully funded reserve;
 to provide for the retirement or defeasance of all or a portion of the remaining financing costs related to approved public infrastructure costs, and approved signature project costs secured by the incremental revenues;
 - (l) A requirement that the agency, city, or county make periodic accountings to the office;
 - (m) A requirement that the office monitor and verify approved public infrastructure costs, ~~financing costs and~~ approved signature project costs, financing costs, costs relating to land preparation, demolition and clearance, and minimum capital investment; and
 - (n) For a signature project, the eligible refund percentage for the sales and use tax as permitted under Section 28 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~this Act~~, and as determined by the commission pursuant to subsection (6) of Section 18 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~this Act~~; and
 - (o) Any other provisions not inconsistent with Sections 1 to 22 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~this Act~~

deemed necessary or appropriate by the parties to the project grant agreement.

- (2) Any pledge of incremental revenues in a project grant agreement shall be superior to any other pledge of revenues for any other purpose and shall, from the activation date to the termination date, supersede any statute or ordinance regarding the application or use of incremental revenues. An ordinance in conflict with a project grant agreement shall not be adopted while any increment bonds secured by that pledge remain outstanding. Ordinances pledging increments on a subordinate basis to any existing pledges may be adopted.
- (3) Any project grant agreement shall be made on the basis of automatic year-to-year renewals, with the option to discontinue upon sixty (60) days' notice before the end of any annual renewal ~~termination~~ date of the project grant agreement.

Section 8. The new section of KRS Chapter 65 created in Section 21 of 2007 Ky. Acts ch. 95 (House Bill 549/EN), as it became law, is amended to read as follows:

- (1) (a) Prior to any incremental revenues being released by the Commonwealth for any project, the office shall certify that the minimum capital investment has been made as required by the project grant agreement.
- (b) Incremental revenues received after the activation date but prior to certification of the minimum capital investment being made shall be held in a non-interest bearing escrow account by the Commonwealth until the minimum capital investment is certified by the office. The incremental revenues shall be released to the agency upon certification. If the minimum capital investment is not certified within the time period established by the commission in the project grant agreement, the escrow shall be forfeited to the Commonwealth.
- (2) The office shall monitor all project grant agreements and shall verify ~~for~~ each project expenditure identified as approved public infrastructure costs and where applicable, financing costs, approved signature project costs and expenses for land preparation, demolition and clearance.
- (3) The office shall track the amount of incremental revenues released to each agency under each project grant agreement.
- (4) The office shall prepare a quarterly report for the commission updating the status of each project subject to a project grant agreement, including expenditures qualifying as approved public infrastructure costs and, where applicable, financing costs, approved signature project costs, and expenses for land preparation, demolition and clearance to date and incremental revenues from the Commonwealth released to date.

Section 9. The new section of KRS 65.680 to 65.699 created in Section 24 of 2007 Ky. Acts ch. 95 (House Bill 549/EN), as it became law, is amended to read as follows:

Effective on the effective date of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~, the provisions of KRS 65.680 to 65.699 shall apply only to development areas which are:

- (1) Established under KRS 65.686 by a city or county prior to the effective date of 2007 Ky. Acts ch. (House Bill 549/EN)~~;~~~~[this Act]; and~~
- (2) Subject to the provisions of a grant contract executed prior to the effective date of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]; and~~
- (3) Any city or county that established a development area pursuant to KRS 65.686 or levied an assessment fee pursuant to KRS 65.6851 prior to the effective date of 2007 Ky. Acts ch. 95 (House Bill 549/EN) may amend or alter the development area or the assessment fee after the effective date of 2007 Ky. Acts ch. 95 (House Bill 549/EN) in accordance with the provisions established by KRS 65.680 to 65.699. Any amendment or alteration shall not extend the termination date beyond that permitted by KRS 65.680 to 65.699.

Section 10. KRS 131.020, as amended in Section 26 of 2007 Ky. Acts ch. 95 (House Bill 549/EN), as it became law, is further amended to read as follows:

- (1) The Department of Revenue, headed by a commissioner appointed by the secretary with the approval of the Governor, shall be organized into the following functional units:
 - (a) Office of the Commissioner of the Department of Revenue, which shall include but not be limited to the Division of Tax Increment Financing, headed by a director appointed by the secretary of the Finance and Administration Cabinet. The division shall analyze and assist in implementing proposed state tax increment financing projects, including working with other government agencies to gather and evaluate the necessary tax related data for these proposed projects. The division shall work with the project agency in administering the project grant agreement ~~[grant contract]~~ and shall serve as the record keeping unit for all state tax increment financing programs established by Sections 17, 18, and 19 of 2007 Ky. Acts ch. 95 (House Bill 549/EN), KRS 65.490 to 65.499, and KRS 65.690 to KRS 65.699~~[projects]~~;
 - (b) Division of Legislative Services, headed by a division director who shall report to the commissioner of the Department of Revenue. The division shall perform such duties as providing support to the commissioner's office; managing the department's legislative efforts, including developing and drafting proposed tax legislation; coordinating review of proposed legislation, and coordinating development of administrative regulations; providing technical support and research assistance to all areas of the department; performing studies, surveys, and research projects to assist in policy-making decisions; and performing various miscellaneous duties, including working on special projects and conducting training;

- (c) Office of Processing and Enforcement, headed by an executive director who shall report directly to the commissioner. The office shall be responsible for processing documents, depositing funds, collecting debt payments, and coordinating, planning, and implementing a data integrity strategy. The office shall consist of the:
 - 1. Division of Operations, which shall be responsible for opening all tax returns, preparing the returns for data capture, coordinating the data capture process, depositing receipts, maintaining tax data, and assisting other state agencies with similar operational aspects as negotiated between the department and the other agency;
 - 2. Division of Collections, which shall be responsible for initiating all collection enforcement activity related to due and owing tax assessments and for assisting other state agencies with similar collection aspects as negotiated between the department and the other state agency; and
 - 3. Division of Registration and Data Integrity, which shall be responsible for registering businesses for tax purposes, ensuring that the data entered into the department's tax systems is accurate and complete, and assisting the taxing areas in proper procedures to ensure the accuracy of the data over time;
 - (d) Office of the Taxpayer Ombudsman. The Office of the Taxpayer Ombudsman shall be headed by an executive director, functioning as the taxpayer ombudsman as established by KRS 131.051(1) and 131.071, who shall report to the commissioner. The functions and duties of the office shall consist of those established by KRS 131.071;
 - (e) Office of Property Valuation. The Office of Property Valuation shall be headed by an executive director who shall report directly to the commissioner. The functions and duties of the office shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuing the property of public service companies, valuing unmined coal and other mineral resources, administering personal property taxes, and collecting delinquent taxes. The Office of Property Valuation shall consist of the Divisions of:
 - 1. Local Valuation, which shall oversee the real property tax assessment and collection process throughout the state in each county's property valuation administrator's and sheriff's office;
 - 2. State Valuation, which shall administer all state-assessed taxes, including public service property tax, motor vehicle property tax, and the tangible and intangible tax program; and
 - 3. Minerals Taxation and GIS Services, which shall administer the severance tax and unmined minerals property tax programs and coordinate the department's geographical information system (GIS);
 - (f) Office of Sales and Excise Taxes, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters relating to sales and use taxes and miscellaneous excise taxes, including but not limited to technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
 - 1. Division of Sales and Use Tax, which shall administer the sales and use tax; and
 - 2. Division of Miscellaneous Taxes, which shall administer various other taxes, including but not limited to alcoholic beverage taxes; cigarette enforcement fees, stamps, meters, and taxes; gasoline tax; bank franchise tax; inheritance and estate tax; insurance premiums and insurance surcharge taxes; motor vehicle tire fees and usage taxes; and special fuels taxes;
 - (g) Office of Income Taxation, headed by an executive director who shall report directly to the commissioner. The office shall administer all matters related to income and corporation license taxes, including technical tax research, compliance, taxpayer assistance, tax-specific training, and publications. The office shall consist of the:
 - 1. Division of Individual Income Tax, which shall administer the following taxes or returns: individual income, fiduciary, and employer withholding; and
 - 2. Division of Corporation Tax, which shall administer the corporation income tax, corporation license tax, pass-through entity withholding, and pass-through entity reporting requirements; and
 - (h) Office of Field Operations, headed by an executive director who shall report directly to the commissioner. The office shall manage the regional taxpayer service centers and the field audit program.
- (2) The functions and duties of the department shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the department shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the department, and to attempt to fairly and equitably resolve tax controversies at the administrative level.
 - (3) The department shall maintain an accounting structure for the one hundred twenty (120) property valuation administrators' offices across the Commonwealth in order to facilitate use of the state payroll system and the budgeting process.
 - (4) Except as provided in KRS 131.190(4), the department shall fully cooperate with and make tax information available as prescribed under KRS 131.190(2) to the Governor's Office for Economic Analysis as necessary for the office to perform the tax administration function established in KRS 42.410.
 - (5) Executive directors and division directors established under this section shall be appointed by the secretary with the approval of the Governor.

Section 11. The new section of KRS Chapter 139 created in Section 28 of 2007 Ky. Acts ch. 95 (House Bill 549/EN), as it became law, is amended to read as follows:

(1) As used in this section:

- (a) "Agency" has the same meaning as in Section 3 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~;
- (b) "Project grant agreement" has the same meaning as in Section 3 of 2007 Ky. Acts ch. 95 (House Bill 549/EN);
- (c) "Signature project" means a project that meets the requirements established by Section 18 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~; and
- ~~(d)~~~~(e)~~ "Tangible personal property used in the construction of a signature project" means tangible personal property that:

1. Consists of:

- a. Permanently incorporated building materials and fixtures that are an improvement to real property on the signature project;
- b. Building materials temporarily incorporated into the signature project for infrastructure support during construction; or
- c. Temporarily incorporated specialized forms for concrete that are for exclusive use on the qualifying signature project; and

2. Is not machinery or equipment.

- (2) (a) Notwithstanding any other provision of KRS Chapter 139 and KRS 134.580, the sales or use tax paid on the purchase of tangible personal property used in the construction of the portion of a signature project that does not relate to approved public infrastructure costs or approved signature project costs, as defined in Section 3 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~[this Act]~~, may be refunded to the agency under the conditions established by subsection (3) of this section.
- (b) The office, as defined in subsection (29) of Section 3 of 2007 Ky. Acts ch. 95 (House Bill 549/EN)~~(3) of this Act~~, shall notify the department upon the approval of a signature project. The notification shall include the name of the signature project, the name of the agency, the name of the project developer, the commencement date of the project grant agreement, and the ~~percentage of~~ total anticipated expenditures for tangible personal property used in the construction of a signature project that are not included in the project grant agreement as approved public infrastructure costs or approved signature project costs.
- (c) The department shall determine the total amount of eligible refund by multiplying total sales and use tax paid during the period covered by the refund application by the percentage of total expenditures for tangible personal property used in the construction of a signature project that are not included in the project grant agreement as approved public infrastructure costs or approved signature project costs for the refund period. The refund amount shall be~~provided by the office under the provisions of paragraph (b) of this subsection]~~ reduced proportionately by the amount of vendor compensation taken in accordance with KRS 139.570.
- (3) To qualify for the refund established by subsection (2) of this section, the agency shall collect from the purchasers of tangible personal property used in the construction of the signature project all documentation relating to the payment of sales or use tax, and shall file an application for refund of the sales or use tax paid by the purchasers as reflected in the documentation collected. Requests for refund shall be filed annually during the first twelve (12) years the project grant agreement is in effect, and shall cover purchases made during the immediately preceding year. Requests for refund shall be filed in the manner directed by the cabinet.
- (4) The agency shall file the first year refund request with the department within sixty (60) days following the end of the fiscal year in which the project grant agreement is executed. The agency shall file the final refund request with the department within sixty (60) days following the end of the eleventh fiscal year following the fiscal year in which the project grant agreement was executed, or within sixty (60) days after construction is complete, whichever date is earlier. All other annual refund requests shall be filed with the department within sixty (60) days after the completion of each fiscal year.
- (5) Interest shall not be allowed or paid on any refund made under the provisions of this section.
- (6) The agency shall execute information sharing agreements prescribed by the department with contractors, vendors, and other related parties to verify construction material costs.

Section 12. The provisions of Sections 4 through 11 of this Act take effect on the same date as the provisions of 2007 Ky. Acts ch. 95 (House Bill 549/EN).

Section 13. KRS 156.4975 is amended to read as follows:

As used in Section 14 of this Act and KRS ~~[156.497,]~~156.4975~~],~~ and 156.4977:

- (1) "Core component" means one (1) of the activities or services for children and their families provided by a family resource or youth services center required by Section 14 of this Act~~[KRS 156.497(3) and (4)]~~.
- (2) "Optional component" means one (1) of the activities or services provided for children or their families as part of the implementation of a family resource or youth services center in addition to those required by Section 14 of this Act~~[KRS~~

~~156.497(3) and (4)}~~ and designed to satisfy unique community needs.

(3) "Secretary" means the secretary of the Cabinet for Health and Family Services.

~~[(4) "Task Force" means the Interagency Task Force on Family Resource and Youth Services Centers.]~~

SECTION 14. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

- (1) Family resource and youth services centers shall be designed to meet the needs of children and their families by providing services to enhance a student's ability to succeed in school. If resources are limited, students and families who are the most economically disadvantaged shall receive priority status for receiving services.
- (2) Family resource centers shall be located in or near each elementary school in the Commonwealth in which twenty percent (20%) or more of the student body are eligible for free or reduced-price school meals. Family resource centers shall promote identification and coordination of existing resources and shall include but not be limited to the following core components for each site:
 - (a) Full-time preschool child care for children two (2) and three (3) years of age;
 - (b) After-school child care for children ages four (4) through twelve (12), with the child care being full-time during the summer and on other days when school is not in session;
 - (c) Families in training, which shall consist of an integrated approach to home visits, group meetings, and monitoring child development for new and expectant parents;
 - (d) Family literacy services as described in KRS 158.360 or a similar program designed to provide opportunities for parents and children to learn together and promote life-long learning; and
 - (e) Health services or referral to health services, or both.
- (3) Youth services centers shall be located in or near each school in the Commonwealth, except elementary schools, in which twenty percent (20%) or more of the student body are eligible for free or reduced-price school meals. Youth services centers shall promote identification and coordination of existing resources and shall include but not be limited to the following core components for each site:
 - (a) Referrals to health and social services;
 - (b) Career exploration and development;
 - (c) Summer and part-time job development for high school students;
 - (d) Substance abuse education and counseling; and
 - (e) Family crisis and mental health counseling.
- (4) A grant program is established to provide financial assistance to eligible school districts to establish or maintain family resource or youth services centers. The Cabinet for Health and Family Services shall award grants pursuant to KRS 156.4977. Funding provided to the Cabinet for Health and Family Services for the grant program and agency administrative costs shall include an increase that is equal to or greater than the general fund growth factor provided in agency budget instructions.
- (5) A family resource or youth services center that receives funding for one (1) year or more shall not be considered ineligible for funding based solely on the percent of the student body eligible for free or reduced school food program, unless the percent of the student body eligible for free or reduced school food program is below twenty percent (20%) for five (5) consecutive years.
- (6) A school district shall not operate a family resource center or a youth services center which provides abortion counseling or makes referrals to a health care facility for the purposes of seeking an abortion.

Section 15. KRS 156.4977 is amended to read as follows:

- (1) ~~[Beginning with fiscal year 1992,]~~ Grants shall be awarded to eligible local school districts to implement~~[- or continue]~~ family resource and youth services centers as defined in Section 14 of this Act~~[KRS 156.497]~~.
- (2) Grant proposal instructions shall be developed by the Cabinet for Health and Family Services. The instructions shall be contained in a grant application package and distributed to each local public school district in which there are qualifying schools.
- (3) A proposal review team comprised of at least three (3) members shall review proposals and score each application in accordance with training provided and scoring procedures established by the Cabinet for Health and Family Services. Proposal reviewers shall be selected by the secretary of the Cabinet for Health and Family Services. The reviewers shall submit the scored proposals to the secretary of the Cabinet for Health and Family Services. Written notification of the secretary's final decision on proposals shall be provided by the secretary to each applicant school district.
- (4) The application from each qualifying school or school consortium shall contain the following:
 - (a) A statement of need;
 - (b) Proposed goals and outcomes;
 - (c) A description of the actual services and activities to be provided at the center and how they shall be provided;
 - (d) A description of how the children and families with the most urgent needs will be served first;

- (e) Written agreements with other service providers;
 - (f) A description of the development, composition, and role of the local advisory council;
 - (g) The strategies to disseminate information;
 - (h) A training plan;
 - (i) A description of procedures to be followed to obtain parental permission for services and for sharing confidential information with other service providers. Procedures shall be developed pursuant to federal law and the Kentucky Revised Statutes including, but not limited to, KRS 210.410, 214.185, 222.441, 645.030, and Chapters 620 and 635 and shall require that no family resource center or youth services center offer contraceptives to minor students prior to receiving the express consent of the student's parent or legal guardian;
 - (j) A plan to minimize stigma;
 - (k) A work plan for each of the core components and optional components;
 - (l) Job descriptions for staff;
 - (m) A description of the center location and school accessibility;
 - (n) A description of the hours of operation of the center;
 - (o) A financial strategy and budget;
 - (p) A program evaluation plan; and
 - (q) Letters of endorsement and commitment to the center from community agencies and organizations.
- (5) Grant proposal instruction and scoring procedures shall be made available to all qualifying schools.

SECTION 16. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The Division of Family Resource and Youth Services Centers of the Department for Human Support Services shall promulgate an administrative regulation to implement the provisions of Sections 14 and 15 of this Act. The administrative regulation shall include but not be limited to requirements for applications for continuation funding of a family resource or youth services center and center staff training.

Section 17. Whereas the provisions of Sections 4 to 11 of this Act must be effective in conformity with the provisions of 2007 Ky. Acts ch. 95 (House Bill 549/EN), an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Senate Committee Amendment No. 3 Title to **HB 400** is as follows:

HB 400, Amend the title to read "AN ACT relating to governmental bodies and declaring an emergency."

Representative Wayne moved that the House refuse to concur in Senate Committee Substitute and Senate Committee Amendment to **HB 400**. Agreed.

HB 380, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendment. Agreed.

Representative Dedman moved that the House concur in the Senate Committee Substitute to **HB 380**. Agreed.

(The Senate Committee Substitute to **HB 380** was inserted on March 12, 2007)

Representative Dedman moved that **HB 380**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 4**. (See March 27, 2007, roll call on **HB 380** - Appendix.)

HB 380, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Dedman moved that the vote by which **HB 380**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 175, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be placed upon its passage for concurrence or non concurrence with the Senate Amendment. Agreed.

The Senate Floor Amendment No. 1 to **HB 175** is as follows:

HB 175, On page 3, after line 27, by inserting the following:

"Section 3. KRS 189A.010 is amended to read as follows:

- (1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:
 - (a) Having an alcohol concentration of 0.08 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle;
 - (b) While under the influence of alcohol;
 - (c) While under the influence of any other substance or combination of substances which impairs one's driving ability;
 - (d) While the presence of a controlled substance is detected in the blood, as measured by a scientifically reliable test, or tests, taken within two (2) hours of cessation of operation or control of a motor vehicle;
 - (e) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or
 - ~~(f)~~ Having an alcohol concentration of 0.02 or more as measured by a scientifically reliable test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle, if the person is under the age of twenty-one (21).
- (2) With the exception of the results of the tests administered pursuant to KRS 189A.103(7), if the sample of the person's blood or breath that is used to determine the alcohol concentration thereof was obtained more than two (2) hours after cessation of operation or physical control of a motor vehicle, the results of the test or tests shall be inadmissible as evidence in a prosecution under subsection (1)(a) or ~~(f)~~ of this section. The results of the test or tests, however, may be admissible in a prosecution under subsection (1)(b) or ~~(e)~~ of this section.
- (3) In any prosecution for a violation of subsection (1)(b) or ~~(e)~~ of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood or breath shall give rise to the following presumptions:
 - (a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and
 - (b) If there was an alcohol concentration of 0.05 or greater but less than 0.08 based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or ~~(e)~~ of this section.
- (4) The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section, provided, however, it shall be a defense to subsection (1)(d) of this section if the accused consumed the controlled substance under a valid prescription from a practitioner, as defined in KRS 218A.010, acting in the course of his or her professional practice, and complied with the dosage restrictions.
- (5) Any person who violates the provisions of paragraph (a), (b), (c), ~~(d)~~, or (e) of subsection (1) of this section shall:
 - (a) For the first offense within a five (5) year period, be fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500), or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days, or both. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both. If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be four (4) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.
 - (b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars (\$350) nor more than five hundred dollars (\$500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be fourteen (14) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.
 - (c) For a third offense within a five (5) year period, be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be sixty (60) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release.

2007 Regular Session

- (d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be two hundred forty (240) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release.
- (e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state or jurisdiction, for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)~~(e)~~ of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.
- (6) Any person who violates the provisions of subsection (1)~~(e)~~ of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars (\$100) and no more than five hundred dollars (\$500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this subsection shall not be subject to the penalties established in subsection (5) of this section or any other penalty established pursuant to KRS Chapter 189A, except those established in KRS 189A.040(1).
- (7) If the person is under the age of twenty-one (21) and there was an alcohol concentration of 0.08 or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection (5) of this section.
- (8) For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.
- (9) When sentencing persons under subsection (5)(a) of this section, at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.
- (10) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.
- (11) For purposes of this section, aggravating circumstances are any one (1) or more of the following:
 - (a) Operating a motor vehicle in excess of thirty (30) miles per hour above the speed limit;
 - (b) Operating a motor vehicle in the wrong direction on a limited access highway;
 - (c) Operating a motor vehicle that causes an accident resulting in death or serious physical injury as defined in KRS 500.080;
 - (d) Operating a motor vehicle while the alcohol concentration in the operator's blood or breath is 0.15~~0.18~~ or more as measured by a test or tests of a sample of the operator's blood or breath taken within two (2) hours of cessation of operation of the motor vehicle;
 - (e) Refusing to submit to any test or tests of one's blood, breath, or urine requested by an officer having reasonable grounds to believe the person was operating or in physical control of a motor vehicle in violation of subsection (1) of this section; and
 - (f) Operating a motor vehicle that is transporting a passenger under the age of twelve (12) years old.

Section 4. KRS 189A.040 is amended to read as follows:

- (1) In addition to any other penalty prescribed by KRS 189A.010(5)(a) or (6), the court shall sentence the person to attend an alcohol or substance abuse education or treatment program subject to the following terms and conditions for a first offender or a person convicted under KRS 189A.010(1)~~(e)~~:
 - (a) The treatment or education shall be for a period of ninety (90) days and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program;
 - (b) Each defendant shall pay the cost of the education or treatment program up to his ability to pay but no more than the actual cost of the treatment;
 - (c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant shall be released prior to the expiration of the ninety (90) day period; and
 - (d) Failure to complete the education or treatment program or to pay the amount specified by the court for education or treatment shall constitute contempt, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the education or treatment program.
- (2) In addition to any other penalty prescribed by KRS 189A.010(5)(b), the court shall sentence the person to an alcohol or

substance abuse treatment program subject to the following terms and conditions for a second offender:

- (a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program;
 - (b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment;
 - (c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the one (1) year period; and
 - (d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.
- (3) In addition to any other penalty prescribed by KRS 189A.010(5)(c) or (d), the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender:
- (a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. The program may be an inpatient or residential-type program;
 - (b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the program;
 - (c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year period; and
 - (d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.
- (4) Costs of treatment or education programs which are paid from the service fee established by KRS 189A.050, or from state or federal funds, or any combination thereof, shall be deducted from the amount which the defendant must pay.
- (5) For the purposes of this section, "treatment" means service in an alcohol or substance abuse education or treatment program or facility licensed, regulated, and monitored by the Cabinet for Health and Family Services for services as required under this section.
- (6) The Cabinet for Health and Family Services shall promulgate administrative regulations for the licensure of education and treatment facilities and programs for offenders receiving education or treatment under this section. The criteria developed by the Cabinet for Health and Family Services shall include:
- (a) Manner of assessment;
 - (b) Appropriate education and treatment plans; and
 - (c) Referrals to other treatment providers.
- (7) The participating facilities and programs shall be required to abide by these standards and shall report completion to the Transportation Cabinet. Upon request, the facility or program shall report to the courts regarding the progress of offenders being treated pursuant to this section.
- (8) Administrative decisions regarding the licensure of education and treatment facilities and programs may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.
- Section 5. KRS 189A.050 is amended to read as follows:
- (1) All persons convicted of violation of KRS 189A.010(1)(a), (b), (c), ~~(d)~~, or (e) shall be sentenced to pay a service fee of three hundred twenty-five dollars (\$325), which shall be in addition to all other penalties authorized by law.
 - (2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.
 - (3) The revenue collected from the service fee imposed by this section shall be utilized as follows:
 - (a) Twelve percent (12%) of the amount collected shall be transferred to the Kentucky State Police forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;
 - (b) Twenty percent (20%) of the service fee collected pursuant to this section shall be allocated to the Department of Public Advocacy;
 - (c) One percent (1%) shall be transferred to the Prosecutor's Advisory Council for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;

- (d) Sixteen percent (16%) of the amount collected shall be transferred as follows:
 - 1. Fifty percent (50%) shall be credited to the traumatic brain injury trust fund established under KRS 211.476; and
 - 2. Fifty percent (50%) shall be credited to the Cabinet for Health and Family Services, Department for Mental Health and Mental Retardation Services, for the purposes of providing direct services to individuals with brain injuries that may include long-term supportive services and training and consultation to professionals working with individuals with brain injuries. As funding becomes available under this subparagraph, the cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A to implement the services permitted by this subparagraph.
 - (e) Any amount specified by a specific statute shall be transferred as provided in that statute;
 - (f) Forty-six percent (46%) of the amount collected shall be transferred to be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment, and educational programs authorized by this chapter and by the Department of Public Advocacy; and
 - (g) The remainder of the amount collected shall be transferred to the general fund.
- (4) The amounts specified in subsection (3)(a), (b), (c), and (d) of this section shall be placed in trust and agency accounts that shall not lapse.

Section 6. KRS 189A.070 is amended to read as follows:

- (1) Unless the person is under eighteen (18) years of age, in addition to the penalties specified in KRS 189A.010, a person convicted of violation of KRS 189A.010(1)(a), (b), (c), ~~(d)~~, or (e) shall have his license to operate a motor vehicle or motorcycle revoked by the court as follows:
 - (a) For the first offense within a five (5) year period, for a period of not less than thirty (30) days nor more than one hundred twenty (120) days;
 - (b) For the second offense within a five (5) year period, for a period of not less than twelve (12) months nor more than eighteen (18) months;
 - (c) For a third offense within a five (5) year period, for a period of not less than twenty-four (24) months nor more than thirty-six (36) months; and
 - (d) For a fourth or subsequent offense within a five (5) year period, sixty (60) months.
 - (e) For purposes of this section, "offense" shall have the same meaning as described in KRS 189A.010(5) ~~(d)~~ (e).
- (2) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.
- (3) In addition to the period of license revocation set forth in subsection (1) or (7) of this section, no person shall be eligible for reinstatement of his privilege to operate a motor vehicle until he has completed the alcohol or substance abuse education or treatment program ordered pursuant to KRS 189A.040.
- (4) A person under the age of eighteen (18) who is convicted of violation of KRS 189A.010(1)(a), (b), (c), ~~(d)~~, or (e) shall have his license revoked by the court until he reaches the age of eighteen (18) or shall have his license revoked as provided in subsection (1) or (7) of this section, whichever penalty will result in the longer period of revocation or court-ordered driving conditions.
- (5) Licenses revoked pursuant to this chapter shall forthwith be surrendered to the court upon conviction. The court shall transmit the conviction records, and other appropriate information to the Transportation Cabinet. A court shall not waive or stay this procedure.
- (6) Should a person convicted under this chapter whose license is revoked fail to surrender it to the court upon conviction, the court shall issue an order directing the sheriff or any other peace officer to seize the license forthwith and deliver it to the court.
- (7) A person whose license has been revoked pursuant to subsection (1)(b), (c), ~~(d)~~, or (e) of this section may move the court to reduce the applicable minimum period of revocation by one-half (1/2), but in no case less than twelve (12) months. The court may, upon a written finding in the record for good cause shown, order such a period to be reduced by one-half (1/2), but in no case less than twelve (12) months, if the following conditions are satisfied:
 - (a) The person shall not operate a motor vehicle or motorcycle without an ignition interlock device as provided for in KRS 189A.340(2);
 - (b) The person shall not operate a motor vehicle or motorcycle at any other time and for any other purposes than those specified by the court; and
 - (c) The ignition interlock device shall be installed on the motor vehicle or motorcycle for a period of time not less than the applicable minimum period of revocation provided for under subsection (1)(b), (c), ~~(d)~~, or (e) of this section nor for more than the respective maximum period of revocation provided for under subsection (1)(b), (c), ~~(d)~~, or (e) of this section.
- (8) Upon a finding of a violation of any of the conditions specified in subsection (7) of this section or of the order permitting

any reduction in a minimum period of revocation that is issued pursuant thereto, the court shall dissolve such an order and the person shall receive no credit toward the minimum period of revocation required under subsection (1)(b), (c), ~~(c), (d)~~, or (e) of this section.

Section 7. KRS 189A.085 is amended to read as follows:

- (1) Unless the court orders installation of an ignition interlock device under KRS 189A.340, upon the conviction of a second or subsequent offense of KRS 189A.010, a person shall have the license plate or plates on all of the motor vehicles owned by him or her, either solely or jointly, impounded by the court of competent jurisdiction in accordance with the following procedures:
 - (a) At the final sentencing hearing, the person who has been convicted of a second or subsequent offense of KRS 189A.010(1)(a), (b), (c), ~~(d)~~, or (e) shall physically surrender any and all license plate or plates currently in force on any motor vehicle owned either individually or jointly by him or her to the court. The order of the court suspending the license plate or plates shall not exceed the time for the suspension of the motor vehicle operator's license of the second or subsequent offender as specified in KRS 189A.070.
 - (b) The clerk of the court shall retain any surrendered plate or plates and transmit all surrendered plate or plates to the Transportation Cabinet in the manner set forth by the Transportation Cabinet in administrative regulations promulgated by the Transportation Cabinet.
- (2) Upon application, the court may grant hardship exceptions to family members or other individuals affected by the surrender of any license plate or plates of any vehicle owned by the second or subsequent offender. Hardship exceptions may be granted by the court to the second or subsequent offender's family members or other affected individuals only if the family members or other affected individuals prove to the court's satisfaction that their inability to utilize the surrendered vehicles would pose an undue hardship upon the family members or affected other individuals. Upon the court's granting of hardship exceptions, the clerk or the Transportation Cabinet as appropriate, shall return to the family members or other affected individuals the license plate or plates of the vehicles of the second or subsequent offender for their utilization. The second or subsequent offender shall not be permitted to operate a vehicle for which the license plate has been suspended or for which a hardship exception has been granted under any circumstances.
- (3) If the license plate of a jointly owned vehicle is impounded, this vehicle may be transferred to a joint owner of the vehicle who was not the violator.
- (4) If the license plate of a motor vehicle is impounded, the vehicle may be transferred.

Section 8. KRS 189A.090 is amended to read as follows:

- (1) No person shall operate or be in physical control of a motor vehicle while his license is revoked or suspended under KRS 189A.010(6), 189A.070, 189A.107, 189A.200, or 189A.220, or operate or be in physical control of a motor vehicle without a functioning ignition interlock device in violation of KRS 189A.345(1).
- (2) In addition to any other penalty imposed by the court, any person who violates subsection (1) of this section shall:
 - (a) For a first offense within a five (5) year period, be guilty of a Class B misdemeanor and have his license revoked by the court for six (6) months, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), ~~(d)~~, or (e), in which event he shall be guilty of a Class A misdemeanor and have his license revoked by the court for a period of one (1) year;
 - (b) For a second offense within a five (5) year period, be guilty of a Class A misdemeanor and have his license revoked by the court for one (1) year, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), ~~(d)~~, or (e), in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of two (2) years;
 - (c) For a third or subsequent offense within a five (5) year period, be guilty of a Class D felony and have his license revoked by the court for two (2) years, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), ~~(d)~~, or (e), in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of five (5) years.
- (3) The five (5) year period under this section shall be measured in the same manner as in KRS 189A.070.
- (4) After one (1) year of the period of revocation provided for in subsection (2)(b) or (c) of this section has elapsed, a person whose license has been revoked pursuant to either of those subsections may move the court to have an ignition interlock device installed for the remaining portion of the period of revocation. The court may, upon a written finding in the record for good cause shown, order an ignition interlock device installed if the following conditions are satisfied:
 - (a) The person shall not operate a motor vehicle or motorcycle without an ignition interlock device as provided for in KRS 189A.340(2);
 - (b) The person shall not operate a motor vehicle or motorcycle at any other time and for any other purposes than those specified by the court; and
 - (c) The ignition interlock device shall be installed on the motor vehicle or motorcycle for a period of time not less than the period of revocation required for the person under subsection (2)(b) or (c) of this section.
- (5) Upon a finding of a violation of any of the conditions specified in subsection (4) of this section or of the order permitting

the installation of an ignition interlock device in lieu of the remaining period of revocation that is issued pursuant thereto, the court shall dissolve such an order and the person shall receive no credit toward the remaining period of revocation required under subsection (2)(b) or (c) of this section.

Section 9. KRS 189A.105 is amended to read as follows:

- (1) A person's refusal to submit to tests under KRS 189A.103 shall result in revocation of his driving privilege as provided in this chapter.
 - (2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:
 1. That, if the person refuses to submit to such tests, the fact of this refusal may be used against him in court as evidence of violating KRS 189A.010 and will result in revocation of his driver's license, and if the person refuses to submit to the tests and is subsequently convicted of violating KRS 189A.010(1) then he will be subject to a mandatory minimum jail sentence which is twice as long as the mandatory minimum jail sentence imposed if he submits to the tests, and that if the person refuses to submit to the tests he will be unable to obtain a hardship license; and
 2. That, if a test is taken, the results of the test may be used against him in court as evidence of violating KRS 189A.010(1), and that if the results of the test are 0.15~~[0.18]~~ or above and the person is subsequently convicted of violating KRS 189A.010(1), then he will be subject to a sentence that is twice as long as the mandatory minimum jail sentence imposed if the results are less than 0.15~~[0.18]~~; and
 3. That if the person first submits to the requested alcohol and substance tests, the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.
 - (b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged. However, if the incident involves a motor vehicle accident in which there was a fatality, the investigating peace officer shall seek such a search warrant for blood, breath, or urine testing unless the testing has already been done by consent. If testing done pursuant to a warrant reveals the presence of alcohol or any other substance that impaired the driving ability of a person who is charged with and convicted of an offense arising from the accident, the sentencing court shall require, in addition to any other sentencing provision, that the defendant make restitution to the state for the cost of the testing.
- (3)~~[~~ During the period immediately preceding the administration of any test, the person shall be afforded an opportunity of at least ten (10) minutes but not more than fifteen (15) minutes to attempt to contact and communicate with an attorney and shall be informed of this right. Inability to communicate with an attorney during this period shall not be deemed to relieve the person of his obligation to submit to the tests and the penalties specified by KRS 189A.010 and 189A.107 shall remain applicable to the person upon refusal. Nothing in this section shall be deemed to create a right to have an attorney present during the administration of the tests, but the person's attorney may be present if the attorney can physically appear at the location where the test is to be administered within the time period established in this section.
- (4)~~]~~ Immediately following the administration of the final test requested by the officer, the person shall again be informed of his right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested. He shall then be asked "Do you want such a test?" The officer shall make reasonable efforts to provide transportation to the tests.

Section 10. KRS 189A.240 is amended to read as follows:

In any judicial review of a pretrial suspension imposed under KRS 189A.200(1)(b), if the court determines by a preponderance of the evidence that:

- (1) The person was charged and arrested by a peace officer with a violation of KRS 189A.010(1)(a), (b), (c), ~~[or]~~ (d), or (e);
- (2) The peace officer had reasonable grounds to believe that the person was operating a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), ~~[or]~~ (d), or (e);
- (3) There is probable cause to believe that the person committed the violation of KRS 189A.010(1)(a), (b), (c), ~~[or]~~ (d), or (e) as charged; and
- (4) The person has been convicted of one (1) or more prior offenses as described in KRS 189A.010(5)(e) or has had his motor vehicle operator's license suspended or revoked on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest, then the court shall continue to suspend the person's operator's license or privilege to operate a motor vehicle. The provisions of this section shall not be construed as limiting the person's ability to challenge any prior convictions or license suspensions or refusals."

Representative Westrom moved that the House refuse to concur in Senate Floor Amendment No. 1 to HB 175. Agreed.

Representative Adkins moved that the Free Conference Committee Report No. 2 on **HB 490** be reported. Agreed.

Representative Adkins moved that **HB 490** be placed upon its passage for consideration of the Free Conference Committee Report. Agreed.

Representative Yonts moved the adoption of the following Free Conference Committee Report No. 2 on **HB 490**. Agreed.

HB 490, The Free Conference Committee on **HB 490** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of **HB 490/GA** with the following changes:

On page 1, line 6, after "include", by inserting "processing equipment used for the process of manufacturing or"; and

On page 1, line 11, by deleting "trustee, agent, or spouse", and by inserting "trustee or agent" in lieu thereof; and

On page 1, between lines 20 and 21, by inserting the following:

"(8) **"Processing equipment" means equipment which uses physical or chemical methods to increase the value of a raw material or product and is installed by the person contractually responsible to the contracting entity for the design, purchase, installation, and performance of that equipment;**"; and

On page 1, line 21, by deleting "(8)", and inserting "(9)" in lieu thereof; and

On page 1, line 24, by deleting "(9)", and inserting "(10)" in lieu thereof; and

On page 2, line 2, by deleting "(10)", and inserting "(11)" in lieu thereof; and

On page 3, line 7, by deleting "settle", and by inserting "resolve" in lieu thereof; and

On page 3, line 17, after "(30)", by inserting "business"; and

On page 4, line 14, after "any", by inserting "undisputed"; and

On page 4, line 19, after "subcontractor", by inserting "any undisputed amounts due"; and

On page 5, line 2, after "completed", by inserting "in accordance with the contract"; and

On page 5, by deleting line 13 in its entirety, and by inserting "contractor, and any subcontractor with work yet to be completed shall mutually agree with the schedule for"; and

On page 6, by deleting lines 17 through 20 in their entirety; and

On page 6, line 21, by deleting "(3)", and inserting "(2)" in lieu thereof; and

On page 7, line 3, before "Sections", by inserting the following:

"Except as provided in subsections (3) and (4) of this section,"; and

On page 7, between lines 10 and 11, by inserting the following new subsection:

"(4) **Sections 1 to 6 of this Act shall not apply to any contract for construction of or relating to any facility as defined in KRS Chapter 278.**"

Signed March 26, 2007: Representatives Yonts, Webb, Rand, and Vincent; Senators Tapp, Gibson, and Worley

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Yonts moved that **HB 490**, as amended by the Free Conference Committee Report No. 2, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 27, 2007, roll call on **HB 490** - Appendix.)

HB 490, as amended by the Free Conference Committee Report No. 2, was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 490**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Adkins that the Free Conference Committee Report on **HB 156** be reported. Agreed.

Representative Adkins moved that **HB 156** be placed upon its passage for consideration of the Free Conference Committee Report. Agreed.

Representative Wayne moved the adoption of the following Free Conference Committee Report on **HB 156**. Agreed.

HB 156, The Free Conference Committee on **HB 156** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of **HB 156/GA** with the following changes:

On page 2, beginning on line 17, by placing an opening bracket before "All" and on page 2, line 18, after "quarterly." by placing a closing bracket and striking through all language between the opening and closing brackets;

On page 2, line 21, after "status.", by inserting the following;

"(6) All licensed charitable organizations that have annual gross receipts of two hundred thousand dollars (\$200,000) or less and do not have a weekly bingo session shall report to the office annually at the time and on a form established in administrative regulations promulgated by the office."

(7) All other licensed charitable organizations shall submit reports to the office at least quarterly at the time and on a form established in administrative regulations promulgated by the office."

(8)";

On page 3, line 12, by bracketing and striking through "(6)" and placing "(9)" at the front of the line;

On page 4, line 1, by bracketing and striking through "(7)" and placing "(10)" at the front of the line;

On page 7, line 4, after "due" by bracketing and striking through "on a quarterly basis" and inserting before the opening bracket "as set forth in administrative regulations promulgated by the office";

On page 8, after line 9, by inserting the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 238 IS CREATED TO READ AS FOLLOWS:

(1) (a) If the office has proposed a new or amended administrative regulation that changes the manner in which a charitable organization conducts charitable gaming or is likely to cause a charitable organization to incur new or additional costs, the office shall not promulgate the proposed administrative regulation without first receiving comments from the Charitable Gaming Advisory Commission established in Section 5 of this Act, subject to the restrictions of paragraph (b) of this subsection.

(b) 1. If the proposed administrative regulation qualifies under paragraph (a) of this subsection, the office shall distribute the proposed administrative regulation to the advisory commission.

2. The advisory commission shall be granted a maximum of sixty (60) days to submit its comments on the proposed regulatory change. If the administrative regulation is a new emergency regulation, the advisory commission shall be granted a maximum of thirty (30) days to submit its comments on the proposed regulatory change.

3. The time limits in this paragraph shall begin from the day the office submits the regulatory change and sets a date for a proposed hearing for the comments of the advisory commission. If the advisory commission is already scheduled to meet at a time that will give it an adequate opportunity to review the regulation and respond, the hearing may be held at that meeting.

4. If an advisory commission is not scheduled to meet, the office shall arrange for the advisory commission to meet at a time that will provide the advisory commission an adequate opportunity to review and comment on the regulation within the time limit. If the advisory commission fails to comment within the time limit, the office may proceed with the administrative changes at its discretion.

(c) To the extent that any other statute relating to the office's authority to promulgate administrative regulations conflicts with this section, this section shall take precedence.

(d) If the advisory commission chooses to produce written comments, these comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A, and may include majority or minority comments or both.

(2) Any power or limitation relating to administrative regulations promulgated by the office that are subject to subsection (1) of this section shall also apply to administrative regulations promulgated by the executive director of the office.

Section 5. KRS 238.520 is amended to read as follows:

(1) The Charitable Gaming Advisory Commission is created to be composed of nine (9) members consisting of:

(a) The secretary of the Environmental and Public Protection Cabinet or his designee;

(b) The Attorney General or his designee;

(c) One (1) representative from the Kentucky Commonwealth's Attorneys Association;

(d) One (1) representative from the Kentucky Charitable Gaming Association;

(e) One (1) certified public accountant;{and}

(f) One (1) member{Four (4) members} selected from the public at large;

(g) One (1) representative selected from the Joint Executive Council of Veterans Organizations of Kentucky;

(h) One (1) representative from Catholic organizations; and

(i) One (1) representative from Kentucky's volunteer firefighter organizations.

The certified public accountant, the one (1){four (4)} at-large member{members}, and the representatives from the Kentucky Commonwealth's Attorneys Association and the Kentucky Charitable Gaming Association shall be appointed by the Governor. The representative from each of the two (2) associations, the one (1) representative from the Joint Executive Council of Veterans Organizations of Kentucky, the one (1) representative from the Catholic organizations,

and the one (1) representative from the volunteer firefighter organizations shall be selected from a list of at least three (3) names submitted to the Governor by the respective association.

- (2) Initial appointments to the commission shall be for staggered terms as follows: one (1) member for a term of one (1) year; two (2) members for a term of two (2) years; two (2) members for a term of three (3) years; and two (2) members for a term of four (4) years. Thereafter, each member shall be appointed for a term of four (4) years. No member from the public at large shall be appointed in the same year. Vacancies shall be filled in the same manner as the original appointment for the unexpired portion of the term. No member of the commission may serve more than two (2) full terms.
- (3) The Charitable Gaming Advisory Commission shall provide ongoing advice and input to the office and to the General Assembly but shall not ~~establish policy or~~ become directly involved in the licensing and regulation of charitable gaming by the office.
- (4) The commission shall meet quarterly, upon the request of the chair or four (4) of its members or as otherwise directed by the office. Five (5) members shall constitute a quorum for conducting business. The commission shall annually elect a chairman from its membership, and no person elected chairman shall serve more than two (2) consecutive terms of one (1) year each. Members shall receive no compensation for serving on the commission, but shall be reimbursed for travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees.

Section 6. KRS 238.515 is amended to read as follows:

The office shall license and regulate the conduct of charitable gaming in the Commonwealth of Kentucky. In discharging this responsibility, the office shall have the following powers and duties:

- (1) Licensing charitable organizations, charitable gaming facilities, manufacturers, and distributors that desire to engage in charitable gaming;
- (2) Establishing and enforcing reasonable standards for the conduct of charitable gaming and the operation of charitable gaming facilities;
- (3) Prescribing reasonable fees for licenses;
- (4) Establishing standards of accounting, recordkeeping, and reporting to insure charitable gaming receipts are properly accounted for;
- (5) Establishing a process for reviewing complaints and allegations of wrongdoing, and for investigating complaints with merit. In furtherance of this duty, the office shall have the authority to issue administrative subpoenas and summonses. The office shall also establish toll-free telephone service for receiving complaints and inquiries;
- (6) Taking appropriate disciplinary action and making referrals for criminal prosecution of persons who do not operate in compliance with this chapter;
- (7) Collecting and depositing all fees and fines in the charitable gaming regulatory account and administering the account;
- (8) Employing necessary staff, securing adequate office space, and executing other administrative and logistical matters as may be necessary to assure proper functioning of the office; and
- (9) Promulgating administrative regulations, in accordance with KRS Chapter 13A, which are necessary to carry out the purposes and intent of this chapter. Any administrative regulation proposed by the office that changes the manner in which a charitable organization conducts charitable gaming or is likely to cause a charitable organization to incur new or additional costs shall be subject to the requirements of Section 4 of this Act. In promulgating administrative regulations under this subsection, the office shall submit any proposed regulations to the advisory commission established under Section 5 of this Act, and shall not promulgate the administrative regulations without giving the advisory commission the opportunity to produce written comments in accordance with Section 4 of this Act. If the advisory commission chooses to produce written comments, the comments shall be attached to any public submission of the administrative regulation, including any filing under KRS Chapter 13A.

Section 7. KRS 238.535 is amended to read as follows:

- (1) Any charitable organization conducting charitable gaming in the Commonwealth of Kentucky shall be licensed by the office. A charitable organization qualifying under subsection (8) of this section but not exceeding the limitations provided in this subsection shall be exempt from the licensure requirements when conducting the following charitable gaming activities:
 - (a) Bingo in which the gross receipts do not exceed a total of twenty-five thousand dollars (\$25,000) per year;
 - (b) A raffle or raffles for which the gross receipts do not exceed twenty-five thousand dollars (\$25,000) per year; and
 - (c) A charity fundraising event or events that do not involve special limited charitable games and the gross gaming receipts for which do not exceed twenty-five thousand dollars (\$25,000) per year.

However, at no time shall a charitable organization's total limitations under this subsection exceed twenty-five thousand dollars (\$25,000).

- (2) Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall notify the office in writing, on a simple form issued by the office, of its intent to engage in exempt charitable gaming and

the address at which the gaming is to occur. Any charitable organization exempt from the process of applying for a license under subsection (1) of this section, shall comply with all other provisions of this chapter relating to the conduct of charitable gaming, except:

- (a) Payment of the fee imposed under the provisions of KRS 238.570; and
- (b) The quarterly reporting requirements imposed under the provisions of KRS 238.550~~(7)(5)~~, unless the exempt charitable organization obtains a retroactive license pursuant to subsection (5) of this section.

Before the last day of each year, a charitable organization exempt from licensure under the provisions of subsection (1) of this section shall file with the office a financial report detailing the type of gaming activity in which it engaged during that year, the total gross receipts derived from gaming, the amount of charitable gaming expenses paid, the amount of net receipts derived, and the disposition of those net receipts. This report shall be filed on a form issued by the office. Upon receipt of the yearly financial report, the office shall notify the charitable organization submitting it that its exemption is renewed for the next year. If the office determines that information appearing on the financial report renders the charitable organization ineligible to possess an exemption, the office shall revoke the exemption. The organization may request an appeal of this revocation pursuant to KRS 238.565. If an exemption is revoked because an organization has exceeded the limit imposed in subsection (1) of this section, the organization shall apply for a retroactive license in accordance with subsection (3) of this section.

- (3) If an organization exceeds the limit imposed by any subsection of this section it shall:
 - (a) Report the amount to the office; and
 - (b) Apply for a retroactive charitable gaming license.
- (4) Upon receipt of a report and application for a retroactive charitable gaming license, the office shall investigate to determine if the organization is otherwise qualified to hold the license.
- (5) If the office determines that the applicant is qualified, it shall issue a charitable gaming license retroactive to the date on which the exemption limit was exceeded. The retroactive charitable gaming license shall be issued in the same manner as regular charitable gaming licenses.
- (6) If the office determines that the applicant is not qualified it shall deny the license and take enforcement action, if appropriate.
- (7) Once a retroactive or regular gaming license is issued to an organization, that organization shall not be eligible for exempt status in the future and shall maintain a charitable gaming license if it intends to continue charitable gaming activities, unless the charitable organization has not exceeded the exemption limitations of subsection (1) of this section for a period of two (2) years prior to its exemption request.
- (8) In order to qualify for licensure, a charitable organization shall:
 - (a)
 1. Possess a tax exempt status under 26 U.S.C. secs. 501(c)(3), 501(c)(4), 501(c)(8), 501(c)(10), or 501(c)(19), or be covered under a group ruling issued by the Internal Revenue Service under authority of those sections; or
 2. Be organized within the Commonwealth of Kentucky as a common school as defined in KRS 158.030, as an institution of higher education as defined in KRS 164A.305, or as a state college or university as provided for in KRS 164.290;
 - (b) Have been established and continuously operating within the Commonwealth of Kentucky for charitable purposes, other than the conduct of charitable gaming, for a period of three (3) years prior to application for licensure. For purposes of this paragraph, an applicant shall demonstrate establishment and continuous operation in Kentucky by its conduct of charitable activities from an office physically located within Kentucky both during the three (3) years immediately preceding its application for licensure and at all times during which it possesses a charitable gaming license. However, a charitable organization that operates for charitable purposes in more than ten (10) states and whose principal place of business is physically located in a state other than Kentucky may satisfy the requirements of this paragraph if it can document that it has:
 1. Been actively engaged in charitable activities and has made reasonable progress, as defined in paragraph (c) of this subsection, in the conduct of charitable activities or the expenditure of funds within Kentucky for a period of three (3) years prior to application for licensure; and
 2. Operated for charitable purposes from an office or place of business in the Kentucky county where it proposes to conduct charitable gaming for at least one (1) year prior to application for licensure, in accordance with paragraph (d) of this subsection;
 - (c) Have been actively engaged in charitable activities during the three (3) years immediately prior to application for licensure and be able to demonstrate, to the satisfaction of the office, reasonable progress in accomplishing its charitable purposes during this period. As used in this paragraph, "reasonable progress in accomplishing its charitable purposes" means the regular and uninterrupted conduct of activities within the Commonwealth or the expenditure of funds within the Commonwealth to accomplish relief of poverty, advancement of education, protection of health, relief from disease, relief from suffering or distress, protection of the environment,

conservation of wildlife, advancement of civic, governmental, or municipal purposes, or advancement of those purposes delineated in KRS 238.505(3). In order to demonstrate reasonable progress in accomplishing its charitable purposes when applying to renew an existing license, a licensed charitable organization shall additionally provide to the office a detailed accounting regarding its expenditure of charitable gaming net receipts for the purposes described in this paragraph; and

- (d) Have maintained an office or place of business, other than for the conduct of charitable gaming, for one (1) year in the county in which charitable gaming is to be conducted. The office or place of business shall be a separate and distinct address and location from that of any other licensee of the Office of Charitable Gaming; except that up to three (3) licensed charitable organizations may have the same address if they legitimately share office space. For the conduct of a raffle, the county in which charitable gaming is to be conducted shall be the county in which the raffle drawing is to be conducted. However, a charitable organization that has established and maintained an office or place of business in the county for a period of at least one (1) year may hold a raffle drawing or a charity fundraising event, including special limited charity fundraising events, in a Kentucky county other than that in which the organization's office or place of business is located. For raffles, the organization shall notify ~~if the organization notifies~~ the Office of Charitable Gaming in writing of the organization's intent to change the drawing's location at least thirty (30) days before the drawing takes place. This written notification may be transmitted in any commercially reasonable means, authorized by the office, including facsimile and electronic mail. The notification shall set out the place and the county in which the drawing will take place. Approval by the office shall be received prior to the conduct of the raffle drawing at the new location. Any charitable organization that was registered with the county clerk to conduct charitable gaming in a county on or before March 31, 1992, shall satisfy this requirement if it maintained a place of business or operation, other than for the conduct of charitable gaming, for one (1) year prior to application in a Kentucky county adjoining the county in which they were registered. Any licensed charitable organization that qualifies to conduct charitable gaming in an adjoining county under this paragraph, shall be permitted to conduct in its county of residence a charity fundraising event.
- (9) In applying for a license, the information to be submitted shall include but not be limited to the following:
 - (a) The name and address of the charitable organization;
 - (b) The date of the charitable organization's establishment in the Commonwealth of Kentucky and the date of establishment in the county in which charitable gaming is to be conducted;
 - (c) A statement of the charitable purpose or purposes for which the organization was organized. If the charitable organization is incorporated, a copy of the articles of incorporation shall satisfy this requirement;
 - (d) A statement explaining the organizational structure and management of the organization. For incorporated entities, a copy of the organizations' bylaws shall satisfy this requirement;
 - (e) A detailed accounting of the charitable activities in which the charitable organization has been engaged for the three (3) years preceding application for licensure;
 - (f) The names, addresses, dates of birth, and Social Security numbers of all officers of the organization;
 - (g) The names, addresses, dates of birth, and Social Security numbers of all employees and members of the charitable organization who will be involved in the management and supervision of charitable gaming. No fewer than two (2) employees or members of the charitable organization who are involved in the management and supervision of charitable gaming, along with the chief executive officer or the director of the applicant organization, shall be designated as chairpersons;
 - (h) The address of the location at which charitable gaming will be conducted and the name and address of the owner of the property, if it is owned by a person other than the charitable organization;
 - (i) A copy of the letter or other legal document issued by the Internal Revenue Service to grant tax-exempt status;
 - (j) A statement signed by the presiding or other responsible officer of the charitable organization attesting that the information submitted in the application is true and correct and that the organization agrees to comply with all applicable laws and administrative regulations regarding charitable gaming;
 - (k) An agreement that the charitable organization's records may be released by the Federal Internal Revenue Service to the office; and
 - (l) Any other information the office deems appropriate.
- (10) An organization or a group of individuals that does not meet the licensing requirements of subsection (8) of this section may hold a raffle if the gross receipts do not exceed one hundred fifty dollars (\$150) and all proceeds from the raffle are distributed to a charitable organization. The organization or group of individuals may hold up to three (3) raffles each year, and shall be exempt from complying with the notification, application, and reporting requirements of subsections (2) and (9) of this section.
- (11) The office may issue a license for a specified period of time, based on the type of charitable gaming involved and the desired duration of the activity.
- (12) The office shall charge a fee for each license issued and renewed, not to exceed three hundred dollars (\$300). Specific fees

to be charged shall be prescribed in a graduated scale promulgated by administrative regulations and based on type of license, type of charitable gaming, actual or projected gross receipts, or other applicable factors, or combination of factors.

- (13) (a) A licensed charitable organization may place its charitable gaming license in escrow if:
1. The licensee notifies the office in writing that it desires to place its license in escrow; and
 2. The license is in good standing and the office has not initiated disciplinary action against the licensee.
- (b) During the escrow period, the licensee shall not engage in charitable gaming, and the escrow period shall not be included in calculating the licensee's retention rate under KRS 238.536.
- (c) A charitable organization may apply for reinstatement of its active license and the license shall be reinstated provided:
1. The charitable organization continues to qualify for licensure;
 2. The charitable organization has not engaged in charitable gaming during the escrow period; and
 3. The charitable organization pays a reinstatement fee established by the office.

Section 8. KRS 238.540 is amended to read as follows:

- (1) Except as provided in KRS 238.535(8)(d), charitable gaming shall be conducted by a licensed charitable organization at the location, date, and time which shall be stated on the license. **The licensee shall request a change in the date, time, or location of a charitable gaming event by mail, electronic mail, or facsimile transmission, and shall submit a lease and an original signature of an officer. The office shall process this request and issue or deny a license within ten (10) days.** ~~[A license holder shall notify the office at least thirty (30) days in advance of its intent to change its location, date, or time and approval by the office shall be received by the licensee prior to the conduct of charitable gaming at a new location.]~~
- (2) All premises or facilities on which or in which charitable gaming is conducted shall meet all applicable federal, state, and local code requirements relating to life, safety, and health.
- (3) A license to conduct charitable gaming shall be prominently displayed on or in the premises where charitable gaming is conducted, in a conspicuous location that is readily accessible to gaming patrons as well as employees of the office, law enforcement officials, and other interested officials.
- (4) At least one (1) chairperson who is listed on the application for licensure shall be at each charitable gaming activity conducted by the charitable organization and shall be responsible for the administration and conduct of the charitable gaming activity. No person shall serve as chairperson for more than one (1) charitable organization. The chairperson shall be readily identifiable as the chairperson and shall be present on the premises continuously during the charitable gaming activity. Charitable gaming shall be conducted and administered solely by officers, members, and bona fide employees of the licensed charitable organization. Volunteer personnel, who may or may not be members of the licensed charitable organization, may be utilized if each volunteer is readily identifiable as a volunteer. No person engaged in the conduct and administration of charitable gaming shall receive any compensation for services related to the charitable gaming activities, including tipping. No net receipts derived from charitable gaming shall inure to the private benefit or financial gain of any individual. Any effort or attempt to disguise any other type of compensation or private inurement shall be considered an unauthorized diversion of funds and shall be actionable under KRS 238.995.
- (5) No licensed charitable organization shall contract with, or otherwise utilize the services of, any management company, service company, or consultant in managing or conducting any aspect of charitable gaming.
- (6) A licensed charitable organization shall not purchase or lease charitable gaming supplies and equipment from any person not licensed as a distributor in the Commonwealth of Kentucky.
- (7) A licensed charitable organization shall not accept any merchandise prizes donated by any owner, officer, employee, or contractee of a licensed manufacturer, distributor, charitable gaming facility, or any of their affiliates, or any member of their immediate families.
- (8) Any advertisement of charitable gaming, regardless of the medium used, shall contain the name of the charitable organization conducting the charitable gaming and its license number. An advertisement for a bingo session or sessions shall not advertise a bingo prize in excess of the limitation of five thousand dollars (\$5,000) per twenty-four (24) hour period set forth in KRS 238.545(1).

Section 9. KRS 238.505 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Office" means the Office of Charitable Gaming within the Environmental and Public Protection Cabinet;
- (2) "Charitable gaming" means bingo, charity game tickets, raffles, and charity fundraising events conducted for fundraising purposes by charitable organizations licensed and regulated under the provisions of this chapter. Charitable gaming shall not include slot machines, electronic video gaming devices, wagering on live sporting events, or simulcast broadcasts of horse races;
- (3) "Charitable organization" means a nonprofit entity organized for charitable, religious, educational, literary, civic, fraternal, or patriotic purposes;

- (4) "Bingo" means a specific game of chance in which participants use cards or paper sheets, or card-minding device representations thereof, divided into horizontal and vertical spaces, each of which is designated by a letter and a number, and prizes are awarded on the basis of the letters and numbers on the card conforming to a predetermined and preannounced configuration of letters and numbers selected at random;
- (5) "Charity game ticket" means a game of chance using a folded or banded paper ticket, or a paper card with perforated break-open tabs, the face of which is covered or otherwise hidden from view to conceal a number, letter, symbol, or set of numbers, letters, or symbols, some of which have been designated in advance as prize winners and shall include charity game tickets that utilize a seal card. Charity game ticket shall include pulltabs;
- (6) "Seal card" means a board or placard used in conjunction with charity game tickets, that contains a seal or seals which, when removed or opened, reveal predesignated winning numbers, letters, or symbols;
- (7) "Raffle" means a game of chance in which a participant is required to purchase a ticket for a chance to win a prize, with the winner to be determined by a random drawing;
- (8) "Charity fundraising event" means ~~an~~a fundraising activity of limited duration at which games of chance approved by the office are conducted, including bingo, raffles, charity game tickets, special limited charitable games, and wagering on prerecorded horse races, KRS Chapter 230 notwithstanding. Examples of such activities include events that attract patrons for community, social, and entertainment purposes apart from charitable gaming, such as fairs, festivals, carnivals, licensed charitable gaming organization conventions, and bazaars;
- (9) "Manufacturer" means a person who assembles from raw materials or subparts any charitable gaming equipment or supplies used in the conduct of charitable gaming, including a person who converts, modifies, and adds to or removes parts from, charitable gaming equipment and supplies. The term shall not include:
 - (a) Any person who services or repairs charitable gaming supplies and equipment, so long as that person replaces or repairs an incidental, malfunctioning, or nonfunctioning part with a similar or identical part; and
 - (b) Any distributor who cuts, collates, and packages for distribution any gaming supplies and equipment purchased in bulk;
- (10) "Distributor" means a person who sells, markets, leases, or otherwise furnishes to a charitable organization charitable gaming equipment or supplies, or both, used in the conduct of charitable gaming. "Distributor" shall not include:
 - (a) A resident printer who prints raffle tickets at the request of a licensed charitable organization; and
 - (b) A licensed charitable organization that affects a one-time donation of charitable gaming supplies or equipment to another licensed charitable organization if the donation is first approved by the office.
- (11) "Charitable gaming facility" means a person, including a licensed charitable organization, that owns or is a lessee of premises which are leased or otherwise made available to two (2) or more licensed charitable organizations during a one (1) year period for the conduct of charitable gaming;
- (12) "Gross receipts" means all moneys collected or received from the conduct of charitable gaming;
- (13) "Adjusted gross receipts" means gross receipts less all cash prizes and the amount paid for merchandise prizes purchased;
- (14) "Net receipts" means adjusted gross receipts less all expenses, charges, fees, and deductions authorized under this chapter;
- (15) "Charitable gaming supplies and equipment" means any material, device, apparatus, or paraphernalia customarily used in the conduct of charitable gaming, including bingo cards and paper, charity game tickets, and other apparatus or paraphernalia used in conducting games of chance at charity fundraising events subject to regulation under this chapter. The term shall not include any material, device, apparatus, or paraphernalia incidental to the game, such as pencils, daubers, playing cards, or other supplies that may be purchased from normal sources of supply;
- (16) "Door prize" means a prize awarded to a person based solely upon the person's attendance at an event or the purchase of a ticket to attend an event;
- (17) "Special limited charitable game" means roulette; blackjack; poker; keno; money wheel; baccarat; pusher-type games; any dice game where the player competes against the house; and any other game of chance as identified, defined, and approved by administrative regulation of the office;
- (18) "Special limited charity fundraising event" means any type of charity fundraising event, commonly known as and operated as a "casino night," "Las Vegas night," or "Monte Carlo night," at which the predominant number or types of games offered for play are special limited charitable games;
- (19) "Session or bingo session" means a single gathering at which a bingo game or series of successive bingo games are played, excluding bingo played at a charity fundraising event;
- (20) "Immediate family" means:
 - (a) Spouse and parents-in-law;
 - (b) Parents and grandparents;
 - (c) Children and their spouses; and
 - (d) Siblings and their spouses;

2007 Regular Session

- (21) "Affiliate" means any corporation, partnership, association, or other business or professional entity or any natural person that directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a licensed manufacturer, distributor, or charitable gaming facility;
- (22) "Secretary" means the secretary of the Environmental and Public Protection Cabinet;
- (23) "Executive director" means the executive director of the Office of Charitable Gaming within the Department of Public Protection;
- (24) "Chairperson" means the chief executive officer and any officer, member, or employee of a licensed charitable organization who will be involved in the management and supervision of charitable gaming as designated in the organization's charitable gaming license application under KRS 238.535(9)(g);
- (25) "Year" means calendar year except as used in KRS 238.545(4), 238.547(1), and 238.555(7), when "year" means the licensee's license year; and
- (26) "Card-minding device" means any mechanical, electronic, electromechanical, or computerized device that is interfaced with or connected to equipment used to conduct a game of bingo and that allows a player to store, display, and mark a bingo card face. A card-minding device shall not be designed and manufactured to resemble any electronic gaming device that utilizes a video display monitor, such as a video lottery terminal, video slot machine, video poker machine, or any similar video gaming device."

Signed March 26, 2007: Representatives Wayne, Ballard, and Siler; Senators Boswell, Thayer, and Roeding.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Wayne moved that **HB 156**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 94, Nays 3.** (See March 27, 2007, roll call on **HB 156** - Appendix.)

HB 156, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 156**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Adkins that the Free Conference Committee Report on **HB 185** be reported. Agreed.

Representative Adkins moved that **HB 185** be placed upon its passage for consideration of the Free Conference Committee Report. Agreed.

Representative Moberly moved the adoption of the following Free Conference Committee Report on **HB 185**. Agreed.

HB 185, The Free Conference Committee on **HB 185** has met as provided in the Rules of the House and Senate and hereby reports the following to be adopted: Adopt the provisions of **HB 185\SCS** with the following changes:

On page 3, line 15, after "to" by deleting "(i)" and inserting "(h)" in lieu thereof;

On page 3, line 22, after "paragraphs" by deleting "(n)" and inserting "(m)" in lieu thereof;

On page 3, line 25, after "(q)" by inserting ", (r)," in lieu thereof;

On page 5, line 16, after "businesses," by deleting "including" and inserting "as well as" in lieu thereof;

On page 6, line 15, after "2," by deleting "Conduct" and inserting "Submit to" in lieu thereof; and

On page 13, line 2, after "b," by deleting "Conduct" and inserting "Submit to" in lieu thereof.

Signed March 12, 2007: Representatives Moberly, J. Lee, Pasley, and Napier; Senators Borders, Palmer, and Harris.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Representative Moberly moved that **HB 185**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See March 27, 2007, roll call on **HB 185** - Appendix.)

HB 185, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 185**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Adkins that the Conference Committee Report on **HB 362** be reported. Agreed.

Representative Adkins moved that **HB 362** be placed upon its passage for consideration of the Conference Committee Report. Agreed.

Representative Burch moved the adoption of the following Conference Committee Report on **HB 362**.

HB 362, The Conference Committee on **HB 362** has met as provided in the Rules of the House and Senate and hereby reports that they cannot agree.

Signed March 27, 2007: Representatives Burch, Embry, J. Lee, and Wayne; Senators Borders, Denton, Harris, Ridley, and Tori.

The above-named members, in separate votes by house, all concur in the provisions of this report.

The Conference Committee Report on **HB 362** was adopted by voice vote.

The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **HB 362**.

SB 126 taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wilkey moved that **SB 126** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 27, 2007, roll call on **SB 126** - Appendix.)

SB 126 was passed and the title agreed to.

Representative Wilkey moved that the vote by which **SB 126** was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker announced the appointment of the following Free Conference Committee members:

HB 400: Representative Wayne, Chair; Representatives Wilkey, Brinkman, Clark, and Simpson.

HB 291: Representative Moberly, Chair; Representatives Rollins, Pullin, Henley, Henderson, and Palumbo

Representative Adkins moved to allow the House to recess until 2:00 p.m. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report On Enrolled Bills

HB 469, 228, 230, 358, and 426 were delivered to the Senate and signed by the President. Delivered to the Governor on March 27, 2007, at 12:30 p.m.

Representative Adkins moved to allow the House to recess until 6:00 p.m. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

A Conference Committee Report was filed on **HB 291**.

Senate Message

Announcing passage of **HB 216**.

Message received in regard to **HB 5**: The Senate has refused to recede from its Committee Substitute and its Amendment(s) to **HB 5** and has appointed the following members to a Conference Committee and Free Conference Committee. Senator Stivers, Chair; Senators Kelly, Winters, Worley, and Boswell.

Message received in regard to **HB 291**: The Senate has refused to recede from its Committee Substitute and its Amendment to **HB 291** and has appointed the following members to a Conference Committee and Free Conference Committee. Senator Borders, Chair; Senators Winters, Jensen, Ridley, and Rhodes. (5:56 p.m.)

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 145, 156, 185, 334, 380, 490, and 216** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -6:40 p.m.)

Representative Adkins moved to allow the House to recess until 7:30 p.m. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day (Continued)

A Conference Committee Report was filed on **HB 5**.

A Free Conference Committee Report was filed on **HB 362**.

A Free Conference Committee Report was filed on **HB 291**.

Representative Adkins moved that the House act on **SCR 239**. Agreed.

Representative Adkins moved that **SCR 239** be adopted.

SCR 239, A CONCURRENT RESOLUTION adjourning the 2007 Regular Session of the General Assembly sine die.

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. When the Senate and the House of Representatives adjourn on Tuesday, March 27, 2007, they do adjourn sine die.

On the roll call the vote was: Yeas 94, Nays 1. (See March 27, 2007, roll call on **SCR 239** - Appendix.)

SCR 239 was adopted.

Representative Adkins moved that the vote by which **SCR 239** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 59, with House Floor Amendments attached thereto, taken from the Orders of the Day. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that the rules be suspended to consider House Floor Amendment No. 2 to **SB 59**.

On the roll call the vote was: Yeas 94, Nays 0. (See March 27, 2007, roll call on **SB 59** - Appendix.)

The motion to suspend the rules to consider House Floor Amendment No. 2 to **SB 59** was agreed to.

Representative Moberly moved the adoption of House Floor Amendment No. 2 to **SB 59**. Agreed.

Representative Moberly moved that **SB 59**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 27, 2007, roll call on **SB 59** - Appendix.)

SB 59, as amended, was passed.

Representative Moberly moved that the rules be suspended to consider House Floor Amendment No. 3 Title to **SB 59**. Agreed.

Representative Moberly moved the adoption of House Floor Amendment No. 3 Title to **SB 59**. Agreed.

Representative Moberly moved that the vote by which **SB 59**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 143, with House Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Adkins moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that the rules be suspended to consider House Floor Amendment No. 1 to **SB 143**.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 27, 2007, roll call on **SB 143** - Appendix.)

The motion to suspend the rules to consider House Floor Amendment No. 1 to **SB 143** was agreed to.

Representative Moberly moved the adoption of House Floor Amendment No. 1 to **SB 143**. Agreed.

Representative Moberly moved that **SB 143**, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 27, 2007, roll call on **SB 143** - Appendix.)

SB 143, as amended, was passed.

Representative Moberly moved that the rules be suspended to consider House Floor Amendment No. 2 Title to **SB 143**. Agreed.

Representative Moberly moved the adoption of House Floor Amendment No. 2 Title to **SB 143**. Agreed.

Representative Moberly moved that the vote by which **SB 143**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Adkins moved that the House recess until 11:00 p.m.; that the House reconvene for the purposes of receiving Senate Messages, Enrolling of Bills, and Adjourning Sine Die; and that when the House does adjourn it adjourns by voice vote. Agreed.

Representative Adkins moved to allow the House to recess until 11:00 p.m. Agreed.

Recess

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Senate Message

Message received in regard to **HB 291**: The Senate has adopted the Free Conference Committee Report on **HB 291** and is notifying this Honorable Body that it has passed the bill.

Message received in regard to **HB 362**: The Senate has adopted the Free Conference Committee Report on **HB 362** and is notifying this Honorable Body that it has passed the bill.

Message received in regard to **HB 400**: The Senate has refused to recede from its Committee Substitute and Amendments to **HB 400**. (9:08 p.m.)

Report On Enrolled Bills

HB 145, 156, 185, 334, 380, 490, and 216 were delivered to the Senate and signed by the President. Delivered to the Governor on March 27, 2007, at 10:15 p.m.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 126, 143, and 59** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:05 p.m.)

Vote Modifications on Bills and Resolutions were filed by the following:

Representative Combs moved that she be recorded as voting "Yea" on **HB 312**. Agreed.

Representative L. Belcher moved that he be recorded as voting "Yea" on **SB 76**. Agreed.

Representative L. Belcher moved that he be recorded as voting "Yea" on **HCR 19**. Agreed.

Representative B. Smith moved that he be recorded as voting "Yea" on **HB 325, 208, 102, HJR 23, and 11** (First adoption). Agreed.

Representative Edmonds moved that he be recorded as voting "Yea" on **HB 358, 230, and SB 14**. Agreed.

Representative Thompson moved that he be recorded as voting "Yea" on **HCR 26**. Agreed.

Representative Firkins moved that his vote be changed from "Yea" to "Abstain" on **SJR 93**. Agreed.

Representative Palumbo moved that she be recorded as voting "Nay" on **HB 127**. Agreed.

Representative Cherry moved that his vote be changed from "Yea" to "Nay" on **HB 138**. Agreed.

Representative Cherry moved that he be recorded as voting "Yea" on **HB 355** (Passage March 2), **540, 114, and SB 69**. Agreed.

Representative Crenshaw moved that he be recorded as voting "Yea" on **HB 71 and SB 171**. Agreed.

Representative Westrom moved that she be recorded as voting "Yea" on **SB 10, and HJR 11** (First adoption). Agreed.

Representative Greer moved that he be recorded as voting "Yea" on **HB 540**. Agreed.

Representative Stacy moved that he be recorded as voting "Yea" on **HB 145 and 490**. Agreed.

Representative Graham moved that he be recorded as voting "Yea" on **HB 380**. Agreed.

Representative Keene moved that he be recorded as voting "Yea" on **HB 465, SB 185, and HCR 154**. Agreed.

Representative Simpson moved that he be recorded as voting "Yea" on **HB 243 and HCR 46**. Agreed.

Representative Dossett moved that he be recorded as voting "Yea" on **HB 185**. Agreed.

Representative Hall moved that he be recorded as voting "Yea" on **HB 337, 94, 373, 374, 448, 124, 230, 266, 23, 2, 210, 75, 107, 152, 109, 321, 203, 240, SB 47, HCR 75, HJR 7, and 5**. Agreed.

Representative Stein moved that she be recorded as voting "Yea" on **HB 145**. Agreed.

Representative Collins moved that he be recorded as voting "Yea" on **HB 177** (Passage February 26) and **SB 47**. Agreed.

Representative Farmer moved that he be recorded as voting "Yea" on **HB 490, 426, 410, 185** (Passage February 26), **76, SB 140, 104, 23, 79, 69, 47, 26, 68, 29, and 65**. Agreed.

Representative Webb moved that she be recorded as voting "Yea" on **HB 2, 3, 23, 50** (Passage March 5), **63, 66, 75, 89, 94, 107, 109, 120, 124, 144, 152, 197, 203, 210, 244, 258, 266, 273, 321, 337, 373, 374, 410, 426, 448, 462, 490** (Passage March 1), **SB 175, HCR 25, 29, 31, 32, 75, 141, HJR 5, and 7**. Agreed.

Representative Denham moved that he be recorded as voting "Nay" on **HB 138**. Agreed.

Representative Webb moved that she be recorded as voting "Nay" on **HB 138** (Passage February 23). Agreed.

Representative Riggs moved that he be recorded as voting "Yea" on **HB 334, 355** (Passage March 2), **376, and 394** (Final passage). Agreed.

Representative Upchurch moved that he be recorded as voting "Yea" on **SB 126**. Agreed.

Representative Adams moved that he be recorded as voting "Yea" on **HB 355 and HJR 5**. Agreed.

Floor Amendments

House Floor Amendment No. 2 Title to SB 85, by Representative Brinkman:

SB 85, By amending the title to read as follows: "AN ACT relating to statutory entities."

House Floor Amendment No. 1 to SB 85, by Representative Brinkman:

SB 85, Beginning on page 1, line 1, and continuing through page 26, line 14, by deleting same and inserting the following in lieu thereof:

"SECTION 1. A NEW SECTION OF SUBTITLE 5 OF KRS CHAPTER 271B IS CREATED TO READ AS FOLLOWS:

A corporation that changes the mailing address of its principal office shall deliver to the Secretary of State for filing, on a form supplied by the Secretary of State, a statement of change that sets forth:

- (1) The name of the corporation;
- (2) The mailing address of its principal office prior to the change; and
- (3) The new mailing address of its principal office.

SECTION 2. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 271B IS CREATED TO READ AS FOLLOWS:

A corporation may be converted to a limited liability company as provided in Section 16 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

A corporation that changes the mailing address of its principal office shall deliver to the Secretary of State for filing, on a form supplied by the Secretary of State, a statement of change that sets forth:

- (1) The name of the corporation;
- (2) The mailing address of its principal office prior to the change; and
- (3) The new mailing address of its principal office.

SECTION 4. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

- (1) Except as may be otherwise provided in a written operating agreement, a limited liability company may sell, lease, exchange, or otherwise dispose of all or substantially all of its property with or without the good will, otherwise than in the usual and regular course of business, on the terms and conditions and for the consideration determined by a majority-in-interest of the members.
- (2) Unless otherwise provided in the articles of organization or a written operating agreement, no member shall have the right to dissent from a sale, lease, exchange, or other disposition by a limited liability company of all or substantially all of its property outside the ordinary course of business.

SECTION 5. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

- (1) A limited liability company may acquire all or part of the outstanding shares of one (1) or more classes or series of a domestic or foreign corporation if the corporation, limited liability company, and a majority of their owners approve the exchange and, if the corporation is a foreign corporation, the share exchange is permitted under the laws of the state or country under which the foreign corporation is incorporated.
- (2) The plan of share exchange shall set forth:
 - (a) The name of the corporation whose shares will be acquired and the name of the acquiring limited liability company;
 - (b) The terms and conditions of the exchange; and
 - (c) The manner and basis of exchanging the shares to be acquired for limited liability company interests, obligations, or other securities of the acquiring limited liability company or for cash or other property, in whole or part.
- (3) The plan of share exchange may set forth other provisions relating to the exchange.
- (4) This section shall not limit the power of a limited liability company to acquire all or part of the shares of one (1) or more classes or series of a corporation through a voluntary exchange or otherwise.
- (5) Unless otherwise provided in the articles of organization, a written operating agreement, or a written plan of share exchange, no member of a limited liability company shall have the right to dissent from a share exchange.

SECTION 6. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

- (1) Unless otherwise provided in a written operating agreement, the plan of share exchange described in Section 5 of this Act shall be considered for adoption by the members of the limited liability company.
- (2) Each business entity that is a party to the share exchange shall approve the plan of share exchange in the manner and

by the vote required by the laws applicable to the business entity.

SECTION 7. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

- (1) After a plan of share exchange has been approved in accordance with Section 6 of this Act, the acquiring limited liability company shall deliver to the Secretary of State for filing the articles of share exchange setting forth:
 - (a) The plan of share exchange; and
 - (b) A statement that the plan of share exchange was duly authorized and approved by each of the constituent business entities in accordance with the laws applicable to each business entity.
- (2) A share exchange shall take effect upon the effective date of the articles of share exchange.

SECTION 8. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

When a share exchange takes effect, the shares of each acquired corporation shall be exchanged as provided in the plan, and the former holders of the shares shall be entitled only to the exchange rights provided in the articles of share exchange.

SECTION 9. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

- (1) A nonprofit limited liability company shall not have or issue membership interests in the limited liability company, and no distribution shall be paid and no part of the income or profit of the limited liability company shall be distributed to its members or managers.
- (2) A nonprofit limited liability company may pay compensation in a reasonable amount to its members or managers for services rendered and may confer benefits upon its members in conformity with its purposes, and these payments or benefits shall not be deemed to be a distribution of income or profit.

SECTION 10. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

No loan shall be made by a nonprofit limited liability company to its members or managers, and any member or manager who assents to or participates in the making of a loan violating this prohibition shall be liable to the limited liability company for the amount of the loan until its repayment.

SECTION 11. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

The assets of a nonprofit limited liability company in the process of dissolution shall be applied and distributed as follows:

- (1) All liabilities and obligations of the nonprofit limited liability company shall be paid and discharged, or adequate provisions made for them;
- (2) Assets received and held by the nonprofit limited liability company upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred, or conveyed in accordance with the condition's requirements;
- (3) Assets received and held by the nonprofit limited liability company subject to limitations permitting their use only for a nonprofit purpose, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution, shall be transferred or conveyed to one (1) or more domestic or foreign nonprofit corporations, limited liability companies, societies, or organizations engaged in activities substantially similar to those of the dissolving nonprofit limited liability company, pursuant to a plan of distribution; and
- (4) Any remaining assets may be distributed to those nonprofit corporations, limited liability companies, societies, or organizations as may be specified in a plan of dissolution including those that are members of the nonprofit limited liability companies.

SECTION 12. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

- (1) In proceedings to liquidate the assets and affairs of a nonprofit limited liability company, the court shall have the power to issue injunctions and to appoint a receiver or receivers while the action is pending. The receivers shall have those powers and duties as the court from time to time may direct, to take action to preserve the corporate assets wherever situated, and to carry on the affairs of the nonprofit limited liability company until a full hearing can be held.
- (2) After holding a hearing, upon notice as the court may direct to be given to all parties to the proceedings and to any other parties in interest designated by the court, the court may appoint a liquidating receiver or receivers with authority to collect the assets of the nonprofit limited liability company. The liquidating receiver or receivers shall have authority, subject to the order of the court, to sell, convey, and dispose of all or any part of the assets of the nonprofit limited liability company wherever situated, either at public or private sale. The order appointing the liquidating receiver or receivers shall state their powers and duties. The powers and duties may be increased or diminished at any time during the proceedings.
- (3) The assets of the nonprofit limited liability company or the proceeds resulting from a sale, conveyance, or other disposition thereof shall be applied and distributed as follows:
 - (a) All costs and expenses of the court proceedings and all liabilities and obligations of the nonprofit limited liability company shall be paid, satisfied, and discharged, or adequate provision for them shall be made;
 - (b) Assets held by the nonprofit limited liability company upon condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution or liquidation, shall be returned, transferred, or conveyed in accordance with the condition's requirements;

- (c) Assets received and held by the nonprofit limited liability company subject to limitations permitting their use only for a nonprofit purpose, but not held upon a condition requiring return, transfer, or conveyance by reason of the dissolution or liquidation, shall be transferred or conveyed to one (1) or more domestic or foreign nonprofit limited liability companies, societies, or organizations engaged in activities substantially similar to those of the dissolving or liquidating nonprofit limited liability company as the court may direct; and
- (d) Any remaining assets may be distributed to those persons, societies, organizations, or domestic or foreign limited liability companies, whether for profit or nonprofit, specified in the plan of distribution adopted or, if no plan of distribution has been adopted, as the court may direct.
- (4) The court shall have power to allow, from time to time, as expenses of the liquidation, compensation to the receiver or receivers and to attorneys in the proceeding, and to direct the payment thereof out of the assets of the nonprofit limited liability company or the proceeds of any sale or disposition of the assets.
- (5) A receiver of a nonprofit limited liability company appointed under the provisions of this section shall have authority to sue and defend in all courts in the receiver's own name as receiver of the nonprofit limited liability company. The court appointing the receiver shall have exclusive jurisdiction of the nonprofit limited liability company and its property, wherever situated.

SECTION 13. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

A nonprofit limited liability company may be involuntarily dissolved by a decree of the Circuit Court in an action filed by the Attorney General when it is established that:

- (1) The nonprofit limited liability company is guilty of abuse or misuse of its powers, privileges, or franchises, or the nonprofit limited liability company has become detrimental to the interest and welfare of this Commonwealth or its citizens; or
- (2) The nonprofit limited liability company procured its articles of organization through fraud.

SECTION 14. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

Any action brought by the Attorney General for the involuntary dissolution of a nonprofit limited liability company may be commenced in Franklin Circuit Court or in the Circuit Court of the county in which the registered office of the nonprofit limited liability company is situated.

SECTION 15. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

If a written operating agreement contains a provision to the effect that any amendment to the operating agreement of the limited liability company shall be in writing and adopted in accordance with the provisions of the operating agreement, then the provision shall be enforceable in accordance with its terms, and any agreement as to the conduct of the business and affairs of the limited liability company which is not in writing and adopted in accordance with the provisions of the operating agreement shall not be considered part of the operating agreement, and shall be void and unenforceable.

SECTION 16. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

- (1) A corporation may be converted to a limited liability company pursuant to this section.
- (2) The terms and conditions of the conversion of a corporation to a limited liability company shall be set forth in a written plan of conversion and approved by the board of directors and by the shareholders of the corporation.
- (3) The plan of conversion shall set forth:
 - (a) The name of the corporation planning to convert;
 - (b) The terms and conditions of the conversion, including the articles of organization and the written operating agreement, if any, of the limited liability company into which the corporation will convert; and
 - (c) The manner and basis of converting the shares of the corporation into membership interests, obligations, or other securities of the limited liability company or into cash or other property in whole or part.
- (4) The plan of conversion may set forth any other provision relating to the conversion.
- (5) For a plan of conversion to be approved:
 - (a) The board of directors shall recommend the plan of conversion to the shareholders, unless the board of directors determines that because of conflict of interest or other special circumstances, it should make no recommendation and communicates the basis for its determination to the shareholders with a plan; and
 - (b) The shareholders entitled to vote shall approve the plan.
- (6) The board of directors may condition its submission of the proposed conversion on any basis.
- (7) The corporation shall notify each shareholder, whether or not entitled to vote, of the proposed shareholders' meeting in accordance with KRS 271B.7-050. The notice shall also state that the purpose, or one (1) of the purposes, of the meeting is to consider the plan of conversion and contain or be accompanied by a copy or summary of the plan.
- (8) Unless KRS Chapter 271B, the articles of incorporation, or the board of directors acting pursuant to subsection (6) of this section, require a greater vote or vote by voting groups, the plan of conversion to be authorized shall be approved by each voting group entitled to vote separately on the plan by a majority of all the votes entitled to be cast on the plan by that voting group.

- (9) Separate voting by voting groups shall be required on a plan of conversion if the plan contains a provision that, if contained in a proposed amendment to the articles of incorporation, would require action by one (1) or more separate voting groups on the proposed amendment under KRS 271B.10-040.
- (10) After a conversion is authorized, and at any time before articles of organization are filed, the planned conversion may be abandoned subject to any contractual rights, without further shareholder action, in accordance with the procedure set forth in the plan of conversion or, if none is set forth, in the manner determined by the board of directors.
- (11) After the conversion is approved, the corporation shall file articles of organization with the office of the Secretary of State that satisfy the requirements of Section 95 of this Act and also include:
- (a) A statement that the corporation was converted to a limited liability company;
 - (b) Its former name;
 - (c) A statement that any assumed name held by the corporation has been canceled; and
 - (d) The designation, number of outstanding shares, and number of votes to be cast by each voting group entitled to vote separately on the plan of conversion and either the total number of undisputed votes cast for the plan separately by each voting group and a statement that the number cast for the plan by each voting group was sufficient for approval by that voting group.
- (12) The conversion shall take effect when the articles of organization are filed with the office of the Secretary of State or, subject to Section 100 of this Act, at a later date specified in the articles of organization.

SECTION 17. A NEW SECTION OF KRS CHAPTER 275 IS CREATED TO READ AS FOLLOWS:

- (1) A corporation that has been converted pursuant to this chapter shall be for all purposes the same entity that existed before the conversion.
- (2) When a conversion takes effect:
- (a) All property and contract rights owned by, and all rights, privileges, and immunities of the converting corporation shall remain vested in the converted limited liability company without assignment, reversion, or impairment;
 - (b) All obligations of the converting corporation shall continue as obligations of the converted limited liability company;
 - (c) An action or proceeding pending against the converting corporation may be continued as if the conversion had not occurred, and the name of the converted limited liability company may be substituted in any pending action or proceeding for the name of the converting corporation; and
 - (d) The written operating agreement of the converted limited liability company shall be binding upon each person who becomes a member of the limited liability company.

SECTION 18. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) A limited liability company may convert into a limited partnership as provided in KRS 362.2-1102(4).
- (2) The terms and conditions of the conversion of a limited liability company into a limited partnership shall be approved by all of the members notwithstanding any provision to the contrary in the operating agreement.

SECTION 19. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) Except as authorized by subsections (2) and (3) of this section, the name of a business trust or foreign business trust qualified to transact business in this Commonwealth shall be distinguishable from any name of record with the Secretary of State.
- (2) A business trust or foreign business trust may apply to the Secretary of State for authorization to use a name that is not distinguishable upon the Secretary of State's records from one (1) or more of the names described in subsection (1) of this section. The Secretary of State shall authorize use of the name applied for if:
- (a) The other business entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying limited liability company; or
 - (b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this Commonwealth.
- (3) A business trust or foreign business trust may use the name, including the fictitious name, of another business entity that is used in this Commonwealth if the other business entity is organized or authorized to transact business in this Commonwealth and the business trust or foreign business trust:
- (a) Has merged with the other business entity;
 - (b) Has been formed by reorganization of the other business entity; or
 - (c) Has acquired all or substantially all of the assets, including the business name, of the other business entity.
- (5) This chapter shall not control the use of assumed names.
- (6) The filing of a declaration of trust or an application to transact authority in the Commonwealth under the particular

name of a business trust or foreign business trust shall not automatically prevent the use of that name or protect that name from use by other persons.

SECTION 20. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) Each domestic business trust and each foreign business trust authorized to transact business in the Commonwealth shall continuously maintain in this Commonwealth:
 - (a) A registered office that may be the same as any of its places of business; and
 - (b) A registered agent who shall be either:
 1. An individual who is a resident of this Commonwealth and whose business office is identical with the registered office;
 2. A domestic corporation, limited liability company, or not-for-profit corporation whose business office is identical with the registered office; or
 3. A foreign corporation, limited liability company, or not-for-profit corporation authorized to transact business in this Commonwealth whose business office is identical with the registered office.
- (2) Unless the registered agent signs the document making the appointment, the appointment of a registered agent or a successor registered agent on whom process may be served shall not be effective until the agent delivers a statement in writing to the Secretary of State accepting the appointment.

SECTION 21. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) A business trust, or a foreign business trust authorized to transact business in the Commonwealth, may change its registered office or registered agent, or both, upon filing in the office of the Secretary of State a statement of change on a form supplied by the Secretary of State that sets forth:
 - (a) The name of the business trust or foreign business trust;
 - (b) The street address of its current registered office;
 - (c) If the current registered office is to be changed, the street address of the new registered office;
 - (d) The name of its current registered agent;
 - (e) If the current registered agent is to be changed, the name of the new registered agent and the new registered agent's written consent; and
 - (f) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.
- (2) If a registered agent changes the street address of the registered agent's business office to another place within this Commonwealth, the registered agent shall change the street address of the registered office of any business trust or foreign business trust of which the registered agent is a registered agent by notifying the business trust or foreign business trust in writing of the change, and delivering to the Secretary of State for filing a statement that complies with the requirements of subsection (1) of this section and recites that the business trust or foreign business trust has been notified of the change.
- (3) The change of address of the registered office or registered agent shall be effective on delivery of the statement to the Secretary of State. The appointment of a new registered agent shall be effective on delivery of the statement to the Secretary of State and on receipt by the Secretary of State of evidence that the new registered agent has accepted appointment pursuant to Section 20 of this Act.

SECTION 22. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) A registered agent may resign as registered agent by signing and delivering to the Secretary of State for filing the executed original and two (2) exact or conformed copies of a statement of resignation. The statement may also include a statement that the registered office is also discontinued.
- (2) After filing the statement, the Secretary of State shall mail one (1) copy to the registered office, if not discontinued, and the other copy to the business trust at its principal office.
- (3) The agency appointment shall be terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed.

SECTION 23. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) A domestic or foreign business trust's registered agent shall be the business trust's agent for service of process, notice, or demand required or permitted by law to be served on the business trust.
- (2) If a domestic or foreign business trust has no registered agent in this Commonwealth, or the registered agent cannot with reasonable diligence be served, the business trust may be served by registered or certified mail, return receipt requested, addressed to the business trust at its principal office. Service shall be perfected under this subsection at the earliest of:
 - (a) The date the business trust receives the mail;
 - (b) The date shown on the return receipt, if signed on behalf of the business trust; or

(c) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.

(3) This section shall not prescribe the only means, or necessarily the required means, of serving a domestic or foreign business trust.

SECTION 24. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) Each domestic business trust, and each foreign business trust authorized to transact business in this Commonwealth, shall deliver to the Secretary of State for filing an annual report that sets forth:

(a) The name of the business trust and the state or country under whose law it is organized;

(b) The address of its registered office and the name of its registered agent at that office in this state;

(c) The address of its principal office; and

(d) The names and business addresses of its trustees.

(2) Information in the annual report shall be current as of the date the annual report is executed on behalf of the business trust.

(3) With respect to a business trust organized or a foreign business trust first qualifying to transact business on or after the effective date of this Act, the first annual report shall be delivered to the Secretary of State between January 1 and June 30 of the year following the calendar year in which a domestic business trust was organized or a foreign business trust was authorized to transact business. A business trust organized or a foreign business trust qualified to transact business on or before the effective date of this Act shall file its first annual report between January 1 and June 30, 2008. Subsequent annual reports shall be delivered to the Secretary of State between January 1 and June 30 of the following calendar years.

(4) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign business trust in writing and return the report to it for correction.

(5) A domestic or foreign business trust may amend the information in its last filed annual report by delivery to the Secretary of State of an amendment to the annual report on such form as is provided by the Secretary of State.

(6) The filing fee for an annual report or an amended annual report is fifteen dollars (\$15.00).

SECTION 25. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

(1) The Secretary of State may commence a proceeding to administratively dissolve a business trust if:

(a) The business trust does not deliver its annual report to the Secretary of State within sixty (60) days after the annual report is due;

(b) The business trust is without a registered agent or registered office in Kentucky for at least sixty (60) days; or

(c) The business trust does not notify the Secretary of State within sixty (60) days after its registered agent or registered office has been changed, its registered agent has resigned, or its registered office has been discontinued.

(2) (a) If the Secretary of State determines that one (1) or more grounds exist under subsection (1) of this section for dissolving a business trust, the Secretary of State shall serve the business trust with written notice of the determination.

(b) If the business trust does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days from the date on which notice was mailed, the Secretary of State shall administratively dissolve the business trust by signing a certificate of dissolution that states the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the business trust by mailing the notice by first class mail to the business trust at its registered office.

(3) (a) A business trust administratively dissolved under subsection (2) of this section may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application shall:

1. State the name of the business trust and the effective date of its administrative dissolution;

2. State that the ground or grounds for dissolution either did not exist or have been eliminated;

3. Contain a certificate from the Kentucky Department of Revenue stating that all taxes owed by the business trust have been paid; and

4. Be accompanied by the reinstatement penalty and the current fee on filing each delinquent report.

(b) If the Secretary of State determines that the application contains the information required by paragraph (a) of this subsection and that the information is correct, the Secretary of State shall:

1. Cancel the certificate of dissolution and prepare a certificate of existence that states the determination and the effective date of existence; and

2. Serve a copy on the business trust.

(c) When the reinstatement is effective, the reinstatement shall relate back to and take effect as of the effective date

of the administrative dissolution, and the business trust shall resume carrying on business as if the administrative dissolution had never occurred.

- (4) (a) If the Secretary of State denies a business trust's application for reinstatement following administrative dissolution, the Secretary of State shall serve the business trust with a written notice that explains the reason or reasons for denial by mailing notice by first-class mail to the business trust at its registered office or, if none, to the last principal office identified on the most recent annual report.
- (b) The business trust may appeal the denial of reinstatement to the Circuit Court of the county where the business trust's principal office, or, if there is none in Kentucky, its registered office in Kentucky, is located within thirty (30) days after service of the notice of denial by doing the following:
1. Filing a petition with the court to set aside the dissolution; and
 2. Attaching to the petition a copy of the Secretary of State's certificate of dissolution, the business trust's application for reinstatement, and the Secretary of State's notice of denial.
- (c) The court may order the Secretary of State to reinstate the dissolved limited company or may take other action the court considers appropriate.
- (d) The court's final decision may be appealed as are other civil proceedings.

SECTION 26. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) Subject to the Constitution of this Commonwealth:
- (a) Except as provided in subsection (2) of this section, the laws of the state or other jurisdiction under which a foreign business trust is organized shall govern its organization and internal affairs, including the liability of its trustees and beneficial owners for the debts and obligations of the business trust and the inspection by a trustee or a beneficial owner of the books and records of the business trust; and
 - (b) A foreign business trust shall not be denied registration by reason of any difference between the laws of another jurisdiction under which a foreign business trust is organized and the laws of this Commonwealth.
- (2) A certificate of authority obtained pursuant to this chapter shall not authorize a foreign business trust to exercise any powers or engage in any business that a domestic business trust is forbidden to exercise or engage in by the laws of this Commonwealth.

SECTION 27. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) A foreign business trust shall not transact business in this Commonwealth until it obtains a certificate of authority from the Secretary of State.
- (2) The following activities, among others, shall not constitute transacting business within the meaning of subsection (1) of this section:
- (a) Maintaining, defending, or settling any action, suit, or proceeding;
 - (b) Holding meetings of its members or managers or carrying on other activities concerning its internal affairs;
 - (c) Maintaining bank accounts;
 - (d) Maintaining offices or agencies for the transfer, exchange, and registration of the business trust's securities, or maintaining trustees or depositories with respect to those securities;
 - (e) Selling through independent contractors;
 - (f) Soliciting or obtaining orders, whether by mail, through employees or agents, or otherwise, if the orders require acceptance outside this Commonwealth before they become contracts;
 - (g) Creating or acquiring indebtedness, mortgages, and security interests in real or personal property;
 - (h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;
 - (i) Owning, without more, real or personal property;
 - (j) Conducting an isolated transaction that is completed within thirty (30) days and that is not one (1) in the course of repeated transactions of a like nature; or
 - (k) Transacting business in interstate commerce.
- (3) The list of activities in subsection (2) of this section shall not be considered exhaustive. This section shall not apply in determining the contracts or activities that may subject a foreign business trust to service of process or taxation in this Commonwealth or to regulation under any other law of this Commonwealth.
- (4) The term "transacting business" as used in this section shall have no effect on personal jurisdiction under KRS 454.210.

SECTION 28. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) A foreign business trust transacting business in this Commonwealth without a certificate of authority shall not maintain an action, suit, or proceeding in any court in this Commonwealth until it obtains a certificate of authority.
- (2) The successor to a business trust that transacted business in this Commonwealth without a certificate of authority and

the assignee of a cause of action arising out of that business shall not maintain a proceeding based on that cause of action in any court in this Commonwealth until the foreign business trust or its successor obtains a certificate of authority.

- (3) A court may stay a proceeding commenced by a foreign business trust, its successor, or assignee, until it determines whether the foreign business trust or its successor requires a certificate of authority. If it so determines, the court may further stay the proceeding until the business trust or its successor obtains the certificate of authority.
- (4) A foreign business trust shall be liable for a civil penalty of two dollars (\$2) for each day, but not to exceed a total of five hundred dollars (\$500) for each year, it transacts business in this Commonwealth without a certificate of authority. The Attorney General may collect all penalties due under this subsection.
- (5) Notwithstanding subsections (1) and (2) of this section, the failure of a foreign business trust to obtain a certificate of authority shall not impair the validity of any contract or act of the foreign business trust or prevent it from defending any proceeding in this Commonwealth.

SECTION 29. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) A foreign business trust may apply for a certificate of authority to transact business in this Commonwealth by delivering an application to the Secretary of State for filing. The application shall set forth:
 - (a) The name of the foreign business trust, or if its name is unavailable for use in this Commonwealth, a name that satisfies the requirements of Section 19 of this Act;
 - (b) The name of the state or country under whose law it is organized;
 - (c) Its date of organization and, if the business trust has a specific date of dissolution, the latest date upon which it is to dissolve;
 - (d) The street address of the office required to be maintained in the state or other jurisdiction of its formation by the laws of that state or jurisdiction or, if not so required, of the principal office of the foreign business trust;
 - (e) The address of its registered office in this Commonwealth and the name of its registered agent at that office;
 - (f) The names and usual business addresses of its current trustees; and
 - (g) A statement that, as of the date of filing, the foreign business trust validly exists as a business trust under the laws of the jurisdiction of its organization.
- (2) A written statement of the initial registered agent consenting to serve in that capacity shall accompany the application for a certificate of authority.

SECTION 30. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) A foreign business trust authorized to transact business in this Commonwealth shall obtain an amended certificate of authority from the Secretary of State if it changes:
 - (a) Its name;
 - (b) The latest date on which it is to dissolve; or
 - (c) The state or country of its organization.
- (2) The requirements of Section 29 of this Act for obtaining an original certificate of authority shall apply to obtaining an amended certificate under this section.

SECTION 31. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) A certificate of authority shall authorize the foreign business trust to which it is issued to transact business in this Commonwealth subject to the right of the Commonwealth to revoke the certificate as provided in this chapter.
- (2) A foreign business trust with a valid certificate of authority shall have the same but no greater rights as, and shall have the same but no greater privileges as, and except as otherwise provided by this chapter shall be subject to the same duties, restrictions, penalties, and liabilities now or later imposed on, a domestic business trust.
- (3) This chapter shall not authorize this Commonwealth to regulate the organization or internal affairs of a foreign business trust authorized to transact business in this Commonwealth.

SECTION 32. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) If the name of a foreign business trust does not satisfy the requirements of Section 19 of this Act, the foreign business trust, to obtain or maintain a certificate of authority to transact business in this Commonwealth may use a fictitious name to transact business in this Commonwealth if its real name is unavailable and it delivers to the Secretary of State for filing a certificate by a trustee that the business trust has adopted the fictitious name.
- (2) Except as authorized by subsections (3) and (4) of this section, the name, including a fictitious name, of a foreign business trust shall be distinguishable from the name of any other business entity upon the records of the Secretary of State.
- (3) A foreign business trust may apply to the Secretary of State for authorization to use in this Commonwealth the name of another business entity, organized or authorized to transact business in this Commonwealth, that is not distinguishable upon the Secretary's records from the name applied for. The Secretary of State shall authorize use of the name applied

for if:

- (a) The business entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying business trust; or
- (b) The applicant delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this Commonwealth.
- (4) A foreign business trust may use in this Commonwealth the name, including the fictitious name, of another business entity that is used in this Commonwealth if the business entity is organized or authorized to transact business in this Commonwealth and the foreign business trust:
 - (a) Has merged with the other business entity;
 - (b) Has been formed by reorganization of the business entity; or
 - (c) Has acquired all or substantially all of the assets, including the name, of the other business entity.
- (5) If a foreign business trust authorized to transact business in this Commonwealth changes its name to one that does not satisfy the requirements of this section, it shall not transact business in this Commonwealth under the changed name until it adopts a name satisfying the requirements of this section and obtains an amended certificate of authorization under Section 30 of this Act.

SECTION 33. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

Each foreign business trust authorized to transact business in this Commonwealth shall continuously maintain in this Commonwealth:

- (1) A registered office that may be the same as any of its places of business; and
- (2) A registered agent, who may be:
 - (a) An individual who resides in this Commonwealth and whose business office is identical with the registered office;
 - (b) A domestic corporation, not-for-profit corporation, or limited liability company whose business office is identical with the registered office; or
 - (c) A foreign corporation, not-for-profit corporation, or limited liability company authorized to transact business in this Commonwealth whose business office is identical with the registered office.
- (3) The registered agent shall execute and deliver to the Secretary of State a document accepting the agency appointment, and the appointment of the agent shall not be effective until delivered to the Secretary of State.

SECTION 34. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) A foreign business trust authorized to transact business in this Commonwealth may change its registered office or registered agent by delivering to the Secretary of State for filing a statement of change that sets forth:
 - (a) Its name;
 - (b) The street address of its current registered office;
 - (c) If the current registered office is to be changed, the street address of its new registered office;
 - (d) The name of its current registered agent;
 - (e) If the current registered agent is to be changed, the name of its new registered agent and the new agent's written consent, either on the statement or attached to it, to the appointment; and
 - (f) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.
- (2) If a registered agent changes the street address of its business office, the agent shall change the street address of the registered office of any foreign business trust for which the agent is the registered agent by notifying the business trust in writing of the change and signing, either manually or in facsimile, and delivering to the Secretary of State for filing a statement of change that complies with the requirements of subsection (1) of this section and recites that the business trust has been notified of the change.

SECTION 35. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) The registered agent of a foreign business trust may resign its agency appointment by signing and delivering to the Secretary of State for filing the original and two (2) exact or conformed copies of a statement of resignation. The statement of resignation may include a statement that the registered office is also discontinued.
- (2) After filing the statement, the Secretary of State shall attach the filing receipt to one (1) copy and mail the copy and receipt to the registered office if not discontinued. The Secretary of State shall mail the other copy to the foreign business trust at its principal office address shown in its most recent annual report.
- (3) The agency appointment shall be terminated, and the registered office discontinued if so provided, on the thirty-first day after the date on which the statement was filed. A foreign business trust that fails to maintain a registered agent in this Commonwealth shall be subject to revocation of its certificate of authority under Section 38 of this Act.

SECTION 36. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) The registered agent of a foreign business trust authorized to transact business in this Commonwealth shall be the company's agent for service of process, notice, or demand required or permitted by law to be served on the foreign business trust.
- (2) A foreign business trust may be served by registered or certified mail, return receipt requested, addressed to the appropriate representative of the foreign business trust at its principal office shown in its application for a certificate of authority or in its most recent annual report, if the foreign business trust:
 - (a) Has no registered agent or its registered agent cannot with reasonable diligence be served;
 - (b) Has withdrawn from transacting business in this Commonwealth under Section 37 of this Act; or
 - (c) Has had its certificate of authority revoked under Section 39 of this Act.
- (3) Service is perfected under subsection (2) of this section at the earliest of:
 - (a) The date the foreign business trust receives service by mail;
 - (b) The date shown on the return receipt, if signed on behalf of the foreign business trust; or
 - (c) Five (5) days after its deposit in the United States mail, as evidenced by the postmark, if mailed postpaid and correctly addressed.
- (4) This section shall not prescribe the only means, or necessarily the required means, of serving a foreign business trust.

SECTION 37. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) A foreign business trust authorized to transact business in this Commonwealth shall not withdraw from this Commonwealth until it obtains a certificate of withdrawal from the Secretary of State.
- (2) A foreign business trust authorized to transact business in this Commonwealth may apply for a certificate of withdrawal by delivering an application to the Secretary of State for filing. The application shall set forth:
 - (a) The name of the foreign business trust and the name of the state or country under whose law it is organized;
 - (b) A statement that it is not transacting business in this Commonwealth and that it surrenders its authority to transact business in this Commonwealth;
 - (c) A statement that it revokes the authority of its registered agent to accept service on its behalf and appoints the Secretary of State as its agent for service of process in any proceeding based on a cause of action arising during the time it was authorized to transact business in this Commonwealth;
 - (d) A mailing address to which the Secretary of State may mail a copy of any process served on the Secretary of State under paragraph (c) of subsection (2) or subsection (3) of this section; and
 - (e) A commitment to notify the Secretary of State in the future of any change in its mailing address.
- (3) After the withdrawal of the business trust is effective, service of process on the Secretary of State under this section shall be service on the foreign business trust. Upon receipt of process, the Secretary of State shall mail a copy of the process to the foreign business trust at the mailing address set forth under subsection (2) of this section.

SECTION 38. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

The Secretary of State may commence a proceeding under Section 39 of this Act to revoke the certificate of authority of a foreign business trust authorized to transact business in this Commonwealth if:

- (1) The foreign business trust does not file its annual report to the Secretary of State within sixty (60) days after it is due;
- (2) The foreign business trust is without a registered agent or registered office in this Commonwealth for sixty (60) days or more;
- (3) The foreign business trust does not inform the Secretary of State under Sections 33 and 34 of this Act that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within sixty (60) days of the change, resignation, or discontinuance;
- (4) A trustee of the business trust or person organizing the foreign business trust signed a document the trustee or person knew was false in any material respect with intent that the document be delivered to the Secretary of State for filing; or
- (5) The Secretary of State receives a duly-authenticated certificate from the Secretary of State or other official having custody of business trust records in the state or country under whose law the foreign business trust is organized stating that it has been dissolved or disappeared as the result of a merger or other event.

SECTION 39. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) If the Secretary of State determines that one (1) or more grounds exist under Section 38 for revocation of a certificate of authority, the Secretary of State shall serve the foreign business trust with written notice of its determination by mailing the notice by first-class mail to the foreign business trust at its principal place of business address as shown on the records of the Secretary of State.
- (2) If the foreign business trust does not correct each ground for revocation or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days

after the mailing of the notice, the Secretary of State shall revoke the foreign business trust's certificate of authority by signing a certificate of revocation that recites the ground or grounds for revocation and its effective date. The Secretary of State shall file the original of the certificate and serve a copy to the foreign business trust by mailing notice by first-class mail to the foreign business trust at its principal place of business address as shown on the records of the Secretary of State.

- (3) The authority of a foreign business trust to transact business in this Commonwealth shall cease on the date shown on the certificate of revocation.
- (4) The Secretary of State's revocation of a foreign business trust's certificate of authority shall have the effect of appointing the Secretary of State as the foreign business trust's agent for service of process in any proceeding based on a cause of action which arose during the time the foreign business trust was authorized to transact business in this Commonwealth. Service of process on the Secretary of State under this subsection shall be service on the foreign business trust. Upon receipt of process, the Secretary of State shall mail a copy of the process to the appropriate representative of the foreign business trust at its principal office as shown in its most recent annual report or in any subsequent communication received from the foreign business trust stating the current mailing address of its principal office, or, if none are on file, in its application for a certificate of authority.
- (5) Revocation of a foreign business trust's certificate of authority shall not terminate the authority of the registered agent of the foreign business trust.

SECTION 40. A NEW SECTION OF KRS CHAPTER 386 IS CREATED TO READ AS FOLLOWS:

- (1) A foreign business trust may appeal the Secretary of State's revocation of its certificate of authority to the Franklin Circuit Court within thirty (30) days after the service of certificate of revocation. The foreign business trust may petition the court to set aside the revocation by attaching to the petition copies of its certificate of authority and the Secretary of State's certificate of revocation.
- (2) The court may summarily order the Secretary of State to reinstate the certificate of authority or may take any other action the court considers appropriate.
- (3) The court's final decision may be appealed as in other civil proceedings.

Section 41. KRS 14.105 is amended to read as follows:

- (1) The Secretary of State may accept electronic signatures to meet the filing requirements for a:
 - (a) Corporation as required in KRS Chapter 271B;
 - (b) Nonprofit corporation as required in KRS Chapter 273;
 - (c) Professional service corporation as required in KRS Chapter 274;
 - (d) Limited liability company as required in KRS Chapter 275; ~~and~~
 - (e) Partnership as required in KRS Chapter 362;
 - (f) Partnership as required in subchapter 1 of KRS Chapter 362;
 - (g) Limited partnership as required in subchapter 2 of KRS Chapter 362;
 - (h) Cooperative corporations and associations as required in KRS Chapter 272;
 - (i) Business trust as required in KRS Chapter 386;
 - (j) Rural electric and rural telephone cooperative corporation as required in KRS Chapter 279; and
 - (k) Assumed name filing under KRS Chapter 365.
- (2) The electronic signature shall satisfy the requirements set forth in KRS 369.101 to 369.120.

Section 42. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Commissioner" means the commissioner of the Department of Revenue;
- (2) "Department" means the Department of Revenue;
- (3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 2004, exclusive of any amendments made subsequent to that date, other than amendments that extend provisions in effect on December 31, 2004, that would otherwise terminate, and as modified by KRS 141.0101, except that for property placed in service after September 10, 2001, only the depreciation and expense deductions allowed under Sections 168 and 179 of the Internal Revenue Code in effect on December 31, 2001, exclusive of any amendments made subsequent to that date, shall be allowed, and including the provisions of the Military Family Tax Relief Act of 2003, Pub. L. No. 108-121, effective on the dates specified in that Act;
- (4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;
- (5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;
- (6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;
- (7) "Individual" means a natural person;

- (8) "Modified gross income" means the greater of:
- (a) Adjusted gross income as defined in Section 62 of the Internal Revenue Code of 1986, including any subsequent amendments in effect on December 31 of the taxable year, and adjusted as follows:
 1. Include interest income derived from obligations of sister states and political subdivisions thereof; and
 2. Include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2); or
 - (b) Adjusted gross income as defined in subsection (10) of this section and adjusted to include lump-sum pension distributions taxed under the special transition rules of Pub. L. No. 104-188, sec. 1401(c)(2);
- (9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;
- (10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:
- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;
 - (b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
 - (d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;
 - (e) Exclude Social Security and railroad retirement benefits subject to federal income tax;
 - (f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;
 - (g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990;
 - (h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the Armed Forces of the United States or any dependent of such person who served in Vietnam;
 - (i)
 1. For taxable years ending prior to December 31, 2005, exclude the applicable amount of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
The "applicable amount" shall be:
 - a. Twenty-five percent (25%), but not more than six thousand two hundred fifty dollars (\$6,250), for taxable years beginning after December 31, 1994, and before January 1, 1996;
 - b. Fifty percent (50%), but not more than twelve thousand five hundred dollars (\$12,500), for taxable years beginning after December 31, 1995, and before January 1, 1997;
 - c. Seventy-five percent (75%), but not more than eighteen thousand seven hundred fifty dollars (\$18,750), for taxable years beginning after December 31, 1996, and before January 1, 1998; and
 - d. One hundred percent (100%), but not more than thirty-five thousand dollars (\$35,000), for taxable years beginning after December 31, 1997.
 2. For taxable years beginning after December 31, 2005, exclude up to forty-one thousand one hundred ten dollars (\$41,110) of total distributions from pension plans, annuity contracts, profit-sharing plans, retirement plans, or employee savings plans.
 3. As used in this paragraph:
 - a. "Distributions" includes but is not limited to any lump-sum distribution from pension or profit-sharing plans qualifying for the income tax averaging provisions of Section 402 of the Internal Revenue Code; any distribution from an individual retirement account as defined in Section 408 of the Internal Revenue Code; and any disability pension distribution;
 - b. "Annuity contract" has the same meaning as set forth in Section 1035 of the Internal Revenue Code; and
 - c. "Pension plans, profit-sharing plans, retirement plans, or employee savings plans" means any trust or other entity created or organized under a written retirement plan and forming part of a stock

bonus, pension, or profit-sharing plan of a public or private employer for the exclusive benefit of employees or their beneficiaries and includes plans qualified or unqualified under Section 401 of the Internal Revenue Code and individual retirement accounts as defined in Section 408 of the Internal Revenue Code;

- (j) 1. a. Exclude the portion of the distributive share of a shareholder's net income from an S corporation subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300; and
 - b. Exclude the portion of the distributive share of a shareholder's net income from an S corporation related to a qualified subchapter S subsidiary subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300.
2. The shareholder's basis of stock held in a S corporation where the S corporation or its qualified subchapter S subsidiary is subject to the franchise tax imposed under KRS 136.505 or the capital stock tax imposed under KRS 136.300 shall be the same as the basis for federal income tax purposes;
- (k) Exclude for taxable years beginning after December 31, 1998, to the extent not already excluded from gross income, any amounts paid for health insurance, or the value of any voucher or similar instrument used to provide health insurance, which constitutes medical care coverage for the taxpayer, the taxpayer's spouse, and dependents during the taxable year. Any amounts paid by the taxpayer for health insurance that are excluded pursuant to this paragraph shall not be allowed as a deduction in computing the taxpayer's net income under subsection (11) of this section;
- (l) Exclude income received for services performed as a precinct worker for election training or for working at election booths in state, county, and local primary, regular, or special elections;
- (m) Exclude any amount paid during the taxable year for insurance for long-term care as defined in KRS 304.14-600;
- (n) Exclude any capital gains income attributable to property taken by eminent domain;
- (o) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;
- (p) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;
- (q) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;
- (r) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;
- (s) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner; and
- (t) Exclude all income from all sources for active duty and reserve members and officers of the Armed Forces of the United States or National Guard who are killed in the line of duty, for the year during which the death occurred and the year prior to the year during which the death occurred. For the purposes of this paragraph, "all income from all sources" shall include all federal and state death benefits payable to the estate or any beneficiaries;
- (11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:
 - (a) Any deduction allowed by the Internal Revenue Code for state or foreign taxes measured by gross or net income, including state and local general sales taxes allowed in lieu of state and local income taxes under the provisions of Section 164(b)(5) of the Internal Revenue Code;
 - (b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);
 - (c) The deduction for personal exemptions allowed under Section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and
 - (d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational

club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

- (12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:
- (a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;
 - (b) Exclude all dividend income received after December 31, 1969;
 - (c) Include interest income derived from obligations of sister states and political subdivisions thereof;
 - (d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;
 - (e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;
 - (f) Include the amount calculated under KRS 141.205;
 - (g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income;
 - (h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);
 - (i) Exclude any amount received by a producer of tobacco or a tobacco quota owner from the multistate settlement with the tobacco industry, known as the Master Settlement Agreement, signed on November 22, 1998;
 - (j) Exclude any amount received from the secondary settlement fund, referred to as "Phase II," established by tobacco companies to compensate tobacco farmers and quota owners for anticipated financial losses caused by the national tobacco settlement;
 - (k) Exclude any amount received from funds of the Commodity Credit Corporation for the Tobacco Loss Assistance Program as a result of a reduction in the quantity of tobacco quota allotted;
 - (l) Exclude any amount received as a result of a tobacco quota buydown program that all quota owners and growers are eligible to participate in;
 - (m) For taxable years beginning after December 31, 2004, and before January 1, 2007, exclude the distributive share income or loss received from a corporation defined in subsection (24)(b) of this section whose income has been subject to the tax imposed by KRS 141.040. The exclusion provided in this paragraph shall also apply to a taxable year that begins prior to January 1, 2005, if the tax imposed by KRS 141.040 is paid on the distributive share income by a corporation defined in subparagraphs 2. to 8. of subsection (24)(b) of this section with a return filed for a period of less than twelve (12) months that begins on or after January 1, 2005, and ends on or before December 31, 2005. This paragraph shall not be used to delay payment of the tax imposed by KRS 141.040; and
 - (n) Exclude state Phase II payments received by a producer of tobacco or a tobacco quota owner;
- (13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202, minus any amount paid for vouchers or similar instruments that provide health insurance coverage to employees or their families, and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:
- (a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;
 - (b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;
 - (c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;
 - (d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;
 - (e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);
 - (f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained; and

- (g) Any deduction prohibited by KRS 141.205;
- (14) (a) "Taxable net income," in the case of corporations that are taxable in this state, means "net income" as defined in subsection (13) of this section;
- (b) "Taxable net income," in the case of corporations that are taxable in this state and taxable in another state, means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120. A corporation is taxable in another state if, in any state other than Kentucky, the corporation is required to file a return for or pay a net income tax, franchise tax measured by net income, franchise tax for the privilege of doing business, or corporate stock tax;
- (c) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year; and
- (d) "Taxable net income" in the case of a corporation that meets the requirements established under Section 856 of the Internal Revenue Code to be a real estate investment trust, means "real estate investment trust taxable income" as defined in Section 857(b)(2) of the Internal Revenue Code;
- (15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;
- (16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the commissioner, "taxable year" means the period for which the return is made;
- (17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;
- (18) "Nonresident" means any individual not a resident of this state;
- (19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;
- (20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;
- (21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;
- (22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), (q), and (s) of the Internal Revenue Code;
- (23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;
- (24) (a) For taxable years beginning before January 1, 2005, and after December 31, 2006, "corporation" means "corporation" as defined in Section 7701(a)(3) of the Internal Revenue Code; and
- (b) For taxable years beginning after December 31, 2004, and before January 1, 2007, "corporations" means:
 1. "Corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;
 2. S corporations as defined in Section 1361(a) of the Internal Revenue Code;
 3. A foreign limited liability company as defined in KRS 275.015~~{(6)}~~;
 4. A limited liability company as defined in KRS 275.015~~{(8)}~~;
 5. A professional limited liability company as defined in KRS 275.015~~{(18)}~~;
 6. A foreign limited partnership as defined in KRS 362.2-102(9);
 7. A limited partnership as defined in KRS 362.2-102(14);
 8. A limited liability partnership as defined in KRS 362.155(7) or in 362.1-101(7) or(8);
 9. A real estate investment trust as defined in Section 856 of the Internal Revenue Code;
 10. A regulated investment company as defined in Section 851 of the Internal Revenue Code;
 11. A real estate mortgage investment conduit as defined in Section 860D of the Internal Revenue Code;
 12. A financial asset securitization investment trust as defined in Section 860L of the Internal Revenue Code; and
 13. Other similar entities created with limited liability for their partners, members, or shareholders.

For purposes of this paragraph, "corporation" shall not include any publicly traded partnership as defined by Section 7704(b) of the Internal Revenue Code that is treated as a partnership for federal tax purposes under Section 7704(c) of the Internal Revenue Code or its publicly traded partnership affiliates. As used in this paragraph, "publicly traded partnership affiliates" shall include any limited liability company or limited partnership for which at least eighty percent (80%) of the limited liability company member interests or limited partner interests are owned directly or indirectly by the publicly traded partnership;

- (25) "Doing business in this state" includes but is not limited to:
- (a) Being organized under the laws of this state;
 - (b) Having a commercial domicile in this state;
 - (c) Owning or leasing property in this state;
 - (d) Having one (1) or more individuals performing services in this state;
 - (e) Maintaining an interest in a pass-through entity doing business in this state;
 - (f) Deriving income from or attributable to sources within this state, including deriving income directly or indirectly from a trust doing business in this state, or deriving income directly or indirectly from a single-member limited liability company that is doing business in this state and is disregarded as an entity separate from its single member for federal income tax purposes; or
 - (g) Directing activities at Kentucky customers for the purpose of selling them goods or services.

Nothing in this subsection shall be interpreted in a manner that goes beyond the limitations imposed and protections provided by the United States Constitution or Pub. L. No. 86-272;

- (26) "Pass-through entity" means any partnership, S corporation, limited liability company, limited liability partnership, limited partnership, or similar entity recognized by the laws of this state that is not taxed for federal purposes at the entity level, but instead passes to each partner, member, shareholder, or owner their proportionate share of income, deductions, gains, losses, credits, and any other similar attributes;
- (27) "S corporation" means "S corporation" as defined in Section 1361(a) of the Internal Revenue Code; and
- (28) "Limited liability pass-through entity" means any pass-through entity that affords any of its partners, members, shareholders, or owners, through function of the laws of this state or laws recognized by this state, protection from general liability for actions of the entity.

Section 43. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

- (1) "Activation date" means a date selected by an approved company in the tax incentive agreement at any time within a two (2) year period after the date of final approval of the tax incentive agreement by the authority;
- (2) "Affiliate" means the following:
 - (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;
 - (b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;
 - (c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;
 - (d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:
 - 1. One (1) or more chains of corporations connected through stock ownership with a common parent corporation if:
 - a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and
 - b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or
 - 2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;
 - (e) A grantor and a fiduciary of any trust;
 - (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;
 - (g) A fiduciary of a trust and a beneficiary of that trust;
 - (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

- (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
 - (j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;
 - (k) A corporation, a partnership, and a limited partnership if the same persons own:
 - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
 - 2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership or limited partnership;
 - (l) A corporation and a limited liability company if the same persons own:
 - 1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
 - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
 - (m) A partnership, limited partnership, and a limited liability company if the same persons own:
 - 1. More than fifty percent (50%) of the capital interest or profits in the partnership or limited partnership; and
 - 2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;
 - (n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or
 - (o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended;
- (3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;
- (4) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080;
- (5) "Approved costs" means:
- (a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
 - (b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;
 - (c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;
 - (d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
 - (e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and
 - (f) All other costs of a nature comparable to those described above;
- (6) "Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080;
- (7) "Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010;
- (8) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within the Department of Workforce Investment in the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:
- (a) Manufacturing;
 - (b) Transportation, communications and public utilities;
 - (c) Wholesale and retail trade;
 - (d) Finance, insurance, and real estate; and
 - (e) Services;
- (9) "Commonwealth" means the Commonwealth of Kentucky;
- (10) (a) "Economic development project" means and includes:
- 1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved manufacturing or agribusiness company, or its affiliate;

2007 Regular Session

2. The present ownership of real estate in a qualified county by the approved manufacturing or agribusiness company or its affiliate;
 3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved manufacturing or agribusiness company pursuant to a ground lease having a term of sixty (60) years or more; and
 4. The new construction of an electric generation facility;
- (b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to paragraph (a)1., 2., and 3. or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to paragraph (a)3. of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080;
- (11) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;
 - (12) "Eligible company" means any corporation, limited liability company, partnership, ~~registered~~ limited ~~liability~~ partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing, electric generation, or in agribusiness;
 - (13) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k), or similar plans;
 - (14) "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter;
 - (15) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;
 - (16) "Inducements" means the assessment and the tax credits allowed by KRS 154.22-060;
 - (17) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals;
 - (18) "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter;
 - (19) "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080;
 - (20) "Revenues" shall not be considered state funds;
 - (21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);
 - (22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS 154.22-050, between the authority and an approved company with respect to an economic development project;
 - (23) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and
 - (24) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.

Section 44. KRS 154.23-010 is amended to read as follows:

As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

- (1) "Affiliate" has the same meaning as in KRS 154.22-010;
- (2) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;
- (3) "Approved costs" means:
 - (a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (8)(b)4. of this section:
 1. The cost of labor, contractors, subcontractors, builders, and material workers in connection with the

- acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
- 2. The cost of acquiring real estate or rights in land and any cost incidental thereto, including recording fees;
- 3. The cost of contract bonds and insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project that is not paid by the contractor or contractors or otherwise provided for;
- 4. The cost of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all duties required by or consequent to the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;
- 5. All costs required to be paid under the terms of any contract for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and
- 6. All other costs of a nature comparable to those described above; or
- (b) For an approved company that establishes a new service or technology business or expands existing service or technology operations, up to a maximum of fifty percent (50%) of the total start-up costs during the term of the service and technology agreement, plus up to a maximum of fifty percent (50%) of the annual rent for each elapsed year of the service and technology agreement;
- (4) "Assessment" means the job development assessment fee authorized by KRS 154.23-055;
- (5) "Authority" means the Kentucky Economic Development Finance Authority, as created in KRS 154.20-010;
- (6) "Average hourly wage" means the wage and employment data published by the Office of Employment and Training within the Department of Workforce Investment within the Education Cabinet collectively translated into wages per hour based on a two thousand eighty (2,080) hour work year for the following sectors:
 - (a) Manufacturing;
 - (b) Transportation, communications, and public utilities;
 - (c) Wholesale and retail trade;
 - (d) Finance, insurance, and real estate; and
 - (e) Services;
- (7) "Commonwealth" means the Commonwealth of Kentucky;
- (8) "Economic development project" or "project" means:
 - (a) A new or expanded service or technology activity conducted at a new or expanded site by:
 - 1. An approved company; or
 - 2. An approved company and its affiliate or affiliates; or
 - (b) Any of the following activities of an approved company engaged in manufacturing:
 - 1. The acquisition of or present ownership in any real estate in a qualified zone for the purposes described in KRS 154.23-005 to 154.23-079, which ownership shall include only fee simple ownership of real estate and possession of real estate according to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976;
 - 2. The acquisition or present ownership of improvements or facilities on land that is possessed or is to be possessed by the approved company in a ground lease having a term of sixty (60) years or more; provided, however, that this project shall not include lease payments made under a ground lease for purposes of calculating the tax credits offered under KRS 154.23-005 to 154.23-079;
 - 3. The construction, installation, equipping, and rehabilitation of improvements, fixtures, equipment, and facilities necessary or desirable for improvement of the real estate owned, used, or occupied by the approved company for manufacturing purposes. Construction activities include surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and providing drainage and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electric, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; or similar activities as the authority may determine necessary for construction; and
 - 4. The leasing of real estate and the buildings and fixtures thereon acquired, constructed, and installed with funds from grants under KRS 154.23-060;
- (9) "Eligible company" means any corporation, limited liability company, partnership, ~~registered~~ limited ~~liability~~ partnership, sole proprietorship, business trust, or any other legal entity engaged in manufacturing, or service or technology; however, any company whose primary purpose is retail sales shall not be an eligible company;
- (10) "Employee benefits" means nonmandated costs paid by an eligible company for its full-time employees for health

insurance, life insurance, dental insurance, vision insurance, defined benefits, 401(k) or similar plans;

- (11) "Final approval" means action taken by the authority that authorizes the eligible company to receive inducements in connection with a project under KRS 154.23-005 to 154.23-079;
- (12) "Full-time employee" means a person employed by an approved company for a minimum of thirty-five (35) hours per week and subject to the state income tax imposed by KRS 141.020;
- (13) "Inducements" means the assessment and the income tax credits allowed to an approved company under KRS 154.23-050 and 154.23-055;
- (14) "Local government" means a city, county, or urban-county government;
- (15) "Manufacturing" means to make, assemble, process, produce, or perform any other activity that changes the form or conditions of raw materials and other property, and shall include any ancillary activity to the manufacturing process, such as storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, the extraction of minerals or coal, or processing of these resources;
- (16) "Person" means an individual, sole proprietorship, partnership, limited partnership, joint venture, trust, unincorporated organization, association, corporation, limited liability company, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation any instrumentality, division, political subdivision, district, court, agency, or department thereof;
- (17) "Preliminary approval" means action taken by the authority that conditions final approval of an eligible company and its economic development project upon satisfaction by the eligible company of the applicable requirements under KRS 154.23-005 to 154.23-079;
- (18) "Qualified employee" means an individual subject to Kentucky income tax who has resided in the qualified zone where the project exists for at least twelve (12) consecutive months preceding full-time employment by an approved company;
- (19) "Qualified statewide employee" means an individual subject to Kentucky income tax who has resided in any census tract or county in the Commonwealth that meets the criteria in KRS 154.23-015, regardless of whether the tract or county is in a qualified zone, for at least twelve (12) consecutive months preceding full-time employment by an approved company;
- (20) "Qualified zone" means any census tract or county certified as such by the authority in KRS 154.23-015 and 154.23-020;
- (21) "Rent" means:
 - (a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved project for which the inducement has been granted; or
 - (b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved project for which the inducement has been granted as determined by the authority using criteria that are customary in the real estate industry for the type of building being used. The fair rental value shall include an analysis of the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for the land being utilized; and
 - (c) Rent shall include the customary cost of occupancy, including but not limited to property taxes, heating and air conditioning, electricity, water, sewer, and insurance;
- (22) "Service and technology agreement" means any agreement entered into, under KRS 154.23-040, on behalf of the authority, an approved company engaged in service or technology, and third-party lessors, if applicable, with respect to an economic development project;
- (23) (a) "Service or technology" means either:
 - 1. Any activity involving the performance of work, except work classified by the divisions, including successor divisions, of agriculture, forestry and fishing, mining, utilities, construction, manufacturing, wholesale trade, retail trade, real estate rental and leasing, educational services, accommodation and food services, and public administration in accordance with the "North American Industry Classification System," as revised by the United States Office of Management and Budget from time to time, or any successor publication; or
 - 2. Regional or headquarters operations of an entity engaged in an activity listed in subparagraph 1. of this paragraph.
- (b) Notwithstanding paragraph (a) of this subsection, "service or technology" shall not include any activity involving the performance of work by an individual who is providing direct service to the public pursuant to a license issued by the state or an association that licenses in lieu of the state;
- (24) "Start-up costs" means the acquisition cost associated with the project and related to furnishing and equipping a building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment, and the relocation of out-of-state equipment, as verified and approved by the authority in accordance with KRS 154.23-040;
- (25) "Tax incentive agreement" means that agreement entered into, pursuant to KRS 154.23-035, between the authority and an

approved company with respect to an economic development project;

- (26) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS 141.0401; and
- (27) "Kentucky gross profits" means Kentucky gross profits as defined in KRS 141.0401.

Section 45. KRS 176.150 is amended to read as follows:

- (1) No applicant shall be given a certificate of eligibility unless his financial statement and the investigation made by the department show that he possesses net current assets or working capital sufficient in the judgment of the department to render it probable that he can satisfactorily execute his contracts and meet obligations therein incurred. All applications for certificates shall expressly authorize the department to obtain all information which it deems pertinent with respect to the financial status, assets, and liabilities of the applicant from any persons having business transactions with the applicant, and shall expressly authorize all those persons to furnish any information requested from them by the department.
- (2) No applicant shall be given a certificate of eligibility until the applicant provides the secretary of the Transportation Cabinet with his sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to the applicant will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.
- (3) Certificates of eligibility shall be issued without reference to the residence of applicants and the administrative regulations regarding the issuance of certificates shall apply equally to residents and nonresidents. A certificate of eligibility shall not be denied to any applicant upon the sole issue of nationality or residence.
- (4) When the applicant is a foreign corporation, limited liability company, or limited partnership, the application shall be accompanied by a certificate from the Secretary of State of the jurisdiction in which it is organized certifying that it is validly existing and in good standing and a certificate from the Kentucky Secretary of State certifying that it~~such~~ corporation is authorized to transact business in the Commonwealth of Kentucky~~do business in the state in which it is incorporated~~.

Section 46. KRS 271B.1-200 is amended to read as follows:

- (1) A document shall satisfy the requirements of this section, and of any other section that adds to or varies these requirements, to be entitled to filing by the Secretary of State.
- (2) This chapter must require or permit filing the document in the office of the Secretary of State.
- (3) The document shall contain the information required by this chapter. It may contain other information as well.
- (4) The document shall be typewritten, printed, or electronically transmitted. If the document is electronically transmitted, the document shall be in a format that can be retrieved or reproduced in typewritten or printed form.
- (5) The document shall be in the English language. A corporate name may be in a language other than English if written in English letters or Arabic or Roman numerals, and the certificate of existence required of foreign corporations, if not in English, shall be accompanied by a reasonably authenticated English translation.
- (6) The document shall be executed:
 - (a) By the chairman of the board of directors of a domestic or foreign corporation, by its president, or by another of its officers;
 - (b) If directors have not been selected or the corporation has not been formed, by an incorporator; or
 - (c) If the corporation is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.
- (7) The person executing the document shall sign it and state beneath or opposite his signature his name and the capacity in which he signs. The document may but need not contain:
 - (a) A corporate seal of the corporation;
 - (b) An attestation, acknowledgment, or verification; or
 - (c) A statement regarding the preparer of the document which complies with KRS 382.335.
- (8) If the Secretary of State has prescribed a mandatory form for the document under KRS 271B.1-210, the document shall be in or on the prescribed form.
- (9) The document shall be delivered to the office of the Secretary of State for filing. Delivery may be made by electronic transmission if and to the extent permitted by the Secretary of State. If the document is filed in typewritten or printed form and not transmitted electronically, the Secretary of State may require one (1) exact or conformed copy to be delivered with the document, except as provided in KRS 271B.5-030 and 271B.15-090.
- (10) One (1) exact or conformed paper, but not electronic, copy of the document shall then be filed with and recorded by the county clerk of the county in which the registered office of the corporation is situated.
- (11) When the document is delivered to the office of the Secretary of State for filing, the correct filing fee, the organization tax, and any penalty required by this chapter or other law to be collected by the office of the Secretary of State with the document shall be paid or provision for payment shall be made in a manner permitted by the Secretary of State. The

Secretary of State may accept payment of the correct amount due by credit card, charge card, or similar method. However, if the amount due is tendered by any method other than cash, the liability shall not be finally discharged until the Secretary of State receives final payment or credit of collectible funds.

(12) Whenever a provision of KRS Chapter 271B permits any of the terms of a plan or a filed document to be dependent on facts objectively ascertainable outside the plan or filed document, the following provisions apply:

(a) The manner in which the facts will operate upon the terms of the plan or filed document shall be set forth in the plan or filed document;

(b) The facts may include, but are not limited to:

- 1. Any of the following that is available in a nationally recognized news or information medium either in print or electronically: statistical or market indices, market prices of any security or group of securities, interest rates, currency exchange rates, or similar economic or financial data;**
- 2. A determination or action by any person or body, including the corporation or any other party to a plan or filed document; or**
- 3. The terms of, or actions taken under, an agreement to which the corporation is a party, or any other agreement or document.**

(c) As used in this subsection:

- 1. "Filed document" means a document filed with the Secretary of State under any provision of KRS Chapter 271B except Subtitle 15 or Section 74 of this Act; and**
- 2. "Plan" means a plan of nonprofit conversion as provided for in KRS 273.382, conversion into an LLC as provided for in Section 16 of this Act, merger, or of share exchange.**

(d) The following provisions of a plan or filed document shall not be made dependent on facts outside the plan or filed document:

- 1. The name and address of any person required in a filed document;**
- 2. The registered office of any entity required in a filed document;**
- 3. The registered agent of any entity required in a filed document;**
- 4. The number of authorized shares and designation of each class or series of shares;**
- 5. The effective date of a filed document; or**
- 6. Any required statement in a filed document of the date on which the underlying transaction was approved or the manner in which that approval was given.**

(e) If a provision of a filed document is made dependent on a fact ascertainable outside of the filed document, and that fact is not ascertainable by reference to a source described in paragraph (b)1. of this subsection or a document that is a matter of public record, or the affected shareholders have not received notice of the fact from the corporation, then the corporation shall file with the Secretary of State articles of amendment setting forth the fact promptly after the time when the fact referred to is first ascertainable or thereafter changes. Articles of amendment under this paragraph are deemed to be authorized by the authorization of the original filed document or plan to which they relate and may be filed by the corporation without further action by the board of directors or the shareholders.

Section 47. KRS 271B.1-210 is amended to read as follows:

(1) The Secretary of State may prescribe and furnish on request forms for:

- (a) An application for a certificate of existence;
- (b) A foreign corporation's application for a certificate of authority to transact business in this state;
- (c) A foreign corporation's application for a certificate of withdrawal;
- (d) A change of registered office or registered agent;~~and~~
- (e) The annual report;
- (f) An amendment to the annual report;**
- (g) A change of principal address form; and**
- (h) An amended application for certificate of authority.**

If the Secretary of State so requires, use of these forms shall be mandatory.

(2) The Secretary of State may prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter but their use shall not be mandatory.

Section 48. KRS 271B.1-220 is amended to read as follows:

(1) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to him for filing:

- | | | |
|------|--|--------------|
| (a) | Articles of incorporation | \$ 40 |
| (b) | Application for use of indistinguishable name | \$ 20 |
| (c) | Application <u>or renewal of application</u> for reserved name | \$ 15 |
| (d) | <u>Cancellation of application for reserved name.....</u> | <u>\$ 10</u> |
| (e) | Notice of transfer of reserved name | \$ 15 |
| (f) | Application for registered name | \$ 36 |
| (g) | Application for renewal of registered name | \$ 36 |
| (h) | Corporation's statement of change of registered agent
or registered office, or both | \$ 10 |
| (i) | <u>Corporation's statement of change of principal office address.....</u> | <u>\$ 10</u> |
| (j) | Agent's statement of change of registered office for
each affected corporation | \$ 10 |
| | not to exceed a total of | \$1,000 |
| (k) | Amendment of articles of incorporation | \$ 40 |
| (l) | Restatement of articles of incorporation | \$ 40 |
| (m) | Amended and restated articles | \$ 80 |
| (n) | Articles of merger or share exchange | \$ 50 |
| (o) | Articles of dissolution | \$ 40 |
| (p) | Articles of revocation of dissolution | \$ 15 |
| (q) | Reinstatement penalty following administrative dissolution | \$ 100 |
| (r) | Application for certificate of authority | \$ 90 |
| (s) | Application for amended certificate of authority | \$ 40 |
| (t) | Application for certificate of withdrawal | \$ 40 |
| (u) | Annual report | \$ 15 |
| (v) | <u>Amendment to annual report</u> | <u>\$ 10</u> |
| (w) | Articles of correction | \$ 20 |
| (x) | Certificate of existence or authorization | \$ 10 |
| (y) | Any other document required or permitted to
be filed by this chapter | \$ 15 |
| (z) | Agent's statement of resignation | No fee |
| (aa) | Certificate of administrative dissolution | No fee |
| (bb) | Certificate of reinstatement | No fee |
| (cc) | Certificate of judicial dissolution | No fee |
| (dd) | Certificate of revocation of authority to transact business | No fee |
| (2) | The Secretary of State shall collect a fee of ten dollars (\$10) each time process is served on him under this chapter. The party to a proceeding causing service of process shall be entitled to recover this fee as costs if he prevails in the proceeding. | |
| (3) | The Secretary of State shall collect the following fees for copying and certifying the copy of any filed document relating to a domestic or foreign corporation: | |
| (a) | <u>Five dollars (\$5) per request for the first five (5) pages and</u> fifty cents (\$0.50) a page for <u>each page thereafter</u> ; and | |
| (b) | Five dollars (\$5) for the certificate. | |
| (4) | The county clerk shall receive a fee pursuant to KRS 64.012 for recording and issuing reports, articles, and statements pertaining to corporations. | |
| | Section 49. KRS 271B.1-250 is amended to read as follows: | |
| (1) | If a document delivered to the office of the Secretary of State for filing satisfies the requirements of KRS 271B.1-200, the Secretary of State shall file it. | |
| (2) | The Secretary of State files a document by recording it as filed on the date and time of receipt. After filing a document, except as provided in KRS 271B.5-030 and 271B.15-090, the Secretary of State shall deliver to the domestic or foreign corporation or its representative a copy of the document with an acknowledgment of the date and time of filing. | |

- (3) If the Secretary of State refuses to file a document, if filed by paper, the Secretary of State~~he~~ shall return it to the domestic or foreign corporation or its representative within five (5) days after the document was delivered, together with a brief, written explanation of the reason for ~~the~~~~his~~ refusal. If the document was filed electronically, the Secretary of State's brief explanation of the reason for the refusal may be returned electronically.
- (4) The Secretary of State's duty to file documents under this section shall be ministerial. ~~The~~~~His~~ filing or refusal to file a document shall not:
- (a) Affect the validity or invalidity of the document in whole or part;
 - (b) Relate to the correctness or incorrectness of information contained in the document; or
 - (c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

Section 50. KRS 271B.1-290 is amended to read as follows:

- (1) A person commits an offense by signing~~if he signs~~ a document knowing it~~he knows~~ is false in any material respect with intent that the document be delivered to the Secretary of State for filing.
- (2) An offense under this section shall be a misdemeanor punishable by a fine not to exceed one hundred dollars (\$100).

Section 51. KRS 271B.1-400 is amended to read as follows:

In this chapter:

- (1) "Articles of incorporation" include amended and restated articles of incorporation and articles of merger.
- (2) "Authorized shares" means the shares of all classes a domestic or foreign corporation is authorized to issue.
- (3) "Conspicuous" means so written that a reasonable person against whom the writing is to operate should have noticed it. For example, printing in italics or boldface or contrasting color, or typing in capitals or underlining, shall be considered conspicuous.
- (4) "Corporation" or "domestic corporation" means a corporation for profit, which is not a foreign corporation, incorporated under or subject to the provisions of this chapter.
- (5) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission.
- (6) "Distribution" means a direct or indirect transfer of money or other property (except its own shares) or incurrence of indebtedness by a corporation to or for the benefit of its shareholders in respect of any of its shares. A distribution may be in the form of a declaration or payment of a dividend; a purchase, redemption, or other acquisition of shares; a distribution of indebtedness; or otherwise.
- (7) "Effective date of notice" is defined in KRS 271B.1-410.
- (8) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient.
- (9) "Employee" includes an officer but not a director. A director may accept duties that make him also an employee.
- (10) "Entity" includes a domestic or foreign corporation~~and foreign corporation~~; not-for-profit corporation; profit and not-for-profit unincorporated association; business trust, estate, partnership, trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and foreign government.
- (11) "Foreign corporation" means a corporation for profit incorporated under a law other than the law of this state.
- (12) "Governmental subdivision" includes authority, county, district, and municipality.
- (13) "Includes" denotes a partial definition.
- (14) "Individual" means a natural person and includes the estate of an incompetent or deceased individual.
- (15) "Means" denotes an exhaustive definition.
- (16) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of an entity.
- (17) "Notice" is defined in KRS 271B.1-410.
- ~~(18)(17)}~~ "Person" includes individual and entity.
- ~~(19)(18)}~~ "Principal office" means the office (in or out of this state) so designated in writing to the Secretary of State where the principal executive offices of a domestic or foreign corporation are located.
- ~~(20)(19)}~~ "Proceeding" includes civil suit and criminal, administrative, and investigatory action.
- ~~(21)~~ "Real name" shall have the meaning set forth in Section 164 of this Act.
- ~~(22)(20)}~~ "Record date" means the date established under Subtitle 6 or 7 on which a corporation determines the identity of its shareholders and their shareholdings for purposes of this chapter. The determinations shall be made as of the close of business on the record date, unless another time for doing so is specified when the record date is fixed.
- ~~(23)(21)}~~ "Secretary" means the corporate officer to whom the board of directors has delegated responsibility under

subsection (3) of KRS 271B.8-400 for custody of the minutes of the meetings of the board of directors and of the shareholders and for authenticating records of the corporation.

~~(24)~~~~((22))~~ "Share" means the unit into which the proprietary interests in a corporation are divided.

~~(25)~~~~((23))~~ "Shareholder" means the person in whose name shares are registered in the records of a corporation or the beneficial owner of shares to the extent of the rights granted by a nominee certificate on file with a corporation.

~~(26)~~~~((24))~~ "Sign" or "signature" includes any manual, facsimile, or conformed or electronic signature.

~~(27)~~~~((25))~~ "State" when referring to a part of the United States, includes a state and Commonwealth (and their agencies and governmental subdivisions) and a territory, and insular possession (and their agencies and governmental subdivisions) of the United States.

~~(28)~~~~((26))~~ "Subscriber" means a person who subscribes for shares in a corporation, whether before or after incorporation.

~~(29)~~~~((27))~~ "United States" includes district, authority, bureau, commission, department, and any other agency of the United States.

~~(30)~~~~((28))~~ "Voting group" means all shares of one (1) or more classes or series that under the articles of incorporation or this chapter are entitled to vote and be counted together collectively on a matter at a meeting of shareholders. All shares entitled by the articles of incorporation or this chapter to vote generally on the matter are for that purpose a single voting group.

Section 52. KRS 271B.1-410 is amended to read as follows:

- (1) Notice under this chapter shall be in writing unless oral notice is reasonable under the circumstances. Notice by electronic transmission is written notice.
- (2) Notice may be communicated in person; by mail or other method of delivery; or by telephone, voice mail, or other electronic means. If these forms of personal notice are impracticable, notice may be communicated by a newspaper of general circulation in the area where published; or by radio, television, or other form of public broadcast communication.
- (3) Written notice by a domestic or foreign corporation to its shareholder, if in a comprehensible form, shall be effective:
 - (a) Upon deposit in the United States mail, if mailed postpaid and correctly addressed to the shareholder's address shown in the corporation's current record of shareholders; or
 - (b) When electronically transmitted to the shareholder in a manner authorized and in accordance with the shareholder's instructions, if any.
- (4) Written notice to a domestic or foreign corporation (authorized to transact business in this state) may be addressed to its registered agent at its registered office or to the corporation or its secretary at its principal office shown in its most recent annual report or, in the case of a domestic corporation that has not yet delivered an annual report, in its articles of incorporation, or, in the case of a foreign corporation that has not yet delivered an annual report, in its application for a certificate of authority.
- (5) Except as provided in subsections (3) and (4) of this section, written notice, if in a comprehensible form, shall be effective at the earliest of the following:
 - (a) When received;
 - (b) Five (5) days after its deposit in the United States mail, if mailed postpaid and correctly addressed; or
 - (c) On the date shown on the return receipt, if sent by registered or certified mail, return receipt requested, and the receipt is signed by or on behalf of the addressee.
- (6) Oral notice shall be effective when communicated if communicated in a comprehensible manner.
- (7) If this chapter prescribes notice requirements for particular circumstances, those requirements, shall govern. If articles of incorporation or bylaws prescribe notice requirements not inconsistent with this section or other provisions of this chapter, those requirements shall govern.

Section 53. KRS 271B.2-030 is amended to read as follows:

- (1) Unless a delayed effective date is specified, the corporate existence shall begin when the articles of incorporation are filed by the Secretary of State.
- (2) The Secretary of State's filing of the articles of incorporation shall be conclusive proof that the incorporators satisfied all conditions precedent to incorporation, except in a proceeding~~proceedings~~ by the state to cancel or revoke the incorporation or involuntarily dissolve the corporation.

Section 54. KRS 271B.2-050 is amended to read as follows:

- (1) After incorporation:
 - (a) If initial directors are named in the articles of incorporation, the initial directors shall hold an organizational~~organization~~ meeting, at the call of a majority of the directors, to complete the organization of the corporation by appointing officers, adopting bylaws, and carrying on any other business brought before the meeting;

2007 Regular Session

- (b) If initial directors are not named in the articles, the incorporator or incorporators shall hold an organizational~~organization~~ meeting at the call of a majority of the incorporators:
1. To elect directors and complete the organization of the corporation; or
 2. To elect a board of directors who shall complete the organization of the corporation.

- (2) Action required or permitted by this chapter to be taken by incorporators at an organizational~~organization~~ meeting may be taken without a meeting if the action taken is evidenced by one (1) or more written consents describing the action taken and signed by each incorporator.

- (3) An organizational~~organization~~ meeting may be held in or out of this state.

Section 55. KRS 271B.2-070 is amended to read as follows:

- (1) Unless the articles of incorporation provide otherwise, the board of directors of a corporation may adopt bylaws to be effective only in an emergency defined in subsection (4) of this section. The emergency bylaws, which are subject to amendment or repeal by the shareholders, may make all provisions necessary for managing the corporation during the emergency, including:

- (a) Procedures for calling a meeting of the board of directors;
- (b) Quorum requirements for the meeting; and
- (c) Designation of additional or substitute directors.

- (2) All provisions of the regular bylaws consistent with the emergency bylaws~~shall~~ remain effective during the emergency. The emergency bylaws are~~shall~~ not~~be~~ effective after the emergency ends.

- (3) Corporate action taken in good faith in accordance with the emergency bylaws:

- (a) Shall bind the corporation; and
- (b) Shall not be used to impose liability on a corporate director, officer, employee, or agent.

- (4) An emergency exists~~shall exist~~ for purposes of this section if a quorum of the corporation's directors cannot readily be assembled because of some catastrophic event.

Section 56. KRS 271B.3-010 is amended to read as follows:

- (1) Every corporation incorporated under this chapter has~~shall have~~ the purpose of engaging in any lawful business~~,~~ unless a more limited purpose is set forth in the articles of incorporation.
- (2) A corporation engaging in a business that is subject to regulation under another statute of this state may incorporate under this chapter only if permitted by, and subject to all limitations of, the other statute.

Section 57. KRS 271B.4-010 is amended to read as follows:

- (1) A corporate name:

- (a) Shall contain the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," or words or abbreviations of like import in another language; and
- (b) Shall not contain language stating or implying that the corporation is organized for a purpose other than that permitted by KRS 271B.3-010 and its articles of incorporation.

- (2) Except as authorized by subsections (3) and (4) of this section, a corporate name must be distinguishable~~upon the records of the Secretary of State~~ from any name of record with the Secretary of State:

- (a) ~~The corporate name of a corporation incorporated or authorized to transact business in this state;~~
- (b) ~~A corporate name reserved or registered under KRS 271B.4-020 or 271B.4-030;~~
- (c) ~~The fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable;~~
- (d) ~~The corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state; and~~
- (e) ~~A name filed with the Secretary of State under Subchapter 1 of KRS Chapter 362, Subchapter 2 of KRS Chapter 362, or KRS Chapter 365.~~

- (3) A corporation may apply to the Secretary of State for authorization to use a name that is not distinguishable upon the Secretary of State's~~his~~ records from one (1) or more of the names described in subsection (2) of this section. The Secretary of State shall authorize use of the name applied for if:

- (a) The other entity~~corporation~~ consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or
- (b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

- (4) A corporation may use the name (including the fictitious name) of another entity~~domestic or foreign corporation~~ that is used in this state if the other entity~~corporation~~ is incorporated or authorized to transact business in this state and the

proposed user corporation:

- (a) Has merged with the other entity~~[corporation]~~;
 - (b) Has been formed by reorganization of the other entity~~[corporation]~~; or
 - (c) Has acquired all or substantially all of the assets, including the corporate name, of the other entity~~[corporation]~~.
- (5) This chapter does not control the use of assumed~~[fictitious]~~ names.
 - (6) The filing of articles of incorporation under the particular corporate name shall not automatically prevent the use of that name or protect that name from use by other persons.

Section 58. KRS 271B.4-020 is amended to read as follows:

- (1) A person may reserve the exclusive use of a corporate name, including a fictitious name, for a foreign corporation whose corporate name is not available, by delivering an application to the Secretary of State for filing. The application shall set forth the name and address of the applicant and the name proposed to be reserved. If the Secretary of State finds that the corporate name applied for is available, he shall reserve the name for the applicant's exclusive use for a ~~nonrenewable~~ one hundred twenty (120) day period. During the thirty (30) days prior to the expiration of a reservation, the holder thereof may apply to renew the reservation on such form as shall be provided by the Secretary of State. The renewal shall be effective as of the expiration of the current reservation and shall renew the reservation for an additional one hundred twenty (120) days from the expiration.
- (2) The owner of a reserved corporate name may transfer the reservation to another person by delivering to the Secretary of State a signed notice of the transfer that states the name and address of the transferee.
- (3) The holder of a reserved corporate name may cancel the reservation by delivery to the Secretary of State of a notice of cancellation, executed by the applicant for whom the name was reserved, that states the reserved name and its date of reservation.

Section 59. KRS 271B.4-030 is amended to read as follows:

- (1) A foreign corporation may register its corporate name, or its corporate name with any addition required by KRS 271B.15-060, if the name is distinguishable upon the records of the Secretary of State as required under subsection (2) of Section 57 of this Act~~from the corporate names that are not available under subsection (2)(c) of KRS 271B.4-010~~.
- (2) A foreign corporation shall register its corporate name, or its corporate name with any addition required by KRS 271B.15-060, by delivering to the Secretary of State for filing an application:
 - (a) Setting forth its corporate name, or its corporate name with any addition required by KRS 271B.15-060, the state or country and date of its incorporation, and a brief description of the nature of the business in which it is engaged; and
 - (b) Accompanied by a certificate of existence (or a document of similar import) from the state or country of incorporation.
- (3) The name shall be registered for the applicant's exclusive use upon the effective date of the application.
- (4) A foreign corporation whose registration is effective may renew it for successive years by delivering to the Secretary of State for filing a renewal application, which complies with the requirements of subsection (2) of this section, between October 1 and December 31 of the preceding year. The renewal application when filed shall renew the registration for the following calendar year.
- (5) A foreign corporation whose registration is effective may thereafter qualify as a foreign corporation under the registered name or consent in writing to the use of that name by a corporation thereafter incorporated under this chapter or by another foreign corporation thereafter authorized to transact business in this state. The registration shall terminate when the domestic corporation is incorporated or the foreign corporation qualifies or consents to the qualification of another foreign corporation under the registered name.

Section 60. KRS 271B.6-010 is amended to read as follows:

- (1) The articles of incorporation shall prescribe the classes of shares and series of shares within a class, and the number of shares of each class and series that the corporation is authorized to issue. If more than one (1) class or series of shares is authorized, the articles of incorporation shall prescribe a distinguishing designation for each class or series, and, prior to the issuance of shares of a class or series, the preferences, limitations, and relative rights of that class or series must be described in the articles of incorporation. All shares of a class shall have preferences, limitations, and relative rights identical with those of other shares of the same class except to the extent otherwise permitted by KRS 271B.6-020.
- (2) The articles of incorporation shall authorize:
 - (a) One (1) or more classes or series of shares that together have unlimited voting rights; and
 - (b) One (1) or more classes or series of shares (which may be the same class or classes as those with voting rights) that together are entitled to receive the net assets of the corporation upon dissolution.
- (3) The articles of incorporation may authorize one (1) or more classes or series of shares that:
 - (a) Have special, conditional, or limited voting rights, or no right to vote, except to the extent otherwise

~~provided~~[prohibited] by this chapter;

- (b) Are redeemable or convertible as specified in the articles of incorporation:
 1. At the option of the corporation, the shareholder, or another person or upon the occurrence of a designated event;
 2. For cash, indebtedness, securities, or other property; or
 3. In a designated amount or in an amount determined in accordance with a designated formula or by reference to extrinsic data or events;
- (c) Entitle the holders to distributions calculated in any manner, including dividends that may be cumulative, noncumulative, or partially cumulative; or
- (d) Have preference over any other class or series of shares with respect to distributions, including dividends and distributions upon the dissolution of the corporation.

(4) Terms of shares may be made dependent upon facts objectively ascertainable outside the articles of incorporation in accordance with subsection (12) of Section 46 of this Act.

- (5)** The description of the designations, preferences, limitations, and relative rights of share classes in subsection (3) of this section shall not be considered exhaustive.

Section 61. KRS 271B.6-270 is amended to read as follows:

- (1) The articles of incorporation, bylaws, an agreement among shareholders, or an agreement between shareholders and the corporation may impose restrictions on the transfer or registration of transfer of shares of the corporation. A restriction shall not affect shares issued before the restriction was adopted unless the holders of the shares are parties to the restriction agreement or voted in favor of the restriction.
- (2) A restriction on the transfer or registration of transfer of shares shall be valid and enforceable against the holder, or a transferee of the holder, if the restriction is authorized by this section, and the holder or transferee has actual knowledge of the restriction or its existence is noted conspicuously on the front or back of the certificate, or is contained in the information statement required by subsection (2) of KRS 271B.6-260. Unless so noted or contained, a restriction is not enforceable against a person without knowledge of the restriction.
- (3) A restriction on the transfer or registration of transfer of shares shall be authorized:
 - (a) To maintain the corporation's status when it is dependent on the number or identity of its shareholders;
 - (b) To preserve exemptions under federal or state securities law;
 - (c) In connection with shares issued by the corporation to its officers, directors, employees, or independent contractors, including as equity based compensation under the Internal Revenue Code; or
 - (d) For any other reasonable purpose.
- (4) A restriction on the transfer or registration of transfer of shares may without limitation:
 - (a) Obligate the shareholder first to offer the corporation or other persons (separately, consecutively, or simultaneously) an opportunity to acquire the restricted shares;
 - (b) Obligate the corporation or other persons (separately, consecutively, or simultaneously) to acquire or transfer the restricted shares;
 - (c) Obligate a shareholder to transfer the restricted shares to the corporation or other persons for an agreed price or a price based on a valuation formula, including an obligation to transfer the shares for an amount equal to the original consideration paid for the shares;
 - (d) Require the corporation, the holders of any class of its shares, or another person to approve the transfer of the restricted shares, if the requirement is not manifestly unreasonable; or
 - (e) Prohibit the transfer of the restricted shares to designated persons or classes of persons, if the prohibition is not manifestly unreasonable.
- (5) For purposes of this section, "shares" includes a security convertible into or carrying a right to subscribe for or acquire shares.

Section 62. KRS 271B.7-210 is amended to read as follows:

- (1) Except as provided in subsections (2) and (4) of this section or unless the articles of incorporation provide otherwise, each outstanding share, regardless of class, shall be entitled to one (1) vote on each matter voted on at a shareholders' meeting. Only shares shall be entitled to vote.
- (2) Absent special circumstances, the shares of a corporation shall not be entitled to vote if they are owned, directly or indirectly, by an entity~~a second corporation~~, domestic or foreign, and the~~first~~ corporation controls~~owns~~, directly or indirectly, the entity's determination to vote, and how to vote, the shares~~a majority of the shares entitled to vote for directors of the second corporation~~.
- (3) Subsection (2) of this section shall not limit the power of a corporation to vote any shares, including its own shares, held

by it in a fiduciary capacity.

- (4) Redeemable shares shall not be entitled to vote after notice of redemption is mailed to the holders and a sum sufficient to redeem the shares has been deposited with a bank, trust company, or other financial institution under an irrevocable obligation to pay the holders the redemption price on surrender of the shares.

Section 63. KRS 271B.7-270 is amended to read as follows:

- (1) The articles of incorporation may provide for a greater quorum or voting requirement for shareholders (or voting groups of shareholders) than is provided for by this chapter.
- (2) An amendment to the articles of incorporation that adds, changes, or deletes a greater quorum or voting requirement shall meet the same quorum requirement and be adopted by the same vote and voting groups required to take action under the quorum and voting requirements then in effect or proposed to be adopted, whichever is greater.

Section 64. KRS 271B.7-400 is amended to read as follows:

- (1) A person shall not commence a proceeding in the right of a domestic or foreign corporation unless he was a shareholder of the corporation when the transaction complained of occurred or unless he became a shareholder through transfer by operation of law from one who was a shareholder at that time. The derivative proceeding shall not be maintained if it appears that the person commencing the proceeding does not fairly and adequately represent the interests of the shareholders in enforcing the right of the corporation.
- (2) A complaint in a proceeding brought in the right of a corporation shall be verified and allege with particularity the demand made, if any, to obtain action by the board of directors and either that the demand was refused or ignored or why he did not make the demand. Whether or not a demand for action was made, if the corporation commences an investigation of the charges made in the demand or complaint, the court may stay any proceeding until the investigation is completed.
- (3) A proceeding commenced under this section may not be discontinued or settled without the court's approval. If the court determines that a proposed discontinuance or settlement will substantially affect the interest of the corporation's shareholders or a class of shareholders, the court shall direct that notice be given the shareholders affected.
- (4) On termination of the proceeding the court may require the plaintiff to pay any defendant's reasonable expenses (including counsel fees) incurred in defending the proceeding if it finds that the proceeding was commenced without reasonable cause.
- (5) For purposes of this section, "shareholder" includes a beneficial owner whose shares are held in a voting trust or held by a nominee on his behalf.
- (6) In any derivative proceedings in the right of a foreign corporation, the matters covered by this section shall be governed by the laws of the jurisdiction of incorporation.

Section 65. KRS 271B.8-220 is amended to read as follows:

- (1) Unless the articles of incorporation or bylaws provide otherwise, regular meetings of the board of directors may be held without notice of the date, time, place, or purpose of the meeting.
- (2) Unless the articles of incorporation or bylaws provide for a longer or shorter period, special meetings of the board of directors shall be preceded by at least two (2) days' notice of the date, time, and place of the meeting. The notice need not ~~Unless otherwise provided by the articles of incorporation or bylaws, the notice shall not be required to~~ describe the purpose of the special meeting unless required by the articles of incorporation or bylaws.

Section 66. KRS 271B.8-570 is amended to read as follows:

A corporation may purchase and maintain insurance on behalf of an individual who is or was a director, officer, employee, or agent of the corporation, or who, while a director, officer, employee or agent of the corporation, is or was serving at the request of the corporation as a director, officer, manager, partner, trustee, employee, or agent of another entity, or of an ~~foreign or domestic~~ corporation, partnership, joint venture, trust, employee benefit plan, or other enterprise, against liability asserted against or incurred ~~by him~~ in that capacity or arising from the ~~his~~ status as a director, officer, manager, employee, or agent, whether or not the corporation would have power to indemnify ~~him~~ against the same liability under KRS 271B.8-510 or 271B.8-520.

Section 67. KRS 271B.13-020 is amended to read as follows:

- (1) A shareholder shall be entitled to dissent from, and obtain payment of the fair value of his shares in the event of, any of the following corporate actions:
- (a) Consummation of a plan of merger to which the corporation is a party:
1. If shareholder approval is required for the merger by KRS 271B.11-030 or the articles of incorporation and the shareholder is entitled to vote on the merger; or
 2. If the corporation is a subsidiary that is merged with its parent under KRS 271B.11-040;
- (b) Consummation of a plan of share exchange to which the corporation is a party as the corporation whose shares will be acquired, if the shareholder is entitled to vote on the plan;
- (c) Consummation of a sale or exchange of all, or substantially all, of the property of the corporation other than in the usual and regular course of business, if the shareholder is entitled to vote on the sale or exchange, including a sale in dissolution, but not including a sale pursuant to court order or a sale for cash pursuant to a plan by which all or

substantially all of the net proceeds of the sale will be distributed to the shareholders within one (1) year after the date of sale;

(d) **Consummation of a plan of conversion of the corporation as provided for in Section 16 of this Act:**

(e) An amendment of the articles of incorporation that materially and adversely affects rights in respect of a dissenter's shares because it:

1. Alters or abolishes a preferential right of the shares to a distribution or in dissolution;
2. Creates, alters, or abolishes a right in respect of redemption, including a provision respecting a sinking fund for the redemption or repurchase, of the shares;
3. Excludes or limits the right of the shares to vote on any matter other than a limitation by dilution through issuance of shares or other securities with similar voting rights; or
4. Reduces the number of shares owned by the shareholder to a fraction of a share if the fractional share so created is to be acquired for cash under KRS 271B.6-040;

~~(d)(e)~~ Any transaction subject to the requirements of KRS 271B.12-210 or exempted by KRS 271B.12-220(2); or

~~(g)(f)~~ Any corporate action taken pursuant to a shareholder vote to the extent the articles of incorporation, bylaws, or a resolution of the board of directors provides that voting or nonvoting shareholders are entitled to dissent and obtain payment for their shares.

- (2) A shareholder entitled to dissent and obtain payment for his shares under this chapter shall not challenge the corporate action creating his entitlement unless the action is unlawful or fraudulent with respect to the shareholder or the corporation.

Section 68. KRS 271B.14-050 is amended to read as follows:

- (1) A dissolved corporation shall continue its corporate existence but may not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:

- (a) Collecting its assets;
- (b) Disposing of its properties that will not be distributed in kind to its shareholders;
- (c) Discharging or making provision for discharging its liabilities;
- (d) Distributing its remaining property among its shareholders according to their interests; and
- (e) Doing every other act necessary to wind up and liquidate its business and affairs.

- (2) Dissolution of a corporation shall not:

- (a) Transfer title to the corporation's property;
- (b) Prevent transfer of its shares or securities, although the authorization to dissolve may provide for closing the corporation's share transfer records;
- (c) Subject its directors or officers to standards of conduct different from those prescribed in Subtitle 8;
- (d) Change quorum or voting requirements for its board of directors or shareholders; change provisions for selection, resignation, or removal of its directors or officers or both; or change provisions for amending its bylaws;
- (e) Prevent commencement of a proceeding by or against the corporation in its corporate name;
- (f) Abate or suspend a proceeding pending by or against the corporation on the effective date of dissolution;
- (g) Terminate the authority of the registered agent of the corporation; or
- (h) Alter the obligations and responsibilities of the corporation as prescribed by applicable federal or state law with regard to the filing or examination of all federal and state tax returns or the payment, assessment, or collection of any federal or state tax due with respect to those returns; or

(i) Abate or suspend KRS 271B.6-220.

Section 69. KRS 271B.14-210 is amended to read as follows:

- (1) If the Secretary of State determines that one (1) or more grounds exist under KRS 271B.14-200 for dissolving a corporation, he shall serve the corporation with written notice of his determination, by mailing such notice by first class mail to the corporation at its principal place of business address~~{registered office}~~.
- (2) If the corporation does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days from the date on which the notice was mailed, the Secretary of State shall administratively dissolve the corporation by signing a certificate of dissolution that recites the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the corporation by mailing such notice by first class mail to the corporation at its principal place of business address~~{registered office}~~.
- (3) A corporation administratively dissolved continues its corporate existence but may not carry on any business except that necessary to wind up and liquidate its business and affairs under KRS 271B.14-050 and notify claimants under KRS 271B.14-060 and 271B.14-070.

- (4) The administrative dissolution of a corporation shall not terminate the authority of its registered agent.

Section 70. KRS 271B.14-220 is amended to read as follows:

- (1) A corporation administratively dissolved under KRS 271B.14-210, or revoked under the provisions of KRS 271A.615, which was repealed by 1988 Ky. Acts, ch. 23, sec. 248, may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution or revocation. The application shall:
- (a) Recite the name of the corporation and the effective date of its administrative dissolution or revocation;
 - (b) State that the ground or grounds for dissolution or revocation either did not exist or have been eliminated;
 - (c) State that the corporation's name satisfies the requirements of KRS 271B.4-010;
 - (d) Contain a certificate from the Department of Revenue reciting that all taxes owed by the corporation have been paid; and
 - (e) Be accompanied by the reinstatement penalty and the current fee for filing each delinquent annual report provided for in KRS 271B.1-220.
- (2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution or revocation and prepare a certificate of existence that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing the notice by first class mail to the corporation at its registered office.
- (3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution or revocation and the corporation shall resume carrying on its business as if the administrative dissolution or revocation had never occurred.
- (4) Notwithstanding any other provision to the contrary, any corporation which was administratively dissolved or revoked and has taken the action necessary to wind up and liquidate its business and affairs under KRS 271B.14-050, and notify claimants under KRS 271B.14-060 and 271B.14-070, shall be prohibited from reinstatement.
- (5) A corporation administratively dissolved upon the expiration of its period of duration may, in the sixty (60) day period of subsection (2) of Section 69 of this Act, amend its articles to extend its period of duration or to delete its period of duration, which amendment will relate back to the day immediately preceding the expiration of the period of duration. A corporation which fails to so amend its articles of incorporation in the sixty (60) day period of subsection (2) of Section 69 of this Act may not thereafter be reinstated, and shall liquidate its business and affairs under Section 68 of this Act and notify claimants under KRS 271B.14-060 and 271B.14-070.**

Section 71. KRS 271B.15-010 is amended to read as follows:

- (1) A foreign corporation, except a foreign insurance company, shall not transact business in this state until it obtains a certificate of authority from the Secretary of State.
- (2) The following activities, among others, shall not constitute transacting business within the meaning of subsection (1) of this section:
- (a) Maintaining, defending, or settling any proceeding;
 - (b) Holding meetings of the board of directors or shareholders or carrying on other activities concerning internal corporate affairs;
 - (c) Maintaining bank accounts;
 - (d) Maintaining offices or agencies for the transfer, exchange, and registration of the corporation's own securities or maintaining trustees or depositaries with respect to those securities;
 - (e) Selling through independent contractors;
 - (f) Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this state before they become contracts;
 - (g) Creating or acquiring indebtedness, mortgages and security interests in real or personal property;
 - (h) Securing or collecting debts or enforcing mortgages and security interests in property securing the debts;
 - (i) Owning, without more, real or personal property;
 - (j) Conducting an isolated transaction that is completed within thirty (30) days and that is not one in the course of repeated transactions of a like nature; and
 - (k) Transacting business in interstate commerce.
- (3) The list of activities in subsection (2) of this section is not exhaustive.
- (4) This section shall not apply in determining the contracts or activities that may subject a foreign corporation to service of process or taxation in this Commonwealth or to regulation under any other law of this Commonwealth.**

Section 72. KRS 271B.15-050 is amended to read as follows:

- (1) A certificate of authority shall authorize the foreign corporation to which it is issued to transact business in this state subject, however, to the right of the state to revoke the certificate as provided in this chapter.

2007 Regular Session

- (2) A foreign corporation with a valid certificate of authority shall have the same but no greater rights and shall have the same but no greater privileges as, and except as otherwise provided by this chapter shall be subject to the same duties, restrictions, penalties and liabilities now or later imposed on, a domestic corporation of like character.

- (3) This chapter shall not authorize this state to regulate the organization or internal affairs, including the inspection of corporate books, records, and documents, of a foreign corporation authorized to transact business in this state.

Section 73. KRS 271B.15-060 is amended to read as follows:

- (1) If the real~~corporate~~ name of a foreign corporation does not satisfy the requirements of KRS 271B.4-010, the foreign corporation to obtain or maintain a certificate of authority to transact business in this state:

- (a) May add the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "Ltd.," to its real~~corporate~~ name for use in this state; or
- (b) May use a fictitious name to transact business in this state if its real name is unavailable and it delivers to the Secretary of State for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.

- (2) Except as authorized by subsections (3) and (4) of this section, the real or fictitious~~corporate~~ name ~~{(including a fictitious name)}~~ of a foreign corporation shall be distinguishable upon the records of the Secretary of State from any name of record with the Secretary of State~~:-~~

- ~~(a) The corporate name of a corporation incorporated or authorized to transact business in this state;~~
- ~~(b) A corporate name reserved or registered under KRS 271B.4-020 or 271B.4-030;~~
- ~~(c) The fictitious name of another foreign corporation authorized to transact business in this state;~~
- ~~(d) The corporate name of a not for profit corporation incorporated or authorized to transact business in this state; or~~
- ~~(e) A name filed with the Secretary of State under Subchapter 1 of KRS Chapter 362, Subchapter 2 of KRS Chapter 362, or KRS Chapter 365.~~

- (3) A foreign corporation may apply to the Secretary of State for authorization to use in this state a name~~the name of another corporation (incorporated or authorized to transact business in this state)}~~ that is not distinguishable upon his records from the name applied for. The Secretary of State shall authorize use of the name applied for if:

- (a) The other entity~~corporation~~ consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or
- (b) The applicant delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

- (4) A foreign corporation may use in this state the name (including the fictitious name) of another domestic or foreign entity~~corporation~~ that is used in this state if the other entity~~corporation~~ is incorporated or authorized to transact business in this state and the foreign entity~~corporation~~:

- (a) Has merged with the other entity~~corporation~~;
- (b) Has been formed by reorganization of the other entity~~corporation~~; or
- (c) Has acquired all or substantially all of the assets, including the corporate name, of the other entity~~corporation~~.

- (5) If a foreign corporation authorized to transact business in this state changes its real~~corporate~~ name to one that does not satisfy the requirements of KRS 271B.4-010, it shall not transact business in this state under the changed name until it adopts a fictitious name satisfying the requirements of KRS 271B.4-010 and obtains an amended certificate of authority under KRS 271B.15-040.

Section 74. KRS 271B.16-220 is amended to read as follows:

- (1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the Secretary of State for filing an annual report that sets forth:

- (a) The name of the corporation and the state or country under whose law it is incorporated;
- (b) The address of its registered office and the name of its registered agent at that office in this state;
- (c) The address of its principal office; and
- (d) The names and business addresses of its directors and principal officers;

- (2) Information in the annual report shall be current as of the date the annual report is executed on behalf of the corporation.

- (3) The first annual report shall be delivered to the Secretary of State between January 1 and June 30 of the year following the calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent annual reports shall be delivered to the Secretary of State between January 1 and June 30 of the following calendar years.

- (4) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. For purposes of KRS

271B.1-280(2)(d), an annual report returned for correction shall not be deemed to have been delivered until it is returned and accepted by the Secretary of State.

- (5) A domestic or foreign corporation may amend the information in its last filed annual report by delivery to the Secretary of State of an amendment to the annual report on such form as is provided by the Secretary of State.

Section 75. KRS 272.010 is amended to read as follows:

- (1) As used in KRS 272.020 to 272.050:

- (a) "Cooperative corporation" means a business concern that distributes the net profit of its business by first paying a fixed dividend upon its stock, if any, and then prorating the remainder of its profits as patronage refunds to its stockholders, members or customers, as provided in bylaws;
- (b) "Patronage refund" means the portion of net profit returned to member patrons or to all patrons in proportion to their patronage. In the case of an employee cooperative in which only employees are voting members, "patronage" means the amount or value of work performed by an employee, as provided in bylaws;
- (c) "Stockholder" means the holder of voting stock in a cooperative corporation organized with shares;
- (d) "Member" means the holder of a membership in a cooperative corporation organized with memberships;
- (e) "Membership" means a lifetime payment made to a cooperative corporation to secure or provide services, not made in expectation of dividend or profit, and without any redemption value except at time of dissolution. The articles of incorporation or bylaws may specify the conditions under which a membership may be terminated;{and}
- (f) "Nonprofit basis" means that no part of the income or profit of the cooperative corporation is distributable to its members, directors or officers except in the form of patronage refunds;
- (g) "Entity" includes a domestic or foreign corporation and corporation; not-for-profit corporation; profit and not-for-profit unincorporated association; business or statutory trust; estate; partnership; limited partnership; limited liability company; trust; two (2) or more persons having a joint or common economic interest; and a state, United States, and foreign government;
- (h) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of a business entity; and
- (i) "Real name" shall have the meaning set forth in Section 164 of this Act.

- (2) As used in KRS 272.360 to 272.510, unless the content for such requires otherwise, the term:

- (a) "Livestock" shall mean sheep, cattle, hogs, horses, jacks, mules, poultry or any other animal or bird commonly kept on the farm;
- (b) "Farmer" shall mean any individual, firm, partnership, limited partnership, limited liability company, corporation or farm management group which derives a portion or all of its income from the production of live stock domiciled on a farm within the Commonwealth;
- (c) "Member" shall include actual members of the association organized under KRS 272.360 to 272.510;
- (d) "Association" means any corporation organized under KRS 272.360 to 272.510; and
- (e) "Department" shall mean the Department of Agriculture.

- (3) Associations organized under KRS 272.360 to 272.510 shall be termed nonprofit inasmuch as they are not organized to make profit for themselves.

Section 76. KRS 272.050 is amended to read as follows:

No corporation, partnership, limited partnership, limited liability company, or other entity{association or company} doing business for profit in this state shall use the title "cooperative" as any part of its name unless it has complied with the provisions of KRS 272.020 to 272.050.

Section 77. KRS 272.131 is amended to read as follows:

- (1) The articles of incorporation of each association shall state:

- (a) The name of the association;
- (b) The purposes for which it is formed;
- (c) The place where its principal business will be transacted;
- (d) The period of duration, which may be perpetual. When the articles of incorporation fail to state the period of duration, it shall be considered perpetual. Any association heretofore or hereafter organized for a period less than perpetual, may, by amendment to its articles of incorporation, extend the period of its duration for a specified period or perpetually;
- (e) The names and addresses (not less than five (5)) of those who are to serve as directors for the first term or until the election of their successors;
- (f) If organized without capital stock, whether the property rights and interest of each member shall be equal or unequal; and if unequal, the articles shall set forth the general rules applicable to all members by which the

property rights and interests, respectively, of each member shall be determined and fixed; and the association shall have the power to admit new members who shall be entitled to share in the property of the association with the old members in accordance with the general rules. These provisions of the articles of incorporation shall not be altered, amended, or repealed except by the affirmative vote of not less than two-thirds (2/3) of the votes entitled to be cast by members present in person, or by proxy (if permitted by the bylaws), and voting thereon at any regular or special meeting; and

- (g) If organized with capital stock, the authorized amount of the stock and the number of shares into which it is divided and the par value thereof. Capital stock may be divided into preferred and common stock. The articles of incorporation must contain a statement of the number of shares of stock to which preference is granted and the number of shares of stock to which no preference is granted and the nature and extent of the preference and the privileges granted to each. No specific amount of the capital stock authorized is required to be subscribed before the association may transact business with other than its members; the board may determine the amount of capital stock to be issued as the business of the association may justify or demand, from time to time, within the amount of the total authorization.
- (2) The articles of incorporation may contain any provision consistent with law with respect to management, regulation, government, financing, indebtedness, membership, the establishment of voting districts and the election of delegates for representative purposes, the issuance, retirement and transfer of its stock, if formed with capital stock, or any provisions relative to the way or manner in which it shall operate with respect to its members, officers, or directors, and any other provisions relating to its affairs; but nothing set forth in this section shall be construed as limiting any of the rights or powers otherwise given to such associations.
- (3) The articles of incorporation must be subscribed by the incorporators and acknowledged by one of them before an officer authorized by the laws of this state to take and certify acknowledgments of deeds and conveyances; and shall be filed and recorded in accordance with the statute relating to corporations generally; and when so filed, the articles of incorporation, or certified copies thereof, shall be received in all the courts of this state, and other places, as prima facie evidence of the facts contained therein, and of the due incorporation of the association. A copy of the articles of incorporation, indorsed by the secretary of state with the fact and time of recording in his office, shall be filed with the dean of the College of Agriculture of the University of Kentucky and with the Commissioner of the Department of Agriculture.
- (4) Except as authorized by subsections (5) and (6) of this section, the name of an association shall be distinguishable from any name of record with the Secretary of State.
- (5) An association may apply to the Secretary of State for authorization to use a name that is not distinguishable from a name of record with the Secretary of State. The Secretary of State shall authorize use of the name applied for if:
 - (a) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or
 - (b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.
- (6) An association may use the name, including the fictitious name, of another entity that is used in this state if the other entity is incorporated, organized, or authorized to transact business in this state and the proposed user association:
 - (a) Has merged with the other entity;
 - (b) Has been formed by reorganization of the other entity; or
 - (c) Has acquired all or substantially all of the assets, including the name, of the other entity.
- (7) This chapter does not control the use of assumed names.
- (8) The filing of articles of incorporation under the particular name shall not automatically prevent the use of that name or protect that name from use by other persons.

Section 78. KRS 272.390 is amended to read as follows:

Each association formed under KRS 272.360 to 272.510 must prepare and file articles of incorporation, setting forth:

- (1) The name of the association.
- (2) The place where its principal business will be transacted.
- (3) The term for which it is to exist; the number of directors thereof which must not be less than five (5) and may be any number in excess thereof; the term of office of such directors; and the names and addresses of those who are to serve as incorporating directors for the first term, or until election and qualification of their successors.
- (4) The property rights of the members and whether the interest of each member will be equal or unequal; and if unequal, the rule or rules applicable to all members by which the property rights and interests, respectively, of each member shall be determined and fixed; and provision for the admission of new members who shall be entitled to share in the property of the association with the old members, in accordance with such general rule or rules.
- (5) Except as authorized by subsections (6) and (7) of this section, the name of an association must be distinguishable from any name of record with the Secretary of State.

- (6) An association may apply to the Secretary of State for authorization to use a name that is not distinguishable from any name of record with the Secretary of State. The Secretary of State shall authorize use of the name applied for if:
- (a) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying association; or
- (b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.
- (7) An association may use the name, including the fictitious name, of another entity that is used in this state if the other entity is incorporated, organized, or authorized to transact business in this state and the proposed user association:
- (a) Has merged with the other entity;
- (b) Has been formed by reorganization of the other entity; or
- (c) Has acquired all or substantially all of the assets, including the name, of the other entity.
- (8) This chapter does not control the use of assumed names.
- (9) The filing of articles of incorporation under the particular name shall not automatically prevent the use of that name or protect that name from use by other persons.

Section 79. KRS 273.161 is amended to read as follows:

As used in KRS 273.163 to 273.387, unless the context otherwise requires, the term:

- (1) "Corporation" or "domestic corporation" means a nonprofit corporation subject to the provisions of KRS 273.163 to 273.387, except a foreign corporation;
- (2) "Foreign corporation" means a nonprofit corporation organized under laws other than the laws of this state;
- (3) "Nonprofit corporation" means a corporation no part of the income or profit of which is distributable to its members, directors or officers;
- (4) "Articles of incorporation" means the original or restated articles of incorporation or articles of consolidation and all amendments thereto, including articles of merger;
- (5) "Bylaws" means the code or codes of rules adopted for the regulation or management of the affairs of the corporation irrespective of the name or names by which such rules are designated;
- (6) "Member" means one having membership rights in a corporation in accordance with the provisions of its articles of incorporation or bylaws;
- (7) "Board of directors" means the group of persons vested with the management of the affairs of the corporation irrespective of the name by which group is designated;
- (8) "Insolvent" means inability of a corporation to pay its debts as they become due in the usual course of its affairs;
- (9) "Principal office" means the office (in or out of this state) so designated in the annual report where the principal executive offices of a domestic or foreign corporation are located;
- (10) "Secretary" means the corporate officer to whom the board of directors has delegated responsibility for custody of the minutes of the meetings of the board of directors and the members and for authenticating records of the corporation;
- (11) "Individual" includes the estate of an incompetent or deceased individual;
- (12) "Entity" includes a domestic or foreign corporation [~~and foreign corporation~~]; not-for-profit corporation; profit and not-for-profit unincorporated association; business or statutory trust, estate, partnership, limited partnership, limited liability company, trust, and two (2) or more persons having a joint or common economic interest; and state, United States, and foreign government; and
- (13) "Person" includes individual and entity.

- (14) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of an entity; and

- (15) "Real name" shall have the meaning set forth in Section 164 of this Act.

Section 80. KRS 273.177 is amended to read as follows:

- (1) The corporate name shall include the word "corporation" or "incorporated" or the abbreviation "Inc.," or the word "company" or the abbreviation "Co."; but if the word "company" or the abbreviation "Co." is used, it may not be immediately preceded by the word "and" or the abbreviation "&." The provisions of this subsection shall not affect the right of any corporation existing on June 13, 1968, to continue the use of its name.
- (2) Except as authorized by subsection (3) of this section, a corporate name shall be distinguishable ~~upon the records of the Secretary of State~~ from any name of record with the Secretary of State:
 - (a) ~~The corporate name of a corporation incorporated or authorized to transact business in this state;~~
 - (b) ~~A corporate name reserved or registered under KRS 271B.1-300;~~

- ~~(c) The fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable;~~
- ~~(d) The corporate name of a not for profit corporation incorporated or authorized to transact business in this state; and~~
- ~~(e) A name filed with the Secretary of State under Subchapter 1 of KRS Chapter 362, Subchapter 2 of KRS Chapter 362, or KRS Chapter 365].~~
- (3) A corporation may apply to the Secretary of State for authorization to use a name that is not distinguishable from a name of record with the Secretary of State upon his records from one (1) or more of the names described in subsection (2) of this section]. The Secretary of State shall authorize use of the name applied for if:
 - (a) The other entity~~corporation~~ consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or
 - (b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.
- (4) The corporate name shall not contain any word or phrase which indicates or implies that it is organized for any purpose not permitted under KRS 273.161 to 273.390.
- (5) This chapter shall not control the use of assumed~~fictitious~~ names.
- (6) The filing of articles of incorporation under the particular corporate name shall not automatically prevent the use of that name or protect that name from use by other persons.
- (7) The assumption of a name in violation of this section shall not affect or vitiate the corporate existence; but the courts of this state having equity jurisdiction may, upon the application of the state or of any person interested or affected, enjoin such corporation from doing business under a name assumed in violation of this section, although a certificate of incorporation may have been issued.

Section 81. KRS 273.178 is amended to read as follows:

- (1) A person may reserve the exclusive use of a corporate name, including a fictitious name for a foreign corporation whose corporate name is not available, by delivering an application to the Secretary of State for filing. The application shall set forth the name and address of the applicant and the name proposed to be reserved. If the Secretary of State finds that the corporate name applied for is available, he shall reserve the name for the applicant's exclusive use for a nonrenewable period of one hundred twenty (120) days. Within thirty (30) days of the expiration of a reservation, the holder thereof may apply to renew the reservation on such form as shall be provided by the Secretary of State. The renewal shall be effective as of the expiration of the current reservation and shall renew the reservation for an additional one hundred twenty (120) days from the expiration.
- (2) The owner of a reserved corporate name may transfer the reservation to another person by delivering to the Secretary of State a signed notice of the transfer that states the name and address of the transferee.
- ~~(3) The holder of a reserved corporate name may cancel the reservation by delivery to the Secretary of State of a notice of cancellation, executed by the applicant for whom the name was reserved, that states the reserved name and its date of reservation.~~

Section 82. KRS 273.179 is amended to read as follows:

- (1) A foreign corporation may register its corporate name, or its corporate name with any addition required by KRS 273.364, if the name is distinguishable upon the records of the Secretary of State as required by subsection (2) of Section 80 of this Act~~from the corporate names that are not available under KRS 273.177~~.
- (2) A foreign corporation shall register its corporate name, or its corporate name with any addition required by KRS 273.364, by delivering to the Secretary of State for filing an application:
 - (a) Setting forth its corporate name, or its corporate name with any addition required by KRS 273.364, the state or country and date of its incorporation, and a brief description of the nature of the business in which it is engaged; and
 - (b) Accompanied by a certificate of existence, or a document of similar import, from the state or country of incorporation.
- (3) The name shall be registered for the applicant's exclusive use upon the effective date of the application.
- (4) A foreign corporation whose registration is effective may renew it for successive years by delivering to the Secretary of State for filing a renewal application, which complies with the requirements of subsection (2) of this section, between October 1 and December 31 of the preceding year. The renewal application, when filed, shall renew the registration for the following calendar year.
- (5) A foreign corporation whose registration is effective may thereafter qualify as a foreign corporation under the registered name or consent in writing to the use of that name by a corporation thereafter incorporated under this chapter or by another foreign corporation thereafter authorized to transact business in this state. The registration shall terminate when the domestic corporation is incorporated or the foreign corporation qualifies or consents to the qualification of another foreign

corporation under the registered name.

Section 83. KRS 273.364 is amended to read as follows:

- (1) If the corporate name of a foreign corporation does not satisfy the requirements of KRS 273.177, the foreign corporation, in order to obtain or maintain a certificate of authority to transact business in this state:
 - (a) May add the word "corporation," "incorporated," "company," or "limited," or the abbreviation "corp.," "inc.," "co.," or "ltd.," to its corporate name for use in this state; or
 - (b) May use a fictitious name to transact business in this state, if its real name is unavailable and it delivers to the Secretary of State for filing a copy of the resolution of its board of directors, certified by its secretary, adopting the fictitious name.
- (2) Except as authorized by subsection (3) of this section, the corporate name, including a fictitious name, of a foreign corporation shall be distinguishable ~~upon the records of the Secretary of State~~ from any name of record with the Secretary of State:
 - ~~(a) The corporate name of a corporation incorporated or authorized to transact business in this state;~~
 - ~~(b) A corporate name reserved or registered under KRS 273.178 and 273.179;~~
 - ~~(c) The fictitious name of another foreign corporation authorized to transact business in this state;~~
 - ~~(d) The corporate name of a nonprofit corporation incorporated or authorized to transact business in this state; or~~
 - ~~(e) A name filed with the Secretary of State under Subchapter 1 of KRS Chapter 362, Subchapter 2 of KRS Chapter 362, or KRS Chapter 365.~~
- (3) A foreign corporation may apply ~~to the Secretary of State~~ for authorization to use in this state ~~a~~ the name ~~of another corporation, incorporated or authorized to transact business in this state,~~ that is not distinguishable upon ~~the~~ his records of the Secretary of State from the name applied for. The Secretary of State shall authorize use of the name applied for if:
 - (a) The other ~~entity~~ corporation consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or
 - (b) The applicant delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.
- (4) If a foreign corporation authorized to transact business in this state changes its corporate name to one that does not satisfy the requirements of KRS 273.177, it may not transact business in this state under the changed name until it adopts a name satisfying the requirements of KRS 273.177 and obtains an amended certificate of authority under KRS 273.3611.

Section 84. KRS 273.2521 is amended to read as follows:

- (1) The Secretary of State may prescribe and furnish on request forms for:
 - (a) A certificate of existence;
 - (b) A foreign corporation's application for a certificate of authority to transact business in this state;
 - (c) A foreign corporation's application for a certificate of withdrawal;
 - (d) A change of registered office or registered agent;
 - (e) A change of the principle office address;
 - (f) Application for a reservation of name;
 - (g) Application to renew a reservation of a name;
 - (h) The annual report; and
 - (i) An amendment of the annual report.

If the Secretary of State so requires, use of these forms shall be mandatory.

- (2) The Secretary of State may prescribe and furnish on request forms for other documents required or permitted to be filed by this chapter. Use of these forms shall not be mandatory.

Section 85. KRS 273.3671 is amended to read as follows:

- (1) Each domestic corporation, and each foreign corporation authorized to transact business in this state, shall deliver to the Secretary of State for filing an annual report that sets forth:
 - (a) The name of the corporation and the state or country under whose law it is incorporated;
 - (b) The address of its registered office and the name of its registered agent at that office in this state;
 - (c) The address of its principal office; and
 - (d) The names and business addresses of its directors and principal officers.
- (2) Information in the annual report shall be current as of the date the annual report is executed on behalf of the corporation.
- (3) The first annual report shall be delivered to the Secretary of State between January 1 and June 30 of the year following the

calendar year in which a domestic corporation was incorporated or a foreign corporation was authorized to transact business. Subsequent annual reports shall be delivered to the Secretary of State between January 1 and June 30 of the following calendar years.

- (4) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign corporation in writing and return the report to it for correction. **For purposes of KRS 273.2527(2)(d), an annual report returned for correction shall not be deemed to have been delivered until it is returned to and accepted by the Secretary of State.**
- (5) **A domestic or foreign corporation may amend the information in its last filed annual report by delivery to the Secretary of State of an amendment to the annual report on such form as is provided by the Secretary of State.**

Section 86. KRS 274.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

- (1) "Foreign professional service corporation" means a corporation for profit organized for the purpose of rendering professional services under a law other than the law of this state;
- (2) "Professional service" means any type of personal service to the public which requires as a condition precedent to the rendering of such service the obtaining of a license or other legal authorization and which, prior to the passage of this chapter and by reason of law or a professional code of ethics, could not be performed by a corporation. The personal services which come within the provisions of this chapter are the personal services rendered by, but not limited to, certified public accountants, public accountants, chiropractors, osteopaths, physicians and surgeons, doctors of medicine, doctors of dentistry, podiatrists, chiropodists, architects, veterinarians, optometrists and attorneys-at-law;
- (3) "Professional service corporation" means a corporation organized under this chapter;
- (4) "Qualified person" means a natural person, ~~general~~ partnership, limited liability company, ~~limited liability partnership,~~ or professional service corporation which is eligible under this chapter to own shares issued by a professional service corporation; and
- (5) "Regulating board" means the governmental agency which is charged by law with the licensing and regulation of the practice of the profession which the professional service corporation is organized to render.

Section 87. KRS 274.015 is amended to read as follows:

- (1) One (1) or more individuals, each of whom is licensed to render the same professional service or who are licensed to render related professional services such that applicable licensing laws and regulations would not prohibit the practice of such multiple professional services through a single business partnership, may incorporate and form a professional service corporation by filing articles of incorporation in the office of the Secretary of State. Such articles of incorporation shall meet the requirements of KRS Chapter 271B, and in addition to the information required by KRS 271B.2-020, such articles shall contain the following:
- (a) The designation of the profession or professions to be practiced through the professional service corporation.
- (b) The names and residence addresses of all the original shareholders of the professional service corporation.
- (c) A statement by the incorporator or incorporators that each of the incorporators, shareholders, not less than one half (1/2) of the directors, and each of the officers other than secretary and treasurer is a qualified person within the meaning of this chapter.
- (2) ~~A~~Any professional service corporation formed under the provisions of this chapter ~~shall~~, except as this chapter may otherwise provide, shall have the same powers, authority, duties and ~~liabilities~~liability as a corporation~~corporations~~ formed under KRS Chapter 271B.

Section 88. KRS 274.017 is amended to read as follows:

- (1) A professional service corporation may issue and a shareholder thereof may transfer or pledge shares, fractional shares, and rights or options to purchase shares only to:
- (a) Natural persons who are authorized by law in this state or in any other state or territory of the United States or the District of Columbia to render a professional service permitted by the articles of incorporation of the corporation;
- (b) Partnerships, domestic or foreign, in which all the partners are qualified persons with respect to such professional corporation and in which at least one (1) partner is authorized by the laws of~~law in~~ this state to render a professional service permitted by the articles of incorporation of the corporation;
- (c) A professional limited liability company, domestic or foreign, authorized by law in this state to render a professional service permitted by the articles of organization of the limited liability company and the articles of incorporation of the corporation; and
- (d) Professional service corporations, domestic or foreign, authorized by law in this state to render a professional service permitted by the articles of incorporation of the corporation.
- (2) Any issuance or transfer of shares in violation of this section shall be void; however, nothing herein contained shall prohibit the transfer of shares of a professional corporation by operation of law or court decree.

Section 89. KRS 274.019 is amended to read as follows:

No proxy for shares of a professional service corporation shall be valid unless it shall be given to a qualified person. A voting trust with respect to shares of a professional service corporation shall not be valid unless all the trustees and beneficiaries thereof are qualified persons, except that a voting trust may be validly continued for a period of ten (10) months after the death of a deceased beneficiary or for a period of five (5) months after a beneficiary has become a disqualified person.

Section 90. KRS 274.065 is amended to read as follows:

Nothing in this chapter shall restrict or limit in any manner the authority and duty of any regulating board of competent jurisdiction (a) to license individual persons rendering professional services, or (b) to regulate the practice of the profession which is within the jurisdiction of such regulating board, even though such person is an officer, director, shareholder or employee of a professional service corporation or engages in the practice of such profession through a professional service corporation.

Section 91. KRS 274.077 is amended to read as follows:

The name of a domestic professional service corporation or of a foreign professional service corporation authorized to transact business in this state:

- (1) Shall contain the words "professional service corporation" or the abbreviation "P.S.C.";
- (2) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than the purposes contained in its articles of incorporation;
- (3) Shall satisfy the requirements of subsection (2) of Section 57 of this Act ~~be distinguishable upon the records of the Secretary of State from the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in KRS Chapter 271B, or the name of a corporation which has in effect a registration of its corporate name as provided in KRS Chapter 271B, or the fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable, or a name filed with the Secretary of State under KRS 362.095, 362.420, or 365.015, except that this provision shall not apply if:~~
 - (a) ~~Such similarity results from the use in the corporate name of personal names of its shareholders or former shareholders or of natural persons who were associated with a predecessor entity;~~
 - (b) ~~The other corporation or partnership consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or~~
 - (c) ~~The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state]; and~~
- (4) Shall otherwise conform to any rule promulgated by a regulating board ~~licensing authority~~ having jurisdiction of a professional service described in the articles of incorporation of such corporation.

Section 92. KRS 275.010 is amended to read as follows:

- (1) Except as otherwise set forth in this chapter or unless the articles of organization or operating agreement provide otherwise, every limited liability company shall have the powers to do all things necessary or convenient to carry out its business and affairs.
- (2) A limited liability company is a legal entity distinct from its members.
- (3) Professional limited liability companies shall be governed by the laws, whether statutory or common law, applicable to other limited liability companies. Except for those provisions concerning the personal liability of members, managers, employees, and agents of a limited liability company, nothing in this chapter shall restrict, limit, or expand in any manner the authority and duty of any regulating board to:
 - (a) (1) License individual persons providing professional services; and
 - (b) (2) Regulate the practice of persons providing professional services which are within the jurisdiction of the regulating board, even though the persons are members, managers, employees, or agents of a professional limited liability company, or provide professional services through a professional limited liability company, including the establishment of regulations concerning:
 1. (a) The qualifications of members or managers of a professional limited liability company;
 2. (b) The transfer of limited liability company interests in a professional limited liability company; or
 3. (c) The provision of one (1) or more professional services through a professional limited liability company.

Section 93. KRS 275.015 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

- (1) "Articles of organization" means the articles filed in conformity with the provisions of KRS 275.020 and 275.025, and those articles as amended or restated;
- (2) "Business entity" means a domestic ~~or~~ and foreign limited liability company, corporation, partnership, limited partnership ~~companies, general and limited partnerships, corporations~~, business or statutory trust ~~trusts~~, and not-for-profit unincorporated association ~~sole proprietorships~~;

- (3) "Corporation" means a profit or nonprofit corporation formed under the laws of any state or a foreign country;
- (4) "Court" means every court having jurisdiction in the case;
- (5) "Deliver" or "delivery" means any method of delivery used in conventional commercial practice, including delivery by hand, mail, commercial delivery, and electronic transmission;
- (6) "Dissent" means a right to object to a proposed action or transaction and, in connection therewith, to demand a redemption of a limited liability company interest;
- (7) "Electronic transmission" or "electronically transmitted" means any process of communication not directly involving the physical transfer of paper that is suitable for the retention, retrieval, and reproduction of information by the recipient;
- (8) "Event of disassociation" means an event that causes a person to cease to be a member as provided in KRS 275.280;
- ~~(9)~~(6) "Foreign limited liability company" means an organization that is:
 - (a) An unincorporated association;
 - (b) Organized under laws of a state other than the laws of this Commonwealth, or under the laws of any foreign country; and
 - (c) Organized under a statute pursuant to which an association may be formed that affords to each of its members limited liability with respect to the liabilities of the entity;
- ~~(10)~~(7) "Knowledge" means actual knowledge of a fact;
- ~~(11)~~(8) "Limited liability company" or "domestic limited liability company" means a limited liability company formed under this chapter having one (1) or more members;
- ~~(12)~~(9) "Limited liability company interest" or "interest in the limited liability company" means the interest that may be issued in accordance with KRS 275.195;
- ~~(13)~~(10) "Limited partnership" means a limited partnership formed under the laws of the Commonwealth or any other state or a foreign country;
- ~~(14)~~(11) "Majority-in-interest of the members" means those members entitled to cast a majority of the votes to be cast by the members on any matter under the terms of the operating agreement described in KRS 275.175(3);
- ~~(15)~~(12) "Manager" or "managers" means, with respect to a limited liability company that has set forth in its articles of organization that it is to be managed by managers, the person or persons designated in accordance with KRS 275.165;
- ~~(16)~~(13) "Member" or "members" means a person or persons who have been admitted to membership in a limited liability company as provided in KRS 275.275 and who have not ceased to be members as provided in KRS 275.280;
- (17) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of a business entity;
- (18) "Nonprofit limited liability company" means a limited liability company formed for a nonprofit purpose;
- (19) "Nonprofit purpose" includes any purpose authorized under KRS 273.167;
- ~~(20)~~(14) "Operating agreement" means any agreement, written or oral, among all of the members, as to the conduct of the business and affairs of a limited liability company. ~~[If a written operating agreement contains a provision to the effect that any amendment to the operating agreement of the limited liability company shall be in writing and adopted in accordance with the provisions of the operating agreement, the provision shall be enforceable in accordance with its terms, and any agreement as to the conduct of the business and affairs of the limited liability company which is not in writing and adopted in accordance with the provisions of the operating agreement shall not be considered part of the operating agreement and shall be void and unenforceable.]~~ If a limited liability company has only one (1) member, an operating agreement shall be deemed to include:
 - (a) A writing executed by the member that relates to the affairs of the limited liability company and the conduct of its business regardless of whether the writing constitutes an agreement; or
 - (b) If the limited liability company is managed by a manager, any other agreement between the member and the limited liability company as it relates to the limited liability company and the conduct of its business, regardless of whether the agreement is in writing;
- ~~(21)~~(15) "Person" means an individual, a partnership, a domestic or foreign limited liability company, a trust, an estate, an association, a corporation, or any other legal entity;
- ~~(22)~~(16) "Principal office" means the office, in or out of the Commonwealth, so designated in writing with the Secretary of State where the principal executive offices of a domestic or foreign limited liability company are located;
- ~~(23)~~(17) "Proceeding" means civil suit and criminal, administrative, and investigative action;
- ~~(24)~~(18) "Professional limited liability company" means a limited liability company organized under this chapter or the laws of another state or foreign country for purposes that include, but are not limited to, the providing of one (1) or more professional services. Except as otherwise expressly provided in this chapter, all provisions of this chapter governing

limited liability companies shall be applicable to professional limited liability companies;

~~(25)~~~~(19)~~ "Professional services" mean the personal services rendered by physicians, osteopaths, optometrists, podiatrists, chiropractors, dentists, nurses, pharmacists, psychologists, occupational therapists, veterinarians, engineers, architects, landscape architects, certified public accountants, public accountants, physical therapists, and attorneys;

~~(26)~~ ***"Real name" shall have the meaning set forth in Section 164 of this Act;***

~~(27)~~~~(20)~~ "Regulating board" means the governmental agency which is charged by law with the licensing and regulation of the practice of the profession which the professional limited liability company is organized to provide; and

~~(28)~~~~(21)~~ "State" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

Section 94. KRS 275.020 is amended to read as follows:

- (1) One (1) or more persons may serve as the organizer and form a limited liability company by delivering articles of organization to the Secretary of State for filing. It shall not be necessary that the person or persons be members of the limited liability company.
- ~~(2) ***Unless a delayed effective date is specified, the existence of the limited liability company shall begin when the articles of organization are filed by the Secretary of State. If a delayed effective date is specified, the existence of the limited liability company shall begin when the articles of organization are effective as specified in Section 100 of this Act.***~~
- ~~(3) ***The Secretary of State's filing of the articles of organization shall be conclusive proof that the organizer or organizers satisfied all conditions precedent to organization, except in a proceeding by the state to cancel or revoke the organization or involuntarily dissolve the limited liability company.***~~

Section 95. KRS 275.025 is amended to read as follows:

- (1) The articles of organization shall set forth:
 - (a) A name for the limited liability company that satisfies the requirements of KRS 275.100;
 - (b) The street address of the limited liability company's initial registered office, and the name of its initial registered agent at that office;
 - (c) The mailing address of the initial principal office of the limited liability company; and
 - (d) A statement that the limited liability company is to be managed by a manager or managers or that the limited liability company is to be managed by its members.
- (2) The term of a limited liability company shall be perpetual unless a period of duration other than perpetual is set forth in the articles of organization.
- (3) The articles of organization of a professional limited liability company shall designate the professional services to be practiced through the professional limited liability company.
- (4) The articles of organization may set forth any other matter that under this chapter is permitted to be set forth in an operating agreement not inconsistent with law.
- (5) A written statement of the initial registered agent consenting to serve in that capacity shall accompany the articles of organization.
- (6) A member of a limited liability company shall not have a vested property right resulting from any provision of the articles of organization.
- ~~(7) ***If the limited liability company is a nonprofit limited liability company, then the articles of organization shall state that fact and its nonprofit purpose. This provision of the articles of organization shall not be removed from the articles of organization without written notice to the Attorney General of Kentucky given not less than ten (10) business days prior to the filing of the amendment.***~~
- ~~(8) ***The fact that the articles of organization are on file with the Secretary of State is notice:***~~
 - ~~(a) ***That the limited liability company formed by the filing of the articles of organization is a limited liability company formed under the laws of the Commonwealth of Kentucky; and***~~
 - ~~(b) ***Of all other facts set forth in the articles of organization which are required to be set forth by subsections (1), (3), and (7) of this section.***~~

Section 96. KRS 275.030 is amended to read as follows:

- (1) A limited liability company ~~shall~~~~may~~ amend its articles of organization to add ***or change a provision that is required by this chapter to be included in the articles of organization. A limited liability company may amend its articles of organization to add***, change, or delete a provision that is ~~is~~~~required or~~ permitted ***to be or that is not required to be*** in the articles of organization ~~or to delete a provision not required in the articles~~. The articles of organization shall be amended if:
 - (a) There is a change in the name of the limited liability company;
 - (b) There is a change in the latest date upon which the limited liability company is to dissolve;

- (c) There is a change in whether the management of the limited liability company is vested in managers or members; or
 - (d) There is a change in any other matter required to be set forth in the articles of organization under KRS 275.025.
- (2) Except as provided in subsection (3) of this section, or unless the articles of organization or the operating agreement provide otherwise, an amendment to the articles of organization of a limited liability company shall be approved by the members in accordance with KRS 275.175.
- (3) Unless the articles of organization or the written operating agreement provide otherwise, a manager or, if there is no manager, any member may amend the articles of organization of the limited liability company without action by the members to delete:
- (a) The name and address of the initial registered agent or initial registered office if a statement of change pursuant to KRS 275.120 is on file with the Secretary of State; or
 - (b) The mailing address of the initial principal office, if a statement of change pursuant to KRS 275.040 is on file with the Secretary of State.
- (4) To amend its articles of organization, a limited liability company shall file with the Secretary of State articles of amendment setting forth:
- (a) The name of the limited liability company;
 - (b) The text of each amendment adopted;
 - (c) The date of each amendment's adoption; and
 - (d) A statement that the amendment was duly adopted by the managers or the members in accordance with the articles of organization, the operating agreement of the limited liability company, or this chapter.
- (5) The articles of organization may be amended in any respect as may be desired, if the articles of organization as amended contain only provisions that may be lawfully contained in articles of organization at the time of making the amendment.
- (6) Unless the articles of organization provide otherwise, no member of a limited liability company shall have the right to dissent from an amendment to the articles of organization.**

Section 97. KRS 275.045 is amended to read as follows:

- (1) A document shall satisfy the requirements of this section, and of any other section of this chapter that adds to or varies these requirements, to be entitled to filing by the Secretary of State.
- (2) This chapter shall require or permit filing the document in the Office of the Secretary of State.
- (3) The document shall contain the information required by this chapter. It may also contain other information.
- (4) The document shall be typewritten or printed or, if electronically transmitted, it shall be in a format that can be retrieved or reproduced in typewritten or printed form. The typewritten or printed portion shall be in black. Manually-signed photocopies, or other reproduced copies, of typewritten or printed documents may be filed.
- (5) The document shall be in the English language. A limited liability company name may be in a language other than English if written in English letters or Arabic or Roman numerals. Any document that may be filed by a foreign limited liability company which is duly authenticated by the official having custody of the applicable records in the state, country, or other jurisdiction under whose law the limited liability company is formed may be in a language other than English if accompanied by a reasonably-authenticated English translation.
- (6) Unless otherwise provided in any other section of this chapter, any document required by this chapter to be filed with the Secretary of State shall be executed:
 - (a) If management of the limited liability company is vested in one (1) or more managers, by any one (1) of the managers;
 - (b) If management of the limited liability company is reserved to the members, by any one (1) of the members;
 - (c) If the limited liability company has not been formed, by the persons forming a limited liability company; or
 - (d) If the limited liability company is in the hands of a receiver, trustee, or other court-appointed fiduciary, by that fiduciary.
- (7) The persons executing the document shall sign it and state beneath or opposite their signatures the names of the persons and the capacity in which each signs.
- (8) The person executing the document may do so as an attorney-in-fact. Powers of attorney relating to the execution of the document shall not be required to be provided to or filed with the Secretary of State.
- (9) If the Secretary of State has prescribed a mandatory form for a document, then the document shall be in or on the prescribed form.
- (10) The document shall be delivered to the Secretary of State for filing ~~and shall be accompanied by two (2) exact or conformed copies, the correct filing fee, and any other fee or penalty required by this chapter or other law to be collected by the Office of Secretary of State.~~ Delivery may be made by electronic transmission if and to the extent permitted by the Secretary of State. If it is filed in typewritten or printed form and not transmitted electronically, then the Secretary

of State may require that it be accompanied by two (2) exact or conformed copies.

- (11) One (1) of the exact or conformed copies or, if transmitted electronically, a reproduction in paper form, shall be filed with and recorded by the county clerk of the county in which the registered office of the limited liability company is situated.
- (12) When the document is delivered to the office of the Secretary of State for filing, the correct filing fee and any penalty required by this chapter or other law to be collected by the office of the Secretary of State shall be paid or provision for payment made in a manner permitted by the Secretary of State. The Secretary of State may accept payment of the correct amount due by credit card, debit card, charge card, or similar method. However, if the amount due is tendered by any method other than cash, then the liability is not finally discharged until the Secretary of State receives final payment or credit of collectible funds.

Section 98. KRS 275.050 is amended to read as follows:

- (1) The Secretary of State shall prescribe and furnish on request forms for:
- (a) A certificate of existence or authorization;
 - (b) An application for a certificate of authority;
 - (c) An application for a certificate of withdrawal;
 - (d) A statement of change of registered office or registered agent;
 - (e) A statement of change of principal office address;
 - (f) The annual report; ~~and~~
 - (g) An amendment of the annual report;
 - (h) An application for a reservation of name;
 - (i) An application to renew a reservation of name; and
 - (j) An amended application for certificate of authority.
- (2) The Secretary of State shall have the discretion to make mandatory the use of the forms referred to in subsection (1) of this section.
- (3) The Secretary of State may prescribe and furnish on request forms for other documents required or permitted to be filed pursuant to this chapter, but their use shall not be mandatory.

Section 99. KRS 275.055 is amended to read as follows:

- (1) The Secretary of State shall collect the following fees when the documents described in this subsection are delivered to him for filing:
- (a) Articles of organization \$ 40.00
 - (b) Application for certificate of authority as a
foreign limited liability company \$ 90.00
 - (c) Amendment of article of organization \$ 40.00
 - (d) Restatement of articles of organization \$ 40.00
 - (e) Amendment and restatement of articles of organization \$ 80.00
 - (f) Articles of dissolution with respect to a domestic
limited liability company \$ 40.00
 - (g) Limited liability company's statement of change of
registered agent or change of the address of the registered
office, or both \$ 10.00
 - (h) Registered agent's statement of change of registered office for
each affected limited liability company \$ 10.00
not to exceed a total of \$ 1,000.00
 - (i) Limited liability company's statement of change of the
mailing address of the principal office \$ 10.00
 - (j) Application to reserve a name for use by a domestic
or foreign limited liability company \$ 15.00
 - (k) Renewal of application to reserve a name for use by
a domestic or foreign limited liability company \$ 15.00
 - (l) Notice of the transfer of a name reserved for use by a
domestic or a foreign limited liability company \$ 15.00

~~(m)~~ ~~{(t)}~~	Application for use of indistinguishable name	\$ 20.00
~~(n)~~ ~~{(m)}~~	Application for registered name	\$ 36.00
~~(o)~~ ~~{(n)}~~	Application for renewal of registered name	\$ 36.00
~~(p)~~ ~~{(o)}~~	Articles of merger	\$ 50.00
~~(q)~~ ~~{(p)}~~	Application for amended certificate of authority	\$ 40.00
~~(r)~~ ~~{(q)}~~	Application for certificate of withdrawal	\$ 40.00
~~(s)~~ ~~{(r)}~~	Articles of correction	\$ 20.00
~~(t)~~ ~~{(s)}~~	Certificate of existence or authorization	\$ 10.00
~~(u)~~ ~~{(t)}~~	Reinstatement penalty following administrative dissolution	\$ 100.00
~~(v)~~ ~~{(u)}~~	Annual report	\$ 15.00
~~(w)~~	<u>Amendment to annual report</u>	<u>\$ 10.00</u>
~~(x)~~	<u>Articles of share exchange</u>	<u>\$ 50.00</u>

~~(v)~~~~{(v)}~~ Any other document required or permitted to be filed by this chapter \$ 15.00

- (2) The Secretary of State shall collect a fee of ten dollars (\$10) each time process is served on the Secretary of State under this chapter. The party to a proceeding causing service of process shall be entitled to recover this fee as costs if the party prevails in the proceeding.
- (3) The Secretary of State shall collect the following fees for copying and certifying the copy of any filed documents relating to a domestic or foreign limited liability company:
 - (a) **Five dollars (\$5) per request for the first five (5) pages and** fifty cents (\$0.50) a page for **each page thereafter**~~[copying]~~; and
 - (b) Five dollars (\$5) for the certificate.

- (4) The county clerk shall receive a fee pursuant to KRS 64.012 for recording and issuing reports, articles, and statements pertaining to limited liability companies.

Section 100. KRS 275.060 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section and KRS 275.065(3), a document shall be effective at the time of filing on the date it is filed, as evidenced by **any means the Secretary of State may allow for the purpose of recording the date and time of filing**~~[the Secretary of State's date and time endorsement on the original document]~~, or at the time specified in the document as its effective time on the date it is filed.
- (2) A document may specify a delayed effective time and date ~~[; and]~~ If **the document**~~[it]~~ does so **specify** and is filed pursuant to subsection (1) of this section, **then** the document shall become effective at the time and date specified. If a delayed effective date but no time is specified, **then** the document shall be effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.
- (3) A document filed in accordance with this section shall be effective regardless of a failure to file the document with the county clerk pursuant to KRS 275.045(11).

Section 101. KRS 275.065 is amended to read as follows:

- (1) A domestic or foreign limited liability company may correct a document filed by the Secretary of State in accordance with subsection (2) of this section if ~~[the document]~~:
 - (a) **The document contains an inaccuracy**~~[Contains an incorrect statement];~~~~[or]~~
 - (b) **The document** was defectively executed, attested, sealed, verified, or acknowledged; **or**
 - (c) **The electronic transmission of the document was defective.**
- (2) A document shall be corrected:
 - (a) By preparing articles of correction that:
 1. Describe the document, including its filing date, or have attached a copy of the document to the articles of correction;
 2. Specify the **inaccuracy or defect to be corrected**~~[incorrect statement and the reason it is incorrect or the manner in which the execution was defective]~~; and
 3. Correct the **inaccuracy or defect**~~[incorrect statement or defective execution]~~; and
 - (b) By delivering the articles of correction to the Secretary of State for filing.
- (3) Articles of correction shall be effective on the effective date of the document they correct except as to persons relying on the uncorrected document adversely affected by the correction. As to those persons, articles of correction shall be effective when filed.

Section 102. KRS 275.070 is amended to read as follows:

- (1) If a document delivered to the Secretary of State for filing satisfies the requirements of KRS 275.045, then the Secretary of State shall file it.
- (2) The Secretary of State shall file a document by recording it as filed on the date and time of receipt~~stamping or otherwise endorsing "Filed," together with the Secretary of State's name and official title and the date and time of receipt, on both the original and the document copies and on the receipt for the filing fee~~. After filing a document, except as provided in KRS 275.125 and 275.420, the Secretary of State shall deliver~~the document copies, with the filing fee receipt, or acknowledgment of receipt if no fee is required, attached,~~ to the domestic or foreign limited liability company or its representative a copy of the document with an acknowledgment of the date and time of filing.
- (3) If the Secretary of State refuses to file a document, then the Secretary of State shall return it to the domestic or foreign limited liability company or its representative within five (5) days after the document was delivered, together with a brief, written explanation of the reason for the refusal.
- (4) The Secretary of State's duty to file documents under this section shall be ministerial. The filing or refusal to file a document by the Secretary of State shall not:
 - (a) Affect the validity or invalidity of the document in whole or part;
 - (b) Relate to the correctness or incorrectness of information contained in the document; or
 - (c) Create a presumption that the document is valid or invalid or that information contained in the document is correct or incorrect.

Section 103. KRS 275.080 is amended to read as follows:

A certificate from the Secretary of State delivered with~~attached to~~ a copy of the document filed by the Secretary of State~~, bearing his signature, which may be in facsimile, and the seal of this Commonwealth,~~ shall be conclusive evidence that the original document is on file with the Secretary of State.

Section 104. KRS 275.095 is amended to read as follows:

All persons purporting to act as or on behalf of a limited liability company, knowing there has been no organization under this chapter, or who assume to act for a limited liability company without authority to do so, shall be jointly and severally liable for all liabilities created while so acting.

Section 105. KRS 275.100 is amended to read as follows:

- (1) The name of each limited liability company as set forth in its articles of organization shall contain the words "limited liability company" or "limited company" or the abbreviations "LLC" or "LC." The name of each limited liability company which is a professional limited liability company shall contain the words "professional limited liability company" or "professional limited company" or the abbreviations "PLLC" or "PLC." The word "Limited" may be abbreviated as "Ltd." and the word "Company" may be abbreviated as "Co."
- (2) Except as authorized by subsections (3) and (4) of this section, the name of a limited liability company shall be distinguishable from any name on record with the Secretary of State.
- (3) A limited liability company may apply to the Secretary of State for authorization to use a name that is not distinguishable upon the Secretary of State's records from one (1) or more of the names described in subsection (2) of this section. The Secretary of State shall authorize use of the name applied for if:
 - (a) The other business entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying limited liability company; or
 - (b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this Commonwealth.
- (4) A limited liability company may use the name, including the fictitious name, with any modification required by this section or KRS 275.410 of another business entity that is used in this Commonwealth if the other business entity is organized or authorized to transact business in this Commonwealth and the limited liability company:
 - (a) Has merged with the other business entity;
 - (b) Has been formed by reorganization of the other business entity; or
 - (c) Has acquired all or substantially all of the assets, including the business name, of the other business entity.
- (5) This chapter shall not control the use of assumed~~fictitious~~ names.
- (6) The filing of articles of organization under the particular name of the limited liability company shall not automatically prevent the use of that name or protect that name from use by other persons.

Section 106. KRS 275.105 is amended to read as follows:

- (1) A person may apply to the Secretary of State to reserve the exclusive use of a limited liability company name, including the fictitious name, for a foreign limited liability company whose limited liability company name is not available for use in this Commonwealth. If the Secretary of State finds that the limited liability company name applied for is available, the

Secretary of State shall reserve the name for the applicant's exclusive use for one (1) nonrenewable period of one hundred twenty (120) days. During the thirty (30) days prior to the expiration of a reservation, the holder of the registration may apply to renew the reservation on such form as shall be provided by the Secretary of State. The renewal shall be effective as of the expiration of the current reservation and shall renew the reservation for an additional one hundred twenty (120) days from the expiration.

- (2) The holder of a reserved limited liability company name may transfer the reservation to another person by delivering to the Secretary of State a notice of the transfer, executed by the applicant for whom the name was reserved, and specifying the name and address of the transferee.
- (3) The holder of a reserved limited liability company name may cancel the reservation by delivery to the Secretary of State of a notice of cancellation, executed by the applicant for whom the name was reserved, that states the reserved name and its date of reservation.

Section 107. KRS 275.135 is amended to read as follows:

- (1) Except as provided in subsection (2) of this section, every member shall be an agent of the limited liability company for the purpose of its business or affairs, and the act of any member, including, but not limited to, the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business or affairs of the limited liability company of which he is a member, shall bind the limited liability company, unless the member so acting has, in fact, no authority to act for the limited liability company in the particular matter, and the person with whom the member is dealing has knowledge or has received notification of the fact that the member has no such authority.
- (2) If the articles of organization provide that management of the limited liability company is vested in a manager or managers:
 - (a) No member, solely by reason of being a member, shall be an agent of the limited liability company; and
 - (b) Every manager shall be an agent of the limited liability company for the purpose of its business or affairs, and the act of any manager, including, but not limited to, the execution in the name of the limited liability company of any instrument, for apparently carrying on in the usual way the business or affairs of the limited liability company of which he is the manager shall bind the limited liability company, unless the manager so acting has, in fact, no authority to act for the limited liability company in the particular matter, and the person with whom the manager is dealing has knowledge or has received notification of the fact that the manager has no such authority.
- (3) An act of a manager or a member which is apparently not for the carrying on in the usual way of the business or affairs of the limited liability company shall not bind the limited liability company unless, at the time of the transaction or at any other time, the act is authorized in accordance with the operating agreement.
- (4) An act of a manager or member in contravention of a restriction on authority shall not bind the limited liability company to persons having knowledge of the restriction.
- ~~{(5) Unless otherwise set forth in a written operating agreement, a member or manager of a limited liability company has the power and authority to delegate to one (1) or more other persons the member's or manager's powers to manage or control the business and affairs of the limited liability company, including without limitation the power to delegate to agents and employees of a member, manager, or limited liability company or to delegate by an agreement to other persons. This delegation by a member or manager of a limited liability company shall not cause the member or manager to cease to be a member or manager of the limited liability company.}~~

Section 108. KRS 275.165 is amended to read as follows:

- (1) Unless the articles of organization vest management of the limited liability company in a manager or managers, management of the business and affairs of the limited liability company shall vest in the members. Subject to any provisions in the articles of organization, the operating agreement or this chapter restricting or enlarging the management rights and duties of any person or group or class of persons, the members shall have the right and authority to manage the affairs of the limited liability company and to make all decisions with respect thereto.
- (2) If the articles of organization vest management of the limited liability company in one (1) or more managers, except to the extent otherwise provided in the articles of organization, the operating agreement, or this chapter, the manager or managers shall have exclusive power to manage the business and affairs of the limited liability company. Unless otherwise provided in the articles of organization or the operating agreement, managers:
 - (a) Shall be designated, appointed, elected, removed, or replaced by a vote, approval, or consent of the majority-in-interest of the members;
 - (b) Shall not be required to be members of the limited liability company or natural persons; and
 - (c) Unless they are sooner removed or sooner resign, shall hold office until their successors shall have been elected and qualified.
- (3) Unless otherwise set forth in a written operating agreement, a member or manager of a limited liability company has the power and authority to delegate to one (1) or more other persons the member's or manager's powers to manage or control the business and affairs of the limited liability company, including without limitation the power to delegate to agents and employees of a member, manager, or limited liability company or to delegate by an agreement to other

persons. This delegation by a member or manager of a limited liability company shall not cause the member or manager to cease to be a member or manager of the limited liability company.

Section 109. KRS 275.170 is amended to read as follows:

Unless otherwise provided in a written~~an~~ operating agreement:

- (1) A member or manager shall not be liable, responsible, or accountable in damages or otherwise to the limited liability company or the members of the limited liability company for any action taken or failure to act on behalf of the limited liability company unless the act or omission constitutes wanton or reckless misconduct.
- (2) Each member and manager shall account to the limited liability company and hold as trustee for it any profit or benefit derived by that person without the consent of more than one-half (1/2) by number of the disinterested managers, ~~one-half (1/2) by number of other persons participating in the management of the business or affairs of the limited liability company,~~ or a~~the~~ majority-in-interest of the members from:
 - (a) Any transaction connected with the conduct or winding up of the limited liability company; or
 - (b) Any use by the member or manager of its property, including, but not limited to, confidential or proprietary information of the limited liability company or other matters entrusted to the person as a result of his status as manager or member.
- (3) In determining whether a transaction has received the approval of a majority-in-interest of the members, membership interests owned by or voted under the control of the member or manager whose actions are under review in accordance with subsection (2) of this section, and membership interests owned by an entity owned by or voted under the control of that member or manager, shall not be counted in a vote of the members to determine whether to consent, and the membership interests shall not be counted in determining whether a quorum, if required by a written operating agreement, exists to consider whether to consent.
- ~~(4) A member of a~~~~One who is a member of the~~ limited liability company in which management is vested in managers under KRS 275.165(2) and who is not a manager shall have no duties to the limited liability company or the other members solely by reason of acting in his or her capacity as a member.

Section 110. KRS 275.175 is amended to read as follows:

- (1) Unless otherwise provided in the articles of organization, a written operating agreement, or this chapter, the affirmative vote, approval, or consent of a majority-in-interest of the members, if management of the limited liability company is vested in the members, or a simple majority of the managers, each having a single vote, if the management of the limited liability company is vested in managers, shall be required to decide any matter connected with the business affairs of the limited liability company.
- (2) Unless otherwise provided in a written~~writing in the~~ operating agreement, the affirmative vote, approval, or consent of the majority-in-interest of the members shall be required to:
 - (a) Amend a written operating agreement;
 - (b) Authorize a manager or member to do any act on behalf of the limited liability company that contravenes a written operating agreement, including any written provision thereof which expressly limits the purpose, business, or affairs of the limited liability company or the conduct thereof; or
 - (c) Amend the articles of organization to change the management of the limited liability company from members to managers or from managers to members.
- (3) Unless otherwise provided in the articles of organization, a written operating agreement, or this chapter, for all purposes of this chapter, the members of a limited liability company shall vote, approve, or consent in proportion to their contributions, based upon the agreed value as stated in the records of the limited liability company as required by KRS 275.185, made by each member to the extent they have been received by the limited liability company and have not been returned.
- (4) Unless otherwise provided in the articles of organization or the written operating agreement, no member of a limited liability company shall have the right to dissent from an amendment to the operating agreement.

Section 111. KRS 275.185 is amended to read as follows:

- (1) A limited liability company shall keep at its principal office or other location as set forth in a written operating agreement, the following:
 - (a) A current list, and all past lists, setting forth the full name and last known mailing address of each member and, if any, each manager~~, if any~~;
 - (b) A copy of the articles of organization and all amendments thereto, together with executed copies of any power of attorney pursuant to which any articles of amendment have been executed;
 - (c) Copies of the limited liability company's federal, state, and local income tax returns and financial statements, if any, for the three (3) most recent years or, if those returns and statements were not prepared, copies of the information and statements provided to, or which should have been provided to, the members to enable them to prepare their federal, state, and local tax returns for those years;
 - (d) Copies of any effective written operating agreements and all amendments thereto, and copies of any written

operating agreements no longer in effect; and

(e) Unless contained in writing in an operating agreement:

1. A writing setting forth the amount of cash, if any, and a statement of the agreed value of other property or services, if any, contributed by each member and the times at which or events upon the happening of which any additional contributions are to be made;
2. A writing stating events, if any, upon the happening of which the limited liability company is to be dissolved and its affairs wound up; and
3. Other writings, if any, prepared pursuant to a requirement, if any, in an operating agreement.

- (2) Upon reasonable written request, a member may, at the member's own expense, inspect and copy during ordinary business hours any limited liability company record, where the record is located or at a reasonable location.
- (3) Members, if the management of the limited liability company is vested in the members, or managers, if management of the limited liability company is vested in managers, shall render, to the extent the circumstances render it just and reasonable, true and full information of all matters affecting the members to any member, and the member's agent, and to the legal representative of any deceased member or of any member under legal disability.
- (4) Failure of the limited liability company to keep or maintain any of the records or information required pursuant to this section shall not be grounds for imposing liability on any member or manager for the debts and obligations of the limited liability company.

(5) A written operating agreement may impose reasonable limitations upon the use of any record of or information with respect to a limited liability company. Except as to limitations set forth in a written operating agreement to which a member requesting information has assented, the limited liability company bears the burden of proof in demonstrating the reasonableness of any restrictions imposed.

Section 112. KRS 275.190 is amended to read as follows:

- (1) Each domestic limited liability company, and each foreign limited liability company authorized to transact business in this Commonwealth, shall deliver to the Secretary of State for filing an annual report that sets forth:
 - (a) The name of the limited liability company and the state or country under whose law it is organized;
 - (b) The address of its registered office and the name of its registered agent at that office in this state;
 - (c) The address of its principal office; and
 - (d) The names and business addresses of its managers, if management is vested in managers, or one (1) or more designated members, if management is vested in members.
- (2) Information in the annual report shall be current as of the date the annual report is executed on behalf of the limited liability company.
- (3) The first annual report shall be delivered to the Secretary of State between January 1 and June 30 of the year following the calendar year in which a domestic limited liability company was organized or a foreign limited liability company was authorized to transact business. Subsequent annual reports shall be delivered to the Secretary of State between January 1 and June 30 of the following calendar years.
- (4) If an annual report does not contain the information required by this section, the Secretary of State shall promptly notify the reporting domestic or foreign limited liability company in writing and return the report to it for **completion. For purposes of KRS 275.085(2)(e), an annual report returned for completion pursuant to this subsection shall not be deemed to have been delivered.**

(5) A domestic or foreign limited liability company may amend the information in its last filed annual report by delivery to the Secretary of State of an amendment to the annual report on such form as is provided by the Secretary of State[correction].

Section 113. KRS 275.195 is amended to read as follows:

- (1) A limited liability company interest may be issued in exchange for consideration consisting of cash, property, services rendered, or a promissory note or other obligation to contribute cash or property or to perform services.**
- (2) A person may be admitted to a limited liability company as a member of the limited liability company and may receive a limited liability company interest without making a contribution or being obligated to make a contribution to the limited liability company.**
- (3) Unless otherwise provided in the operating agreement, a person may be admitted to a limited liability company as a member without acquiring a limited liability company interest.**

Section 114. KRS 275.200 is amended to read as follows:

- (1) **An obligation off[A promise by] a member to make a contribution[contribute] to the limited liability company shall not be enforceable unless set forth in a writing signed by the member.**
- (2) Unless otherwise provided in an operating agreement, a member shall be obligated to the limited liability company to perform any enforceable promise to contribute cash or property or to perform services, even if the member is unable to

perform because of death, disability, or other reason.

- (3) If a member does not make ~~a~~~~the~~ required contribution of property or services, ~~then~~ the member shall be obligated, at the option of the limited liability company, to contribute cash equal to that portion of value of the stated contribution that has not been made.
- (4) Unless otherwise provided in an operating agreement, ~~an~~~~the~~ obligation of a member to make a contribution may be compromised only with the unanimous consent of the members.
- (5) Notwithstanding any compromise approved pursuant to subsection (4) of this section, a creditor of a limited liability company who extends credit or otherwise acts in reliance on ~~an~~~~the~~ obligation after the member executes a writing which reflects ~~that~~~~the~~ obligation and before ~~any such~~~~the~~ compromise is reached, may enforce the original obligation.

Section 115. KRS 275.225 is amended to read as follows:

- (1) No distribution shall be made if, after giving effect to the distribution:
 - (a) The limited liability company would not be able to pay its debts as they become due in the usual course of business; or
 - (b) The limited liability company's assets would be less than the sum of its liabilities plus, unless otherwise provided in an operating agreement, the amount that would be needed, if the limited liability company were to be dissolved at the time of the distribution, to satisfy the preferential rights of other members upon dissolution which are superior to the rights of the member receiving the distribution.
- (2) The limited liability company may base a determination that a distribution is not prohibited under subsection (1) of this section either on:
 - (a) Financial statements prepared on the basis of accounting practices and principles that are reasonable under the circumstances; or
 - (b) A fair valuation or other method that is reasonable under the circumstances.
- (3) Except as provided in subsection (5) of this section, the effect of a distribution under subsection (1) of this section shall be measured as of:
 - (a) The date the distribution is authorized if the payment occurs within one hundred twenty (120) days after the date of authorization; or
 - (b) The date payment is made if it occurs more than one hundred twenty (120) days after the date of authorization.
- (4) A limited liability company's indebtedness to a member incurred by reason of a distribution made in accordance with this section shall be at parity with the limited liability company's indebtedness to its general unsecured creditors, except to the extent subordinated by agreement.
- (5) If terms of the indebtedness provide that payment of principal and interest is to be made only if, and to the extent that, payment of a distribution to members could then be made under this section, ~~then~~ indebtedness of a limited liability company, including indebtedness issued as a distribution, shall not be a liability for purposes of determinations made under subsection (1) of this section.
- (6) If the indebtedness is issued as a distribution, ~~then~~ each payment of principal or interest on the indebtedness shall be treated as a distribution, the effect of which shall be measured on the date the payment is actually made.
- (7) **For purposes of this section, the term "distribution" shall not include amounts constituting reasonable compensation for present or past services or reasonable payments made in the ordinary course of business pursuant to a bona fide retirement plan or other benefit program.**

Section 116. KRS 275.255 is amended to read as follows:

- (1) Unless otherwise provided in ~~a written~~~~writing in an~~ operating agreement:
 - (a) A limited liability company interest shall be assignable in whole or in part;
 - (b) An assignment shall entitle the assignee to receive, to the extent assigned, only the distributions to which the assignor would be entitled;
 - (c) An assignment of a limited liability company interest shall not dissolve the limited liability company or entitle the assignee to participate in the management and affairs of the limited liability company or to become or exercise any rights of a member other than the right to receive distributions pursuant to subsection (1)(b) of this section;
 - (d) Until the assignee of a limited liability company interest becomes a member pursuant to KRS 275.265(1), the assignor shall continue to be a member and to have the power to exercise any rights of a member, subject to the members' right to remove the assignor pursuant to KRS 275.280(1)(c)2.;
 - (e) Until an assignee of a limited liability company interest becomes a member, the assignee shall have no liability as a member solely as a result of the assignment; and
 - (f) The assignor of a limited liability company interest shall not be released from liability as a member solely as result of the assignment.
- (2) ~~A written~~~~An~~ operating agreement may provide that a member's limited liability company interest may be evidenced by a

certificate of limited liability company interest issued by the limited liability company and may also provide for the assignment or transfer of any interest represented by the certificate.

- (3) Unless otherwise provided in ~~a written~~^{an} operating agreement, the pledge of or granting of a security interest, lien, or other encumbrance in or against any or all of the limited liability company interest of a member shall not constitute an assignment and shall not cause the member to cease to be a member or cease to have the power to exercise any rights or powers of a member.

(4) Limitations upon the assignment or pledge of a membership interest set forth or adopted in accordance with this section shall be enforced notwithstanding KRS 355.9-406 and 355.9-408.

Section 117. KRS 275.260 is amended to read as follows:

- (1) This section provides the exclusive remedy by which the judgment creditor of a member or the assignee of a member may satisfy a judgment out of the judgment debtor's limited liability company interest.

- (2) On application to a court of competent jurisdiction by a judgment creditor of a member or a member's assignee, a court may charge the judgment debtor's interest in the limited liability company with payment of the unsatisfied amount of the judgment. To the extent so charged, the judgment creditor has only the rights of a assignee, and shall have no right to participate in the management or to cause the dissolution of the limited liability company. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the limited liability company interest and make all other orders, directions, accounts, and inquiries the judgment creditor might have made or which the circumstances of the case may require to give effect to the charging order.

- (3) A charging order constitutes a lien on and the right to receive distributions made with respect to the judgment debtor's limited liability company interest. A charging order does not of itself constitute an assignment of the limited liability company interest.

- (4) The court may order a foreclosure upon the limited liability company interest subject to the charging order at any time. The purchaser of the liability company interest at the foreclosure sale has the rights of a assignee. At any time before foreclosure, the charged limited liability company interest may be redeemed:

(a) By the judgment debtor;

(b) With property other than limited liability company property, by one (1) or more of the other members; and

(c) With limited liability company property, by the limited liability company with the consent of all members whose interest are not so charged.

- (5) This section does not deprive a member or a member's transferee of the benefit of any exemption laws applicable to the member's or transferee's limited liability company interest~~[On application to a court of competent jurisdiction by any judgment creditor of a member, the court shall charge the member's limited liability company interest with payment of the unsatisfied amount of judgment with interest thereon. To the extent so charged, the judgment creditor shall have only the rights of an assignee of the member's limited liability company interest. This chapter shall not deprive any member of the benefit of any exemption laws applicable to the member's limited liability company interest].~~

Section 118. KRS 275.285 is amended to read as follows:

A limited liability company shall be dissolved and it shall commence to wind up its affairs~~[its affairs wound up]~~ upon the happening of the first to occur of the following:

- (1) The expiration of the term of the limited liability company set forth in the articles of organization, if any;~~[, or]~~

- (2) Upon the occurrence of events specified in the articles of organization or a written operating agreement;

- ~~(3) (2)~~ Unless otherwise set forth in the operating agreement, the written consent of ~~all~~^{a majority in interest} of the members of a limited liability company;

- ~~(4) (3)~~ There are no remaining members, except that the limited liability company shall not be dissolved and its affairs shall not be wound up when:

(a) A member is admitted to the limited liability company in the manner provided for in a written operating agreement, effective as of the occurrence of the event that terminated the continued membership of the last remaining member; or

(b) Unless otherwise provided in a written operating agreement, within ninety (90) days after the occurrence of the event that terminated the continued membership of the last remaining member, the successor-in-interest of the last remaining member agrees in writing to continue the limited liability company and to the admission of the successor-in-interest of that member or its designee to the limited liability company as a member, effective as of the occurrence of the event that terminated the continued membership of the last remaining member; or

- (5) Entry of a decree of judicial dissolution under KRS 275.290; or

- ~~(6) (4)~~ Filing of a certificate of dissolution by the Secretary of State under KRS 275.295.

Section 119. KRS 275.295 is amended to read as follows:

- (1) The Secretary of State may commence a proceeding to administratively dissolve a limited liability company if:

(a) The limited liability company does not deliver its annual report to the Secretary of State within sixty (60) days after

the annual report is due;

- (b) The limited liability company is without a registered agent or registered office in Kentucky for at least sixty (60) days;~~{-or}~~
- (c) The limited liability company does not notify the Secretary of State within sixty (60) days after its registered agent or registered office has been changed, its registered agent has resigned, or its registered office has been discontinued;or

(d) The limited liability company's term as set forth in its articles of organization expires.

- (2) (a) If the Secretary of State determines that one (1) or more grounds exist under subsection (1) of this section for dissolving a limited liability company, the Secretary of State shall serve the limited liability company with written notice of the determination by first class mail at its principal place of business address.
- (b) If the limited liability company does not correct each ground for dissolution or demonstrate to the reasonable satisfaction of the Secretary of State that each ground determined by the Secretary of State does not exist within sixty (60) days from the date on which notice was mailed, the Secretary of State shall administratively dissolve the limited liability company by signing a certificate of dissolution that states the ground or grounds for dissolution and its effective date. The Secretary of State shall file the original of the certificate and serve a copy on the limited liability company by mailing the notice by first class mail to the limited liability company at its principal place of business address. If a limited liability company is dissolved for having reached the end of its period of duration, and it does not within sixty (60) days of the end of its duration amend the articles of organization to extend its duration, the certificate of dissolution shall be effective as of the end of the period of duration as set forth in the articles of organization~~{registered office}~~.
- (3) (a) A limited liability company administratively dissolved under subsection (2) of this section, other than for failure to amend the articles of organization to extend the duration of the limited liability company within sixty (60) days of the expiration of its term, may apply to the Secretary of State for reinstatement at any time after the effective date of dissolution. The application shall:
 - 1. State the name of the limited liability company and the effective date of its administrative dissolution;
 - 2. State that the ground or grounds for dissolution either did not exist or have been eliminated;
 - 3. State that the limited liability company's name satisfies the requirements under KRS 275.100;
 - 4. Contain a certificate from the Kentucky Department of Revenue stating that all taxes owed by the limited liability company have been paid; and
 - 5. Be accompanied by the reinstatement penalty and the current fee on filing each delinquent report as provided for in KRS 275.055(1).
- (b) If the Secretary of State determines that the application contains the information required by paragraph (a) of this subsection and that the information is correct, the Secretary of State shall:
 - 1. Cancel the certificate of dissolution and prepare a certificate of existence that states the determination and the effective date of existence; and
 - 2. Serve a copy on the limited liability company in the manner provided in subsection (2)(a) of this section.
- (c) When the reinstatement is effective, the reinstatement shall relate back to and take effect as of the effective date of the administrative dissolution, and the limited liability company shall resume carrying on business as if the administrative dissolution had never occurred.
- (4) (a) If the Secretary of State denies a limited liability company's application for reinstatement following administrative dissolution, the Secretary of State shall serve the limited liability company with a written notice that explains the reason or reasons for denial by mailing notice by first-class mail to the limited liability company at its registered office or, if none, to the last principal office identified on the most recent annual report, or, if none, the articles of organization.
- (b) The limited liability company may appeal the denial of reinstatement to the Circuit Court of the county where the limited liability company's principal office, or, if there is none in Kentucky, its registered office, is located within thirty (30) days after service of the notice of denial by doing the following:
 - 1. Filing a petition with the court to set aside the dissolution; and
 - 2. Attaching to the petition a copy of the Secretary of State's certificate of dissolution, the limited liability company's application for reinstatement, and the Secretary of State's notice of denial.
- (c) The court may order the Secretary of State to reinstate the dissolved limited company or may take other action the court considers appropriate.
- (d) The court's final decision may be appealed as are other civil proceedings.

Section 120. KRS 275.300 is amended to read as follows:

Unless otherwise provided in a written operating agreement:

2007 Regular Session

- (1) The business or affairs of the limited liability company may be wound up:
 - (a) By the members or managers who have authority pursuant to KRS 275.165 to manage the limited liability company prior to dissolution; or
 - (b) If one (1) or more of the members or managers have engaged in wrongful conduct, or upon other cause shown, by the Circuit Court for the county in which the principal office of the limited liability company is located or in which the registered office of the limited liability company is located, on application of any member, any member's legal representative, or assignee.
- (2) A dissolved limited liability company shall continue its existence but shall not carry on any business except that appropriate to wind up and liquidate its business and affairs, including:
 - (a) Collecting its assets;
 - (b) Disposing of its properties that will not be distributed in kind to its members;
 - (c) Discharging or making provision for discharging its liabilities;
 - (d) Distributing its remaining property among its members according to their interests; and
 - (e) Doing every other act necessary to wind up and liquidate its business and affairs.
- (3) Dissolution of a limited liability company shall not:
 - (a) Transfer title to the limited liability company's property;
 - (b) Prevent transfer of a limited liability company interest, although the authorization to dissolve may provide for the limited liability company restricting the transfer of the limited liability company's interest;
 - (c) Subject its members or managers to standards of conduct different from those prescribed herein;
 - (d) Change quorum or voting requirements for its members or managers; change provisions for selection, resignation, or removal of its members or managers; or change provisions for amending its operating agreement;
 - (e) Prevent commencement of a proceeding by or against the limited liability company in its name;
 - (f) Abate or suspend a proceeding pending by or against the limited liability company on the effective date of dissolution;
 - (g) Terminate the authority of the registered agent of the limited liability company; ~~or~~
 - (h) Alter the obligations and responsibilities of the limited liability company as prescribed by applicable federal or state law with regard to the filing or examination of all federal and state tax returns or the payment, assessment, or collection of any federal or state tax due with respect to those returns; or

(i) Abate or suspend KRS 275.150(1).

Section 121. KRS 275.315 is amended to read as follows:

After the dissolution of the limited liability company pursuant to Section 118 of this Act ~~[KRS 275.285(1), (2), or (3)]~~, the limited liability company shall file articles of dissolution with the Secretary of State which set forth:

- (1) The name of the limited liability company;
- (2) A statement of the subsection of KRS 275.285 pursuant to which the limited liability company has dissolved;
- (3) The effective date, which shall be a date certain, of the dissolution; and
- (4) Any other information the members or managers filing the articles of dissolution shall deem proper.

Section 122. KRS 275.345 is amended to read as follows:

- (1) Unless otherwise provided in writing in a written operating agreement, and subject to any law applicable to business entities other than limited liability companies, one (1) or more limited liability companies may merge with or into one (1) or more other business entities with the limited liability company or other business entity being the surviving or resulting limited liability company or other business entity.
- (2) Rights or securities of or interests in a business entity that is a party to the merger may be exchanged for or converted into cash, property, obligations, rights, or securities of or interests in the surviving or resulting business entity or of any other business entity.
- (3) Unless otherwise provided in the articles of organization, a written operating agreement, or a written agreement and plan of merger, no member of a limited liability company shall have the right to dissent from a merger.
- (4) A nonprofit limited liability company shall not merge with or into any business entity which is not a domestic nonprofit limited liability company.

Section 123. KRS 275.350 is amended to read as follows:

- (1) Unless otherwise provided in a written operating agreement, a limited liability company that is a party to a proposed merger shall approve the plan of merger in KRS 275.355 by a majority-in-interest of the members.
- (2) Each business entity that is a party to a proposed merger shall approve the plan of merger in the manner and by the vote required by the laws applicable to the business entity.

- (3) Each business entity that is a party to the merger shall have the rights to abandon the merger as provided for in the plan of merger or in the laws applicable to the business entity.

(4) Unless otherwise provided in the articles of organization, a written operating agreement, or a written agreement and plan of merger, no member of a limited liability company shall have the right to dissent from a merger.

Section 124. KRS 275.370 is amended to read as follows:

- (1) A partnership or limited partnership may be converted to a limited liability company pursuant to this section.
- (2) The terms and conditions of a conversion of a partnership or limited partnership to a limited liability company shall, in the case of a partnership, be approved by all the partners or by a number or percentage specified for conversion in the partnership agreement or, in the case of a limited partnership, by all the partners, notwithstanding any provision to the contrary in the limited partnership agreement.
- (3) After the conversion is approved under subsection (2) of this section, the partnership or limited partnership shall file articles of organization with the office of the Secretary of State which satisfy the requirements of KRS 275.025 and include:
- (a) A statement that the partnership or limited partnership was converted to a limited liability company from a partnership or limited partnership, as the case may be;
 - (b) Its former name;
 - (c) In the case of a partnership, a statement of the number of votes cast by the partners entitled to vote for and against the conversion and, if the vote is less than unanimous, the number or percentage required to approve the conversion under the partnership agreement; and
 - (d) If the partnership has filed a statement of registration as a limited liability partnership in accordance with Section 146 of this Act or a statement of qualification in accordance with KRS 362.1-1001, each shall be deemed canceled as of the effective date and time of the articles of organization as determined in accordance with Section 94 of this Act; and**
 - (e) In the case of a limited partnership, the limited partnership's certificate of limited partnership shall be deemed canceled as of the effective date and time of the articles of organization as determined in accordance with Section 94 of this Act**~~[a statement that any assumed name has been canceled; and~~
 - ~~(d) In the case of a limited partnership, the limited partnership shall cancel its certificate of limited partnership and any assumed name pursuant to this Commonwealth's limited partnership law].~~
- (4) The conversion shall take effect~~[-, in the case of a partnership,]~~ when the articles of organization are filed with the office of the Secretary of State or, **as provided in Section 94 of this Act**, at ~~a~~**any** later date specified in the articles of organization~~[or, in the case of a limited partnership, when the certificate of limited partnership is canceled].~~
- (5) A partner or, in the case of a limited partnership, a general partner who becomes a member of a limited liability company as a result of a conversion shall remain liable as a partner or general partner for an obligation incurred by the partnership or limited partnership before the conversion takes effect. If the other party to a transaction with the limited liability company reasonably believes when entering the transaction that the member undertaking the transaction is a partner in a partnership or a general partner in a limited partnership, the member shall be liable for an obligation incurred by the limited liability company within ninety (90) days after the conversion takes effect. The partner's or general partner's liability for all other obligations of the limited liability company incurred after the conversion takes effect shall be that of a member as provided in this chapter. A limited partner who becomes a member as a result of a conversion shall remain liable only as a limited partner for an obligation incurred by the limited partnership before the conversion takes effect.

Section 125. KRS 275.375 is amended to read as follows:

- (1) A partnership or limited partnership that has been converted pursuant to this chapter shall be for all purposes the same entity that existed before the conversion.
- (2) When a conversion takes effect:
- (a) All property **and contract rights** owned by, **and all rights, privileges, and immunities of** the converting partnership or limited partnership shall remain vested in the converted **limited liability company without assignment, reversion, or impairment**~~[business entity];~~
 - (b) All obligations of the converting partnership or limited partnership shall continue as obligations of the converted **limited liability company**~~[business entity];~~~~[and]~~
 - (c) An action or proceeding pending against the converting partnership or limited partnership may be continued as if the conversion had not occurred **and the name of the converted limited liability company may be substituted in any pending action or proceeding for the name of the converting partnership or limited partnership; and**
 - (d) The written operating agreement of the converted limited liability company shall be binding upon each person who becomes a member of the limited liability company.**

Section 126. KRS 275.380 is amended to read as follows:

- (1) Subject to the Constitution of this Commonwealth:

- (a) The laws of the state or other jurisdiction under which a foreign limited liability company is organized shall govern its organization and internal affairs, including the inspection of the books, records, and documents, and the liability of its members, except as provided in subsection (2) of this section; and
 - (b) A foreign limited liability company shall not be denied registration by reason of any difference between the laws of another jurisdiction under which a foreign limited liability company is organized and the laws of this Commonwealth.
- (2) A certificate of authority obtained pursuant to this chapter shall not authorize a foreign limited liability company to exercise any powers or engage in any business that a domestic limited liability company is forbidden to exercise or engage in by the laws of this Commonwealth.

Section 127. KRS 275.395 is amended to read as follows:

- (1) A foreign limited liability company may apply for a certificate of authority to transact business in this Commonwealth by delivering an application to the Secretary of State for filing. The application shall set forth:
 - (a) The name of the foreign limited liability company, or if its name is unavailable for use in this Commonwealth, a company name that satisfies the requirements of KRS 275.410;
 - (b) The name of the state or country under whose law it is organized;
 - (c) Its date of organization and, if the limited liability company has a specific date of dissolution, the latest date upon which it is to dissolve;
 - (d) The street address of the office required to be maintained in the state or other jurisdiction of its formation by the laws of that state or jurisdiction or, if not so required, of the principal office of the foreign limited liability company;
 - (e) The address of its registered office in this Commonwealth and the name of its registered agent at that office;
 - (f) The names and usual business addresses of its current managers, if any; and
 - (g) A statement that, as of the date of filing, the foreign limited liability company validly exists as a limited liability company under the laws of the jurisdiction of its organization~~formation~~.
- (2) A written statement of the initial registered agent consenting to serve in that capacity shall accompany an application for the certificate of authority.

Section 128. KRS 275.400 is amended to read as follows:

- (1) A foreign limited liability company authorized to transact business in this Commonwealth shall obtain an amended certificate of authority from the Secretary of State if it changes:
 - (a) Its real~~company~~ name;
 - (b) The latest date on which it is to dissolve; or
 - (c) The state or country of its organization.
- (2) The requirements of KRS 275.395 for obtaining an original certificate of authority shall apply to obtaining an amended certificate under this section.

Section 129. KRS 275.405 is amended to read as follows:

- (1) A certificate of authority shall authorize the foreign limited liability company to which it is issued to transact business in this Commonwealth subject to the right of the Commonwealth to revoke the certificate as provided in this chapter.
- (2) A foreign limited liability company with a valid certificate of authority shall have the same but no greater rights as, and shall have the same but no greater privileges as, and except as otherwise provided by this chapter shall be subject to the same duties, restrictions, penalties, and liabilities now or later imposed on, a domestic limited liability company.
- (3) This chapter shall not authorize this Commonwealth to regulate the organization or internal affairs, including the inspection of books, records and documents, of a foreign limited liability company authorized to transact business in this Commonwealth.

Section 130. KRS 275.410 is amended to read as follows:

- (1) If the real name of a foreign limited liability company does not satisfy the requirements of KRS 275.100, the foreign limited liability company, to obtain or maintain a certificate of authority to transact business in this Commonwealth:
 - (a) May add to its name for use in this Commonwealth:
 - 1. The words "limited liability company," "limited company," "professional limited liability company," or "professional liability company." The word "limited" may be abbreviated as "Ltd" and the word "Company" may be abbreviated as "Co."; or
 - 2. The abbreviations "LLC," "LC," "PLLC," or "PLC"; or
 - (b) May use a fictitious name to transact business in this Commonwealth if its real name is unavailable and it delivers to the Secretary of State for filing a certificate by a person authorized to execute documents pursuant to KRS 275.045(6) that the limited liability company has adopted the fictitious name.

- (2) Except as authorized by subsections (3) and (4) of this section, the name, including a fictitious name, of a foreign limited liability company shall be distinguishable from any name of record~~the name of any other business entity upon the records~~ with the Secretary of State.
- (3) A foreign limited liability company may apply to the Secretary of State for authorization to use in this Commonwealth the name of another business entity, organized or authorized to transact business in this Commonwealth, that is not distinguishable~~upon his records~~ from a~~the~~ name of record with the Secretary of State~~applied for~~. The Secretary of State shall authorize use of the name applied for if:
 - (a) The business entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying limited liability company; or
 - (b) The applicant delivers to the Secretary of State a certified copy of a final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this Commonwealth.
- (4) A foreign limited liability company may use in this Commonwealth the name, including the fictitious name, of another business entity that is used in this Commonwealth if the business entity is organized or authorized to transact business in this Commonwealth and the foreign limited liability company:
 - (a) Has merged with the other business entity;
 - (b) Has been formed by reorganization of the business entity; or
 - (c) Has acquired all or substantially all of the assets, including the name, of the other business entity.
- (5) If a foreign limited liability company authorized to transact business in this Commonwealth changes its name to one that does not satisfy the requirements of this section, it shall not transact business in this Commonwealth under the changed name until it adopts a name satisfying the requirements of this section and obtains an amended certificate of authorization under KRS 275.400.

Section 131. KRS 279.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Acquire" means to construct, purchase, obtain by lease, devise, gift or by eminent domain, or to obtain by any other lawful means.
- (2) "Board" means the board of directors of a corporation formed under this chapter.
- (3) "Business entity" means a domestic and foreign limited liability company, corporation, general partnership, limited partnership, business or statutory trust, and not-for-profit unincorporated association;
- (4) "Corporation" means a profit or nonprofit corporation formed under the laws of any state or a foreign country;
- (5) "Farm Credit Act" means Section 12 of the Federal Farm Credit Act of 1935 and the amendments thereto.
- ~~(6) (4)~~ "Federal agency" means and includes the United States, the President of the United States, and all federal authorities, instrumentalities and agencies in the ordinary sense.
- ~~(7) (5)~~ "Improve" means to construct, reconstruct, extend, enlarge, alter, better or repair.
- ~~(8) (6)~~ "Member" means and includes each person signing the articles of incorporation of a corporation formed under this chapter, each person later admitted to membership according to law or according to the articles of incorporation or bylaws of the corporation, and each common stockholder in a corporation organized under this chapter that has capital stock.
- (9) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of a business entity;
- ~~(10) (7)~~ "Obligations" means and includes negotiable bonds, notes, debentures, interim certificates or receipts and all other evidences of indebtedness either issued or the payment thereof assumed by a corporation organized under this chapter.
- (11) "Real name" shall have the meaning set forth in Section 164 of this Act;
- ~~(12) (8)~~ "System" means and includes any plant, works, facilities and properties, and all parts thereof and appurtenances thereto, used or useful in the generation, production, transmission or distribution of electric energy.

Section 132. KRS 279.030 is amended to read as follows:

- (1) The articles of incorporation shall set forth:
 - (a) The name of the corporation, which shall be distinguishable from any name of record with the Secretary of State~~such as to distinguish it from any other corporation~~.
 - (b) The purpose for which it is formed.
 - (c) The place, including the county, where its principal office will be located.
 - (d) A reasonable description of the territory in which its operations are to be conducted.
 - (e) The number of directors.
 - (f) The names and post office addresses of the directors who are to manage the affairs of the corporation for the first year of its existence, or until the first meeting called to elect directors, or until the successors of the first directors

are elected and have qualified.

- (g) The period limited for the duration of the corporation, or that the corporation is to be perpetual.
 - (h) If the corporation is organized without capital stock, the terms upon which members may be admitted and the terms upon which their membership shall terminate.
 - (i) If the corporation is organized with capital stock, the amount of the stock, the number of shares into which it is divided and the par value.
 - (j) If the capital stock is divided into common and preferred stock, as it may be, the number of shares to which preference is granted and the number of shares to which no preference is granted, and the nature and definite extent of the preference and privileges granted to each.
- (2) The articles of incorporation may contain any other lawful provision that the incorporators choose to insert for the purpose of regulating the business and affairs of the corporation, for the purpose of creating, defining, limiting or regulating the rights, powers and duties of the corporation and its board of directors and members, and the exercise of any such powers, or for the purpose of creating or defining the rights and privileges of the members of the corporation among themselves, including separation of members into classes or districts and providing for representation of each class or district on the board of directors.
- (3) A corporation may apply to the Secretary of State for authorization to use a name that is not distinguishable upon the Secretary of State's records. The Secretary of State shall authorize use of the name applied for if:
- (a) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying corporation; or
 - (b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.
- (4) A corporation may use the name, including the fictitious name, of another entity that is used in this state if the other entity is incorporated, organized, or authorized to transact business in this state and the proposed user corporation:
- (a) Has merged with the other entity;
 - (b) Has been formed by reorganization of the other entity; or
 - (c) Has acquired all or substantially all of the assets, including the name, of the other entity.
- (5) This chapter does not control the use of assumed names.
- (6) The filing of articles of incorporation under the particular name shall not automatically prevent the use of that name or protect that name from use by other persons.

Section 133. KRS 279.060 is amended to read as follows:

The words "Rural Electric Cooperative" shall not be used in the real, fictitious, or assumed name of any corporation, limited liability company, partnership, limited partnership, or other business entity other than one (1) formed under this chapter.

Section 134. KRS 279.310 is amended to read as follows:

As used in KRS 279.320 to 279.600, unless the context requires otherwise:

- (1) "Cooperative" means any corporation organized under KRS 279.320 to 279.600 or which becomes subject to those sections in the manner provided therein.
- (2) "Person" means any natural person, firm, association, corporation, business trust, or partnership.
- (3) As used in this chapter, the term "telephone service" shall include in its meaning communications services of all kinds allowed to any other telephone utility, authorized by regulatory agency and with some unregulated, that being the transmission of voice, data, sounds, signals, pictures, writing, or signs of all kinds, by use of wire, radio, light, electromagnetic impulse, broadband (wideband) spectrum, or any other transmission mode and facility used in rendition of such services; but shall not include in their meaning message telegram service, or radio broadcasting services or facilities within the meaning of Section 153(O) of the Federal Communications Act of 1934, as amended.
- (4) "Acquire" means to construct, purchase, obtain by lease, devise, gift, or eminent domain, or to obtain by any other lawful means.
- (5) "Board" means the board of trustees of a corporation formed under KRS 279.320 to 279.600.
- (6) "Federal agency" means and includes the United States, the President of the United States, and all federal authorities, instrumentalities, and agencies in the ordinary sense.
- (7) "Improve" means to construct, reconstruct, extend, enlarge, alter, better, or repair.
- (8) "Member" means and includes each person signing the articles of incorporation of a corporation formed under KRS 279.320 to 279.600, each person later admitted to membership according to law or according to the articles of incorporation or bylaws of the corporation, and each common stockholder in a corporation, having capital stock, organized under KRS 279.320 to 279.600.
- (9) "Obligations" means and includes negotiable bonds, notes, debentures, interim certificates or receipts, and all other

evidences of indebtedness either issued or the payment thereof assumed by a corporation organized under KRS 279.320 to 279.600.

- (10) "System" means and includes any plant, works, facilities, and properties, and all parts thereof and appurtenances thereto, used or useful in the operation and maintenance of telephone communication service.
- (11) "Rural area" shall be deemed to mean any area of this state not included within the boundaries of any incorporated or unincorporated city or of a consolidated local government, having a population in excess of fifteen hundred (1,500) inhabitants.
- (12) "Telephone company" means any natural person, firm, association, corporation, or partnership owning, leasing, or operating any line, facility, or system used in the furnishing of telephone service within this state.
- (13) "Business entity" means a domestic and foreign limited liability company, corporation, general partnership, limited partnership, business or statutory trust, and not-for-profit unincorporated association.
- (14) "Corporation" means a profit or nonprofit corporation formed under the laws of any state or a foreign country.
- (15) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of a business entity.
- (16) "Real name" shall have the meaning set forth in Section 164 of this Act.

Section 135. KRS 279.340 is amended to read as follows:

- (1) The name of a cooperative shall include the words "Telephone," "Telecommunications," "Company" or "Corporation" and the abbreviation "Inc.," unless, in an affidavit made by its president or vice president, and filed with the Secretary of State, or in an affidavit made by a person signing articles of incorporation, consolidation, merger or conversion, which relate to such cooperative, and filed, together with any such articles, with the Secretary of State, it shall appear that the cooperative desires to do business in another state and is or would be precluded therefrom by reason of the inclusion of such words or either thereof in its name. The name may include the word "Cooperative." ~~[The name of a cooperative shall be distinct from the name of any other cooperative or corporation organized under the laws of, or authorized to do business in this state.]~~
- (2) Except as authorized by subsection (3), (4), or (5) of this section, the name of a cooperative shall be distinguishable from any name of record with the Secretary of State.
- (3) This section shall not apply to any corporation which becomes subject to KRS 279.310 to 279.600 by complying with the provisions of KRS 279.470, which does business in this state pursuant to KRS 279.570 and which elects to retain a corporate name which does not comply with this section.
- (4) A cooperative may apply to the Secretary of State for authorization to use a name that is not distinguishable from a name of record with the Secretary of State. The Secretary of State shall authorize use of the name applied for if:
 - (a) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the Secretary of State to change its name to a name that is distinguishable upon the records of the Secretary of State from the name of the applying cooperative; or
 - (b) The applicant delivers to the Secretary of State a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.
- (5) A cooperative may use the name, including the fictitious name, of another entity that is used in this state if the other entity is incorporated, organized, or authorized to transact business in this state and the proposed user cooperative:
 - (a) Has merged with the other entity;
 - (b) Has been formed by reorganization of the other entity; or
 - (c) Has acquired all or substantially all of the assets, including the name, of the other entity.
- (6) This chapter does not control the use of assumed names.
- (7) The filing of articles of incorporation under the particular name shall not automatically prevent the use of that name or protect that name from use by other persons.

Section 136. KRS 304.38-040 is amended to read as follows:

- (1) A corporation, limited liability ~~company~~~~corporation~~, or partnership may apply to the executive director for and obtain a certificate of authority to establish and operate a health maintenance organization in compliance with this subtitle.
- (2) Health maintenance organizations which are corporations may be organized by applying the provisions of KRS Chapter 271B, if for profit, and KRS Chapter 273, if for nonstock, nonprofit, to the extent that the same are not inconsistent with the express provisions of this subtitle.
- (3) Each application for a certificate of authority shall be submitted to the executive director upon a form prescribed by him and shall set forth or be accompanied by:
 - (a) Evidence that the applicant has been issued a certificate of need in accordance with the provisions of KRS Chapter 216B, or evidence that no certificate of need is required by KRS Chapter 216B;
 - (b) Articles of incorporation, articles of organization, ~~[or]~~ partnership agreement, or other applicable documents in

2007 Regular Session

quadruplicate~~[originals]~~ acknowledged and verified by the applicant~~[such as the articles of incorporation, articles of association, partnership agreement, or other applicable documents]~~;

- (c) The initial bylaws, operating agreement or other equivalent documents of the organization in triplicate (or any other similar documents);
- (d) A statement which shall include describing the health maintenance organization:
 - 1. The health services to be offered;
 - 2. The financial risks to be assumed;
 - 3. The initial geographic area to be served;
 - 4. Pro forma financial projections for the first three (3) years of operations including the assumptions the projections are based upon;
 - 5. The sources of working capital and funding;
 - 6. A description of the persons to be covered by the health maintenance organization;
 - 7. Any proposed reinsurance arrangements;
 - 8. Any proposed management, administrative, or cost-sharing arrangements; and
 - 9. A description of the health maintenance organization's proposed method of marketing;
- (e) The names, addresses, and positions of the initial board of directors, board of trustees, or other governing body responsible for the conduct of the affairs of the applicant;
- (f) Any proposed evidence of coverage to be issued by the applicant to individuals, enrollees, groups, or other contract holders; and
- (g) Evidence of financial responsibility as provided in KRS 304.38-060.

Section 137. KRS 304.38-070 is amended to read as follows:

- (1) This subsection applies to a corporation or limited liability company~~[corporation]~~ applying for and holding a certificate of authority as a health maintenance organization:
 - (a) Except as provided in paragraph (b) of this subsection, to qualify for authority to act as a health maintenance organization, a corporation or limited liability company~~[corporation]~~ shall possess and thereafter maintain unimpaired paid-in capital stock of one million dollars (\$1,000,000), and, when first so authorized, shall possess initial free surplus of not less than two million dollars (\$2,000,000);
 - (b) A corporation holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency required for such authority immediately prior to July 15, 1986. Notwithstanding the other provisions hereof, the exception provided in this paragraph shall cease to apply to any such health maintenance organization from and after the date it has accumulated capital and surplus equal to or in excess of the capital and surplus required by paragraph (a) of this subsection; and
 - (c) Each corporation authorized as a health maintenance organization shall at all times maintain bona fide additional surplus in the amount of two hundred fifty thousand dollars (\$250,000) and shall at all times comply with the risk-based capital requirements as established in administrative regulations promulgated by the executive director. A corporation holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency as required for such authority immediately prior to July 15, 1986. The exception provided in this paragraph shall cease to apply to any such health maintenance organization from and after the date upon which it has accumulated additional surplus equal to or in excess of the additional surplus required by this subsection.
- (2) This subsection applies to a partnership applying for or holding a certificate of authority as a health maintenance organization:
 - (a) Except as provided in paragraph (b) of this subsection, to qualify for authority to act as a health maintenance organization, a partnership shall possess, when first so authorized, a total of at least three million dollars (\$3,000,000) in its capital accounts. Thereafter, a partnership authorized as a health maintenance organization shall possess and maintain a total of at least one million two hundred fifty thousand dollars (\$1,250,000) in its capital accounts and shall comply at all times with the risk-based capital requirement established in administrative regulations promulgated by the executive director;
 - (b) A partnership holding a valid certificate of authority to transact business as a health maintenance organization in Kentucky immediately prior to July 15, 1986, may, if otherwise qualified therefor, continue to be so authorized while meeting the requirements for protection against insolvency required for such authority immediately prior to July 15, 1986. The exception provided for in this paragraph shall cease to apply to any such health maintenance organization from and after the date upon which the total of the funds which it has accumulated in its capital accounts equal or exceed the total of the funds in its capital accounts required by this subsection.

- (3) A corporation, partnership, or limited liability ~~company~~~~[corporation]~~ applying for and holding a certificate of authority as a health maintenance organization which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program shall comply with risk-based capital (RBC) requirements as follows:
- (a) For purposes of this subsection, risk-based capital shall be determined in accordance with the risk-based capital requirements for health maintenance organizations established under this subtitle and any administrative regulation promulgated pursuant to KRS Chapter 13A, except as otherwise provided in this subsection. A corporation, partnership, or limited liability ~~company~~~~[corporation]~~ applying for and holding a certificate of authority as a health maintenance organization which by contract manages care and processes health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program shall comply with the same risk-based capital requirements as other health maintenance organizations, except that no additional phase-in or risk-based capital reports shall be required for 2000 or 2001, and the risk-based capital levels shall be established in accordance with paragraph (b) of this subsection;
 - (b) For the risk-based capital reports required to be filed by health maintenance organizations which manage care and process health care claims solely for Medicaid-eligible enrollees and the Kentucky Children's Health Insurance Program, the risk-based capital levels shall be defined as follows:
 - 1. "Company Action Level RBC" means the product of two (2.0) and its Authorized Control Level RBC;
 - 2. "Regulatory Action Level RBC" means the product of one and five-tenths (1.5) and its Authorized Control Level RBC;
 - 3. "Authorized Control Level RBC" means the product of four-tenths (.40) and the risk-based capital after covariance determined under the risk-based capital formula in accordance with the RBC instruction; and
 - 4. "Mandatory Control Level RBC" means the product of seven-tenths (.70) and the Authorized Control Level RBC; and
 - (c) A corporation, partnership, or limited liability ~~company~~~~[corporation]~~ applying for and holding a certificate of authority as a health maintenance organization managing care, processing health care claims, or providing health benefits to groups or individuals in addition to Medicaid-eligible and Kentucky Children's Health Insurance Program enrollees shall comply with the risk-based capital requirements of subsection (1) of this section and this subtitle, and shall not be eligible to calculate its risk-based capital according to this subsection.

Section 138. KRS 311A.070 is amended to read as follows:

- (1) When a complaint is filed against an ambulance service, emergency medical services provider, or an emergency medical services educational institution or an employee or volunteer thereof, or when the office of the board is contemplating action against an ambulance service, emergency medical services provider, or emergency medical services educational institution or an employee or volunteer thereof, written notice of the complaint or proposed action shall be sent to:
 - (a) The county judge/executive, in the event of a county-operated ambulance service, emergency medical services provider, or educational institution;
 - (b) The mayor, in the event of a city-operated ambulance service, emergency medical services provider, or educational institution;
 - (c) The mayor, in the event of an urban-county government-operated ambulance service, emergency medical services provider, or educational institution;
 - (d) The chairman of the fire protection district, in the event of a fire district-operated ambulance service, emergency medical services provider, or educational institution;
 - (e) The head of the public agency, in the event of an ambulance service, emergency medical services provider, or educational institution operated by a public agency other than specified in paragraphs (a) to (d) of this subsection;
 - (f) The president, chancellor, or other officer in charge of an educational institution operated, in the event of an ambulance service or educational institution;
 - (g) The chief operating officer or president of a nonprofit corporation, corporation for profit, limited liability ~~company~~~~[corporation]~~, or other business entity, in the event of an ambulance service, emergency medical services provider, or educational institution operated by the business entity; and
 - (h) Both the ambulance service, emergency medical services provider, or educational institution officials specified in this subsection and the officials of any public agency contracting for services.
- (2) The notice specified in this section shall be in addition to any notice provided to any other person or organization.

Section 139. KRS 313.240 is amended to read as follows:

- (1) No person shall practice or offer to practice dentistry or dental surgery under the name of any company, association, or corporation except the name of a professional service corporation established under KRS Chapter 274, a professional limited liability company established under KRS Chapter 275, a partnership established under the Kentucky Uniform Partnership Act, or a partnership established under the Kentucky Revised Uniform Partnership Act. Any person

practicing or offering to practice dentistry or dental surgery shall practice under his own name or the name of ~~a~~the professional service corporation, professional limited liability company, or a partnership which includes his name. No such person shall conduct a dental office in his name nor advertise his name in connection with any dental office unless he personally performs services as a dentist or dental surgeon in such office or personally supervises such services as are performed in such office during a portion of the time such office is operated by him only, and shall not use his name in connection with that of any other dentist.

- (2) No person shall be an incorporator, director, officer, member, manager, or shareholder in more than three (3) professional service corporations, three (3) professional limited liability companies, or three (3) partnerships, or any three (3) of these business entities rendering dental or dental surgery services. No dentist or dental surgeon or group of dentists or dental surgeons shall practice in more than three (3) locations.

Section 140. KRS 322.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

- (1) "Board" means the State Board of Licensure for Professional Engineers and Land Surveyors;
- (2) "Engineer" means a person who is qualified to engage in the practice of professional engineering by reason of special knowledge and use of:
 - (a) The mathematical, physical, and engineering sciences; and
 - (b) The principles and methods of engineering analysis and design, acquired by engineering education and practical engineering experience;
- (3) "Professional engineer" means a person who is licensed as a professional engineer by the board;
- (4) "Engineering" means any professional service or creative work, the adequate performance of which requires engineering education, training, and experience as an engineer.
 - (a) "Engineering" shall include:
 1. Consultation, investigation, evaluation, planning, certification, and design of engineering works and systems;
 - a. Engineering design and engineering work associated with design/build projects;
 - b. Engineering works and systems which involve earth materials, water or other liquids, and gases;
 - c. Planning the use of land, air, and waters; and
 - d. Performing engineering surveys and studies;
 2. The review of construction for the purpose of assuring compliance with drawings and specifications; any of which embraces this service or work, either public or private, in connection with any utilities, structures, certain buildings, building systems, machines, equipment, processes, work systems, or projects with which the public welfare or the safeguarding of life, health, or property is concerned, when that professional service or work requires the application of engineering principles and data;
 3. The teaching of engineering design courses in any program accredited by the Engineering Accreditation Commission of the Accreditation Board for Engineering and Technology or any engineering program deemed equivalent by the board;
 4. The negotiation or solicitation of engineering services on any project in this state, regardless of whether the persons engaged in the practice of engineering:
 - a. Are residents of this state;
 - b. Have their principal place of business in this state; or
 - c. Are in responsible charge of the engineering services performed; and
 5. The services of a professional engineer who engages in the practice of land surveying incident to the practice of engineering that does not relate to the location or determination of land boundaries.
 - (b) "Engineering" shall not include the professional services performed by persons who:
 1. Develop or administer construction project safety programs, construction safety compliance, construction safety rules or regulations, or related administrative regulations; or
 2. Only operate or maintain machinery or equipment;
- (5) "Practice of engineering" means the performance of any professional service included in subsection (4)(a) of this section;
- (6) "Engineer in training" means a person who has passed the Fundamentals of Engineering Examination and is otherwise qualified to earn experience toward licensure as a professional engineer;
- (7) "Responsible charge of engineering" means direct control and personal supervision of engineering, or teaching experience with the rank equivalent to assistant professor or higher in a board-approved engineering program;
- (8) "Land surveyor" means a person who is qualified to engage in the practice of land surveying by reason of special knowledge and use of mathematics, the physical and applied sciences, and the principles and methods of land surveying,

acquired by education and practical experience in land surveying;

- (9) "Professional land surveyor" means a person who is licensed as a professional land surveyor by the board;
- (10) "Land surveying" means any professional service or work, the adequate performance of which requires the education, training, and experience as a land surveyor.
 - (a) "Land surveying" shall include, but not be limited to, the following:
 - 1. Measuring and locating, establishing, or reestablishing lines, angles, elevations, natural and man-made features in the air, on the surface and immediate subsurface of the earth, within underground workings, and on the beds or surfaces of bodies of water involving the:
 - a. Determination or establishment of the facts of size, shape, topography, and acreage;
 - b. Establishment of photogrammetric and geodetic control that is published and used for the determination, monumentation, or description of property boundaries;
 - c. Subdivision, division, and consolidation of lands;
 - d. Measurement of existing improvements, including condominiums, after construction and the preparation of plans depicting existing improvements, if the improvements are shown in relation to property boundaries;
 - e. Layout of proposed improvements, if those improvements are to be referenced to property boundaries;
 - f. Preparation of physical written descriptions for use in legal instruments of conveyance or real property and property rights;
 - g. Preparation of subdivision record plats;
 - h. Determination of existing grades and elevations of roads and land;
 - i. Creation and perpetuation of alignments related to maps, record plats, field note records, reports, property descriptions, and plans and drawings that represent them; and
 - j. Certification of documents; and
 - 2. The negotiation or solicitation of land surveying services on any project in this state, regardless of whether the persons engaged in the practice of land surveying:
 - a. Are residents of this state;
 - b. Have their principal office or place of business in this state; or
 - c. Are in responsible charge of the land surveying services or work performed.
 - (b) "Land surveying" shall not include:
 - 1. The measurement of crops or agricultural land area under any agricultural program sponsored by an agency of the federal government or the state of Kentucky;
 - 2. The services of a professional engineer who engages in the practice of land surveying incident to the practice of engineering, if the land surveying work does not relate to the location or determination of land boundaries; or
 - 3. The design of grades and elevations of roads and land;
- (11) "Practice of land surveying" means the performance of any professional service included in subsection (10)(a) of this section;
- (12) "Land surveyor in training" means a person who has passed the Fundamentals of Land Surveying Examination and is otherwise qualified to earn experience toward licensure as a professional land surveyor;
- (13) "Responsible charge of land surveying" means direct control and personal supervision of land surveying, or teaching experience with the rank equivalent to assistant professor or higher in a board-approved land surveying program;
- (14) "Business entity" means a corporation, partnership, limited liability company, limited partnership, or firm;
- (15) "Offer to practice" means:
 - (a) A promise or commitment to engage in any act directly related to engineering or land surveying;
 - (b) Undertaking to engage in the practice of engineering or land surveying; or
 - (c) Any claim, express or implied, by any person representing himself or herself to be a professional engineer or professional land surveyor;
- (16) "Certification" means affixing a seal or stamp, signature, and date by a professional engineer or professional land surveyor to represent that the services or work addressed therein was performed by that professional engineer or professional land surveyor according to his or her knowledge, information, and belief, and that it was completed in accordance with applicable standards of practice. "Certification" shall not mean a guaranty or warranty, either express or implied;
- (17) The "Fundamentals of Engineering Examination" means the examination with that name developed by the National

2007 Regular Session

Council of Examiners for Engineering and Surveying;

- (18) The "Fundamentals of Land Surveying Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying;
- (19) The "Principles and Practice of Engineering Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying; and
- (20) The "Principles and Practice of Land Surveying Examination" means the examination with that name developed by the National Council of Examiners for Engineering and Surveying.

Section 141. KRS 322.060 is amended to read as follows:

- (1) (a) A business entity shall not engage in the practice of engineering in this state unless:
 - 1. At least one (1) of its principals, officers, or a designated employee is a professional engineer who is in responsible charge of the engineering work; and
 - 2. The board has issued a permit to the business entity.
- (b) To apply for a permit, a business entity offering engineering services in this state shall file with the board, on a form prescribed by the board:
 - 1. The names and addresses of all principals and officers;
 - 2. The license number of principals, officers, and employees who are professional engineers in responsible charge of the business entity's practice of engineering in this state;
 - 3. A list of locations of all offices in this state at which the business entity offers professional engineering services;
 - 4. A statement of qualifications for the permit; and
 - 5. References as required by administrative regulations promulgated by the board.
- (c) If more than one (1) place of business is maintained in this state, a professional engineer shall be in responsible charge of the engineering work for each office.
- (d) A professional engineer who renders occasional, part-time, or consulting engineering services to or for a business entity required to hold a permit from the board under this section shall not be designated as the person in responsible charge of the engineering work.
- (e) A business entity holding a permit shall advise the board in writing within thirty (30) days of any change of status in those items listed in paragraph (b) of this subsection.
- (f) Individual professional engineers providing engineering services in their own names, or architectural firms offering engineering services incident to their practice, shall be excluded from the provisions of this subsection.
- (2) (a) A business entity shall not engage in the practice of land surveying in this state unless:
 - 1. At least one (1) of its principals, officers, or a designated employee is a professional land surveyor in direct responsible charge of the land surveying work; and
 - 2. The board has issued a permit to the business entity.
- (b) To apply for a permit, a business entity offering land surveying services in this state shall file with the board, on a form prescribed by the board:
 - 1. The names and addresses of all principals and officers;
 - 2. The license numbers of the principals, officers, and employees who are professional land surveyors in responsible charge of the practice of land surveying in this state;
 - 3. A list of locations of all offices in this state at which the business entity offers professional land surveying services;
 - 4. A statement of qualifications for the services relating to the permit; and
 - 5. References as required by administrative regulations promulgated by the board.
- (c) If more than one (1) place of business is maintained in this state, a professional land surveyor shall be in responsible charge of the land surveying work for each office.
- (d) A professional land surveyor who renders occasional, part-time, or consulting services to or for a business entity required to hold a permit from the board under this section shall not be designated as the person in responsible charge of the land surveying activity of the firm.
- (e) A business entity holding a permit shall advise the board in writing within thirty (30) days of any change of status.
- (f) Individual professional land surveyors providing land surveying services in their own names shall be excluded from the provisions of this subsection.
- (3) (a) After a business entity applies for a professional engineering or professional land surveying permit and pays the proper fees, the board shall review the application and, upon approval, shall issue a permit.

- (b) The board may suspend, revoke, or refuse to issue a permit for violation of the code of professional practice and conduct.
- (c) The expiration date and renewal period for each permit and renewal procedures shall be established by administrative regulations promulgated by the board.
- (4) (a) No business entity shall be relieved of responsibility for the conduct or acts of its agent, employees, or officers by reason of its compliance with this section.
- (b) No individual practicing professional engineering or professional land surveying shall be relieved of the responsibility for professional services performed by reason of the individual's employment or relationship with a business entity holding a permit under this section.
- (5) Disciplinary action against a business entity holding a permit under this section shall be administered in the same manner and on the same grounds as disciplinary action against an individual professional engineer or professional land surveyor.
- (6) The Secretary of State shall not ~~accept articles~~~~[issue a certificate]~~ of incorporation, articles of organization, statement of qualification or certificate of limited partnership or an application for a certificate of authority to transact business~~[registration]~~ as a foreign corporation, limited liability company or limited partnership or a statement of foreign qualification from a business entity~~[authorized to do business in this state to a firm]~~ which includes in its name or, among objects for which it is established, any of the words, "engineer," "engineering," "surveyor," "surveying," "land surveying," or any modification or derivation thereof, unless the filing~~[application for incorporation or registration]~~ with the Secretary of State includes a certificate or letter from the board.

Section 142. KRS 362.401 is amended to read as follows:

As used in KRS 362.403 to 362.525, unless the context otherwise requires, the term:

- (1) "Certificate of limited partnership" means the certificate referred to in KRS 362.415, or the certificate of limited partnership as amended or restated.
- (2) "Business entity" means a domestic or foreign limited liability company, corporation, partnership, limited partnership, business or statutory trust and not-for-profit unincorporated association.
- (3) "Contribution" means any cash, property, services rendered, or a promissory note or other obligation to contribute cash or property or to perform services, which a partner contributes to a limited partnership in his capacity as a partner.
- ~~(4)~~~~(3)~~ "Event of withdrawal of a general partner" means an event that causes a person to cease to be a general partner as provided in KRS 362.445.
- ~~(5)~~~~(4)~~ "Foreign limited partnership" means a limited partnership formed under the laws of any state other than this state and having as partners one (1) or more general partners and one (1) or more limited partners.
- ~~(6)~~~~(5)~~ "General partner" means a person who has been admitted to a limited partnership as a general partner in accordance with the partnership agreement and is named in the certificate of limited partnership as a general partner.
- ~~(7)~~~~(6)~~ "Limited partner" means a person who has been admitted to a limited partnership as a limited partner in accordance with the partnership agreement.
- ~~(8)~~~~(7)~~ "Limited partnership" or "domestic limited partnership" means a partnership formed by two (2) or more persons under the laws of this state and having one (1) or more general partners and one (1) or more limited partners.
- (9) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of a business entity.
- ~~(10)~~~~(8)~~ "Partner" means a limited partner or general partner.
- ~~(11)~~~~(9)~~ "Partnership agreement" means any valid agreement, written or oral, of the partners as to the affairs of a limited partnership and the conduct of its business.
- ~~(12)~~~~(10)~~ "Partnership interest" means a partner's share of the profits and losses of a limited partnership and the right to receive distributions of partnership assets.
- ~~(13)~~~~(11)~~ "Person" means a natural person; ~~[partnership; limited partnership, which is either domestic or foreign;]~~ trust; estate; or business entity~~[association; or corporation]~~.
- (14) "Real name" shall have the meaning set forth in Section 164 of this Act.
- ~~(15)~~~~(12)~~ "State" means a state, territory, or possession of the United States, the District of Columbia or the Commonwealth of Puerto Rico.

Section 143. KRS 362.403 is amended to read as follows:

The name of each limited partnership as set forth in its certificate of limited partnership:

- (1) Shall contain the word "Limited" or its abbreviation, "Ltd.";
- (2) Shall not contain the name of a limited partner unless:
 - (a) That name is also the name of a general partner or the corporate name of a corporate general partner; or
 - (b) The business of the limited partnership had been carried on under that name before the admission of that limited

partner; and

- (3) Shall ~~not be the same as, and shall~~ be distinguishable from any name of record with the Secretary of State ~~upon the records of the Secretary of State from, the name of any corporation or limited partnership organized under the laws of this state, or licensed or registered as a foreign corporation or foreign limited partnership in this state, or any assumed name which is registered with the Secretary of State or a name which at that time is reserved by another person under the laws of this state~~.

Section 144. KRS 362.405 is amended to read as follows:

- (1) The exclusive right to the use of a name may be reserved by:
- (a) Any person intending to organize a limited partnership under KRS 362.403 to 362.525 and to adopt that name;
 - (b) Any domestic limited partnership or any foreign limited partnership registered in this state which, in either case, intends to adopt that name;
 - (c) Any foreign limited partnership intending to register in this state and adopt that name; or
 - (d) Any person intending to organize a foreign limited partnership and intending to have it registered in this state and adopt that name.
- (2) The reservation shall be made by filing with the Secretary of State an application, executed by the applicant, to reserve a specified name. If the Secretary of State finds that the name is available for use by a domestic limited partnership or foreign limited partnership, it shall reserve the name for the exclusive use of the applicant for a nonrenewable period of one hundred twenty (120) days. The right to the exclusive use of a reserved name may be transferred to any other person by filing with the Secretary of State a notice of the transfer, executed by the applicant for whom the name was reserved and specifying the name and address of the transferee. During the thirty (30) days prior to the expiration of a reservation, the holder thereof may apply to renew the reservation on such form as shall be provided by the Secretary of State. The renewal shall be effective as of the expiration of the current reservation and shall renew the reservation for an additional one hundred twenty (120) days from the expiration.
- (3) The holder of a reserved name may cancel the reservation by delivery to the Secretary of State of a notice of cancellation, executed by the applicant for whom the name was reserved, that states the reserved name and its date of reservation.

Section 145. KRS 362.555 is amended to read as follows:

- (1) To become and to continue as a registered limited liability partnership, a partnership that is not a limited partnership shall file with the Secretary of State a statement or a renewal statement, as the case may be, stating the name of the partnership; the address of its principal office; the number of partners; the names of the partners; a brief statement of the business in which the partnership engages; and that the partnership registers its status or renews its status, as the case may be, as a registered limited liability partnership.
- (2) The statement or renewal statement shall be executed by a majority in interest of the partners or by one (1) or more partners authorized to execute a statement or renewal statement.
- (3) The statement or renewal statement shall be accompanied by a fee of two hundred dollars (\$200).
- (4) The Secretary of State shall register as a registered limited liability partnership, and shall renew the registration of any registered limited liability partnership, any partnership that submits a completed statement or renewal statement with the required fee.
- (5) Registration shall be effective for one (1) year after the date a statement is filed, unless voluntarily withdrawn by filing with the Secretary of State a written withdrawal notice executed by a majority in interest of the partners or by one (1) or more partners authorized to execute a withdrawal notice. Registration, whether pursuant to an original statement or a renewal statement, as a registered limited liability partnership shall be renewed if, during the sixty (60) day period preceding the date the statement or renewal statement otherwise would have expired, the partnership files with the Secretary of State a renewal statement. Registration pursuant to a renewal statement shall expire one (1) year after the date the registration would have expired if the last renewal of the registration had not occurred.
- (6) The status of a partnership as a registered limited liability partnership shall not be affected by changes made in the information stated in the statement or renewal statement after the filing of the statement or renewal statement.
- (7) The Secretary of State may provide forms for use under this section.

Section 146. KRS 362.595 is amended to read as follows:

- (1) The failure of a registered limited liability partnership to comply with any requirements of KRS 362.555 shall not impair the validity of any contract, deed, mortgage, security interest, lien, or act of the registered limited liability partnership or prevent the registered limited liability partnership from defending any action, suit, or proceeding in any court of this Commonwealth.
- (2) Subject to subsection (3) of this section, the protection from liability of a partner of a registered limited liability partnership under KRS 362.220(2) shall not be altered by reason of the failure of the partnership to comply with any requirements of KRS 362.555.

- (3) A partner in a partnership which has previously filed a statement under KRS 362.555, and which has failed to comply with the renewal statement requirements of KRS 362.555, shall not be entitled to protection from liability under KRS 362.220(2) in any action or proceeding brought by any person who did business with the partnership during the period it failed to comply and who did not at that time have actual knowledge that it was a limited liability partnership.
- ~~[(4) A foreign limited liability partnership, by transacting business in this Commonwealth, shall be deemed to appoint the Secretary of State as its agent for service of process with respect to causes of action arising out of the transaction of business in this Commonwealth.]~~

Section 147. KRS 362.1-109 is amended to read as follows:

- (1) The Secretary of State shall collect the following fees when the statements described in this subsection are delivered for filing:
- | | |
|--|--------------------------|
| (a) Statement of Partnership Authority | \$40.00 |
| (b) Statement of Denial | \$20.00 |
| (c) Statement of Dissociation | \$20.00 |
| (d) Statement of Dissolution | \$40.00 |
| (e) Statement of Merger | \$40.00 |
| (f) Statement of Qualification | \$40.00 |
| (g) Amendment to a Statement of Qualification | \$90.00 |
| (h) Statement of Foreign Qualification | \$100.00 |
| (i) Reinstatement of a Statement of Qualification | \$100.00 |
| (j) Change of Registered Agent or Change of the Address of the
Registered Office, or Both | \$10.00 |
| (k) Registered Agent's Statement of Change of Registered Office
for Each Affected Partnership | \$10.00 |
| <u>not to exceed a total of.....</u> | <u>\$1,000.00</u> |
| (l) Change of the Mailing Address of the Chief Executive Office | \$10.00 |
| (m) Application to Reserve a Name for Use by a Domestic or Foreign
Partnership | \$15.00 |
| (n) Notice of the Transfer of a Name Reserved for Use by a Domestic
or Foreign Partnership | \$15.00 |
| (o) Application for Registered Name | \$36.00 |
| (p) Application for Renewal of Registered Name | \$36.00 |
| (q) Annual report..... | \$15.00 |
| (r) Amendment to the annual report..... | \$10.00 |
| (s) All other filings | \$40.00 |
- (2) The Secretary of State shall collect the following fees for copying and certifying the copy of any filed statements relating to a domestic or foreign partnership:
- (a) Fifty cents (\$0.50) a page for copying; and
- (b) Five dollars (\$5) for the certificate.
- Section 148. KRS 362.1-115 is amended to read as follows:
- (1) A person may apply to the Secretary of State to reserve the exclusive use of a partnership name, including the fictitious name, for a limited liability partnership or for a foreign limited liability partnership whose partnership name is not available for use in this Commonwealth. If the Secretary of State finds that the name applied for is available, then the Secretary of State shall reserve the name for the applicant's exclusive use for ~~a [one (1) nonrenewable]~~ period of one hundred twenty (120) days. **During the thirty (30) days prior to the expiration of a reservation, the holder thereof may apply to renew the reservation on such form as shall be provided by the Secretary of State. The renewal shall be effective as of the expiration of the current reservation and shall renew the reservation for an additional one hundred twenty (120) days from the expiration.**
- (2) The holder of a reserved partnership name may transfer the reservation to another person by delivering to the Secretary of State a notice of the transfer, executed by the holder for whom the name was reserved, and specifying the name and address of the transferee.
- (3) The holder of a reserved partnership name may cancel the reservation by delivery to the Secretary of State of a notice of cancellation, executed by the applicant for whom the name was reserved, that states the reserved name and its date of

reservation.

Section 149. KRS 362.1-504 is amended to read as follows:

- (1) **This section provides the exclusive remedy by which the judgment creditor of a partner or the transferee of a partner may satisfy a judgment out of the judgment debtor's transferable interest.**
- (2) On application **to a court of competent jurisdiction** by a judgment creditor of a partner or ~~of~~ a partner's transferee, a court ~~having jurisdiction~~ may charge the transferable interest of the judgment debtor **with payment of the unsatisfied amount of** ~~(to satisfy)~~ the judgment. **To the extent so charged, the judgment creditor has only the rights of a transferee** ~~and the court order charging the transferable interest of a partner or of a partner's transferee shall be the sole remedy of a judgment creditor, who~~ shall have no right ~~under this subchapter~~ to participate in the management of or to cause the dissolution of the partnership. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require **to give effect to the charging order.**
- ~~(3)(2)~~ A charging order constitutes a **lien on and the** right to receive distributions made with respect to the judgment debtor's transferable interest in the partnership.
- (4) The court may order a foreclosure of the interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee. **A charging order does not of itself constitute an assignment of the transferable interest.**
- ~~(5)(3)~~ At any time before foreclosure, an interest charged may be redeemed:
 - (a) By the judgment debtor;
 - (b) With property other than partnership property, by one (1) or more of the other partners; or
 - (c) With partnership property, by one (1) or more of the other partners with the consent of all of the partners whose interests are not so charged.
- ~~(6)(4)~~ This subchapter does not deprive a partner of a right under exemption laws with respect to the partner's interest in the partnership.
- ~~((5) — This section provides the exclusive remedy by which a judgment creditor of a partner or partner's transferee may satisfy a judgment out of the judgment debtor's transferable interest in the partnership.)~~

Section 150. KRS 362.1-802 is amended to read as follows:

- (1) Subject to subsection (2) of this section, a partnership continues after dissolution only for the purpose of winding up its business. The partnership is terminated when the winding up of its business is completed.
- (2) At any time after the dissolution of a partnership and before the winding up of its business is completed, all of the partners, including any dissociating partner other than a wrongfully dissociating partner, may waive the right to have the partnership's business wound up and the partnership terminated. In that event:
 - (a) The partnership resumes carrying on its business as if dissolution had never occurred, and any liability incurred by the partnership or a partner after the dissolution and before the waiver is determined as if dissolution had never occurred; and
 - (b) The rights of a third party accruing under KRS 362.1-804(1) or arising out of conduct in reliance on the dissolution before the third party has notice of the waiver shall not be adversely affected.
- (3) **The dissolution of a partnership that is or was a limited liability partnership shall not abate or suspend KRS 362.1-306(3).**

Section 151. KRS 362.1-1104 is amended to read as follows:

- (1) Activities of a foreign limited liability partnership which do not constitute transacting business for the purposes of KRS 362.1-1001 to 362.1-1103 include:
 - (a) Maintaining, defending, or settling an action or proceeding;
 - (b) Holding meetings of its partners or carrying on any other activity concerning its internal affairs;
 - (c) Maintaining bank accounts;
 - (d) Maintaining offices or agencies for the transfer, exchange, and registration of the partnership's own securities or maintaining trustees or depositories with respect to those securities;
 - (e) Selling through independent contractors;
 - (f) Soliciting or obtaining orders, whether by mail or through employees or agents or otherwise, if the orders require acceptance outside this Commonwealth before they become contracts;
 - (g) Creating or acquiring indebtedness, with or without a mortgage, or other security interest in property;
 - (h) Collecting debts or foreclosing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired;
 - (i) Conducting an isolated transaction that is completed within thirty (30) days and is not one (1) in the course of

repeated transactions of a like nature;

(j) Owning, without more, real or personal property; or

(k) Transacting business in interstate commerce.

(2) ~~For purposes of KRS 362.1-1101 to 362.1-1105, the ownership in this Commonwealth of income-producing real property or tangible personal property, other than property excluded under subsection (1) of this section, constitutes transacting business in this Commonwealth.~~

(3) The list of activities in subsection (1) of this section shall not be considered exhaustive. This section does not apply in determining the contacts or activities that may subject a foreign limited liability partnership or any partner therein to service of process, taxation, or regulation under any other law of this Commonwealth. The term "transacting business" as used in this section shall have no effect on personal jurisdiction under KRS 454.210.

Section 152. KRS 362.2-109 is amended to read as follows:

(1) A person may apply to the Secretary of State to reserve the exclusive use of a limited partnership name, including the fictitious name for a foreign limited partnership whose limited partnership name is not available for use in this Commonwealth. If the Secretary of State finds that the limited partnership name applied for is available, then the Secretary of State shall reserve the name for the applicant's exclusive use for ~~a one (1)-nonrenewable~~ period of one hundred twenty (120) days. During the thirty (30) days prior to the expiration of a reservation, the holder thereof may apply to renew the reservation on such form as shall be provided by the Secretary of State. The renewal shall be effective as of the expiration of the current reservation and shall renew the reservation for an additional one hundred twenty (120) days from the expiration.

(2) The holder of a reserved limited partnership name may transfer the reservation to another person by delivering to the Secretary of State a notice of the transfer, executed by the holder for whom the name was reserved, and specifying the name and address of the transferee.

(3) The holder of a reserved limited partnership name may cancel the reservation by delivery to the Secretary of State of a notice of cancellation, executed by the applicant for whom the name was reserved, that states the reserved name and its date of reservation.

Section 153. KRS 362.2-119 is amended to read as follows:

(1) The Secretary of State may prescribe and furnish on request forms for:

- (a) A certificate of existence or authorization;
- (b) An application for a certificate of authority;
- (c) An application for a certificate of withdrawal;
- (d) A statement of change of registered office or registered agent;
- (e) A statement of change of designated office;
- (f) Application to reserve or renew the reservation of a name;
- (g) Application to cancel the reservation of a name;
- (h) Resignation of a registered agent;
- (i) The annual report;
- (j) An amendment to the annual report; and
- (k) Amended application for certificate of authority.

(2) The Secretary of State may mandate the use of the forms listed in subsection (1) of this section.

(3) The Secretary of State may prescribe and furnish on request forms for other records required or permitted to be filed pursuant to this subchapter, but their use shall not be mandatory.

Section 154. KRS 362.2-121 is amended to read as follows:

(1) A record that satisfies the requirements of this section, and of any other section of this subchapter that adds to or varies these requirements, shall be entitled to filing by the Secretary of State.

(2) This subchapter shall require or permit filing the record in the Office of the Secretary of State.

(3) The record shall contain the information required by this subchapter. It may also contain other information.

(4) The record shall be typewritten or printed or, if electronically transmitted, it shall be in a format that can be retrieved or reproduced in typewritten or printed form. The typewritten or printed portion shall be in black. Manually signed photocopies or other reproduced copies of typewritten or printed records may be filed.

(5) The record shall be in the English language. A limited partnership name may be in a language other than English if written in English letters or Arabic or Roman numerals. Any record that may be filed by a foreign limited partnership that is duly authenticated by the official having custody of the applicable records in the state, country, or other jurisdiction under whose law the limited liability company is formed may be in a language other than English if accompanied by a reasonably-authenticated English translation.

- (6) The person executing the record shall sign it and print beneath or opposite his or her signature the names of the person and the capacity in which he or she signs.
- (7) The person executing the record may do so as an attorney-in-fact. Powers of attorney relating to the execution of the record shall not be required to be provided to or filed with the Secretary of State.
- (8) A person who executes a record to be filed with the Secretary of State shall be deemed to have declared under penalty of perjury that to that person's knowledge the contents of the statement are accurate.
- (9) (a) It shall be unlawful for any person to sign a statement the person knows is false in any material respect with the intent that the statement be delivered to the Secretary of State for filing.
 (b) Any person who violates the provisions of this subsection shall be guilty of an offense punishable by a fine not to exceed one hundred dollars (\$100).
- (10) If the Secretary of State has prescribed a mandatory form for a record, then the record shall be in or on the prescribed form.
- ~~(11)(9)~~ The record shall be delivered to the Secretary of State for filing. Delivery may be made by electronic transmission if and to the extent permitted by the Secretary of State. If it is filed in typewritten or printed form and not transmitted electronically, then the Secretary of State may require that it be accompanied by two (2) exact or conformed copies.
- ~~(12)(10)~~ One (1) exact or conformed copy, or, if transmitted electronically, a reproduction in paper form, shall be filed with and recorded by the county clerk of the county in which the registered office of the limited partnership is located. A county clerk shall receive a fee pursuant to KRS 64.012 for recording and issuing reports, articles, and statements pertaining to limited partnerships. A document otherwise filed in accordance with this section with the Secretary of State shall be effective regardless of failure to file the document with the county clerk in accordance with this subsection.
- ~~(13)(11)~~ When the record is delivered to the Secretary of State for filing, the correct filing fee and any other moneys required by this subchapter or other law to be collected by the Secretary of State therewith shall be paid or provision for payment made in a manner permitted by the Secretary of State. The Secretary of State may accept payment of the correct amount due by credit card, debit card, charge card, or similar method. However, if the amount due is tendered by any method other than cash, then the liability is not finally discharged until the Secretary of State receives final payment or credit of collectible funds.

Section 155. KRS 362.2-210 is amended to read as follows:

- (1) A limited partnership subject to this subchapter or a foreign limited partnership authorized to transact business in this Commonwealth shall deliver to the Secretary of State for filing an annual report that states:
 - (a) The name of the limited partnership or foreign limited partnership and the state or country under whose law it is organized;
 - (b) The street address of its designated office or, if a foreign limited partnership, the street address of its principal office; and
 - (c) The street address of the limited partnership's registered office and the name of its registered agent at that office.
- (2) Information in an annual report shall be current as of the date the annual report is delivered to the Secretary of State for filing.
- (3) The first annual report shall be delivered to the Secretary of State between January 1 and June 30 of the year following the calendar year in which a limited partnership was formed or a foreign limited partnership was authorized to transact business. Subsequent annual reports shall be delivered to the Secretary of State between January 1 and June 30 of the ensuing calendar years.
- (4) If a filed annual report contains an address of a designated office or the name of a registered agent or registered office address which differs from the information shown upon the records of the Secretary of State immediately before the filing, then the differing information in the annual report is not considered a statement of change under KRS 362.2-115.
- (5) A limited partnership or foreign limited partnership may amend the information in its last filed annual report by delivery to the Secretary of State of an amendment to the annual report on an appropriate form provided by the Secretary of State.

Section 156. KRS 362.2-703 is amended to read as follows:

- (1) This section provides the exclusive remedy by which the judgment creditor of a partner or a partner's transferee of a partner may satisfy a judgment out of the judgment debtor's transferable interest.
- (2) On application to a court of competent jurisdiction by any judgment creditor of a partner or a partner's transferee, the court may charge the transferable interest of the judgment debtor with payment of the unsatisfied amount of the judgment ~~with interest~~. To the extent so charged, the judgment creditor has only the rights of a transferee, and shall have no right to participate in the management or to cause the dissolution of the partnership. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require to give effect to the charging order.
- ~~(3)(2)~~ A charging order constitutes a lien on and the right to receive distributions made with respect to the judgment

debtor's transferable interest. *A charging order does not of itself constitute an assignment of the transferable interest.*

~~(4)~~ The court may order a foreclosure upon the transferable interest subject to the charging order at any time. The purchaser at the foreclosure sale has the rights of a transferee.

~~(5)(3)~~ At any time before foreclosure, an interest charged may be redeemed:

- (a) By the judgment debtor;
- (b) With property other than limited partnership property, by one (1) or more of the other partners; or
- (c) With limited partnership property, by the limited partnership with the consent of all partners whose interests are not so charged.

~~(6)(4)~~ This subchapter does not deprive any partner or a partner's transferee of the benefit of any exemption laws applicable to the partner's or transferee's transferable interest.

~~[(5) This section provides the exclusive remedy by which a judgment creditor of a partner or transferee may satisfy a judgment out of the judgment debtor's transferable interest.]~~

Section 157. KRS 362.2-803 is amended to read as follows:

- (1) A limited partnership continues after dissolution only for the purpose of winding up its activities.
- (2) In winding up its business, the limited partnership:
 - (a) May amend its certificate of limited partnership to state that the limited partnership is dissolved, preserve the limited partnership business or property as a going concern for a reasonable time, prosecute and defend actions and proceedings, whether civil, criminal, or administrative, transfer the limited partnership's property, settle disputes by mediation or arbitration, file a statement of cancellation as provided in KRS 362.2-203, and perform other necessary acts; and
 - (b) Shall discharge the limited partnership's liabilities, settle and close the limited partnership's activities, and marshal and distribute the assets of the partnership.
- (3) If a dissolved limited partnership does not have a general partner, a person to wind up the dissolved limited partnership's activities may be appointed by the consent of limited partners owning a majority of the rights to receive distributions as limited partners at the time the consent is to be effective. A person appointed under this subsection:
 - (a) Has the powers of a general partner under KRS 362.2-804; and
 - (b) Shall promptly amend the certificate of limited partnership to:
 - 1. State that the limited partnership does not have a general partner and that the person has been appointed to wind up the limited partnership; and
 - 2. State the street and mailing address of the person.
- (4) On the application of any partner, the Circuit Court of the county in which the limited partnership maintains its registered agent may order judicial supervision of the winding up, including the appointment of a person to wind up the dissolved limited partnership's activities, if:
 - (a) A limited partnership does not have a general partner and, within a reasonable time following the dissolution, no person has been appointed pursuant to subsection (3) of this section; or
 - (b) The applicant establishes other good cause.

~~(5) The dissolution of a limited partnership shall not abate or suspend KRS 362.2-303, and the dissolution of a limited partnership that is a limited liability limited partnership shall not abate or suspend KRS 362.2-404(3).~~

Section 158. KRS 362.2-901 is amended to read as follows:

- (1) The laws of the state or other jurisdiction under which a foreign limited partnership is organized govern its organization and internal affairs, including the inspection of books, records and documents, and the liability of its partners as partners.
- (2) A foreign limited partnership shall not be denied a certificate of authority by reason of any difference between the laws of the jurisdiction under which the foreign limited partnership is organized and the laws of this Commonwealth.
- (3) A certificate of authority does not authorize a foreign limited partnership to engage in any business or exercise any power that a limited partnership may not engage in or exercise in this Commonwealth.

Section 159. KRS 362.2-903 is amended to read as follows:

- (1) Activities of a foreign limited partnership which do not constitute transacting business in this Commonwealth within the meaning of KRS 362.2-901 to 362.2-908 include:
 - (a) Maintaining, defending, and settling an action or proceeding;
 - (b) Holding meetings of its partners or carrying on any other activity concerning its internal affairs;
 - (c) Maintaining accounts in financial institutions;
 - (d) Maintaining offices or agencies for the transfer, exchange, and registration of the foreign limited partnership's own securities or maintaining trustees or depositories with respect to those securities;

2007 Regular Session

- (e) Selling through independent contractors;
 - (f) Soliciting or obtaining orders, whether by mail or electronic means or through employees or agents or otherwise, if the orders require acceptance outside this Commonwealth before they become contracts;
 - (g) Creating or acquiring indebtedness, mortgages, or security interests in real or personal property;
 - (h) Securing or collecting debts or enforcing mortgages or other security interests in property securing the debts, and holding, protecting, and maintaining property so acquired;
 - (i) Owning, without more, real or personal property;
 - ~~(j)~~ Conducting an isolated transaction that is completed within thirty (30) days and is not one in the course of similar transactions of a like manner; and
 - ~~(k)(j)~~ Transacting business in interstate commerce.
- (2) The list of activities in subsection (1) of this section shall not be considered exhaustive. This section does not apply in determining the contacts or activities that may subject a foreign limited partnership to service of process, taxation, or regulation under any other law of this Commonwealth.
- (3) The term "transacting business" as used in this section shall have no effect on personal jurisdiction under KRS 454.210. ~~For purposes of KRS 362.2-901 to 362.2-908, the ownership in this Commonwealth of income-producing real property or tangible personal property, other than property excluded under subsection (1) of this section, constitutes transacting business in this Commonwealth.~~
- ~~(3) This section does not apply in determining the contacts or activities that may subject a foreign limited partnership to service of process, taxation, or regulation under any other law of this Commonwealth.~~

Section 160. KRS 362.2-906 is amended to read as follows:

The Secretary of State may commence a proceeding under KRS 362.2-907 to revoke the certificate of authority of a foreign partnership authorized to transact business in this Commonwealth if:

- (1) The foreign partnership does not file its annual report to the Secretary of State within sixty (60) days after it is due;
- (2) The foreign partnership is without a registered agent or registered office in this Commonwealth for sixty (60) days or more;
- (3) The foreign partnership does not inform the Secretary of State that its registered agent or registered office has changed, that its registered agent has resigned, or that its registered office has been discontinued within sixty (60) days of the change, resignation, or discontinuance; or
- (4) The Secretary of State receives a duly authenticated certificate from the Secretary of State or other official having custody of partnership records in the state or other jurisdiction under whose law the foreign limited partnership~~corporation~~ is organized~~incorporated~~ stating that it has been dissolved or disappeared as the result of a merger.

Section 161. KRS 362.2-1104 is amended to read as follows:

- (1) After a plan of conversion of a limited liability company into a limited partnership is approved, a converting limited liability company shall deliver to the Secretary of State for filing a certificate of limited partnership, which shall include:
 - (a) A statement that the limited liability company has been converted into a limited partnership;
 - (b) The name of that limited liability company and its jurisdiction;
 - ~~(c) The effective date of the conversion;~~
 - ~~(d)~~ A statement that the conversion was approved as required by this subchapter;
 - ~~(d)(e)~~ A statement that the conversion was approved as required by the governing statute of the converted limited liability company; and
 - ~~(e)(f)~~ If the converted limited liability company is a foreign limited liability company not authorized to transact business in this Commonwealth, the street and mailing address of an office which the Secretary of State may use for the purposes of KRS 362.2-1105(3).
- (2) A conversion of a limited liability company into a limited partnership becomes effective when the certificate of limited partnership takes effect.

Section 162. KRS 362.2-1108 is amended to read as follows:

- (1) After a plan of merger is approved by each domestic or foreign partnership, limited partnership, limited liability company, or corporation that is a party to the merger, the surviving domestic or foreign partnership, limited partnership, limited liability company, or corporation shall deliver to the Secretary of State for filing articles of merger duly executed by each party to the merger setting forth:
 - (a) The name and~~off~~ jurisdiction of formation or organization of each constituent business entity which is to merge;
 - (b) The plan of merger;
 - (c) The name of the surviving business entity;
 - (d) A statement that the plan of merger was duly authorized and approved by each constituent business entity in accordance with the laws applicable to such business entity; and

- (e) If the surviving entity is not a business entity organized under the laws of this Commonwealth, a statement that the surviving business entity:
1. Agrees that it may be served with process in this Commonwealth in any proceeding for enforcement of any obligation of any constituent business entity party to the merger that was organized under the laws of this Commonwealth, as well as for enforcement of any obligation of the surviving business entity arising from the merger; and
 2. Appoints the Secretary of State as its agent for service of process in any such proceedings. The surviving entity shall specify the address to which a copy of process shall be mailed to it by the Secretary of State.
- (2) The merger shall take effect on the later of the date of the filing of the articles of merger or the date set forth in the articles of merger, in which case it shall not be later than ninety (90) days after the date on which the articles of merger were filed.
- (3) Upon the merger taking effect, if the surviving entity in the merger is a foreign partnership, limited partnership, or limited liability company, the entity shall be deemed:
- (a) To appoint the Secretary of State as its agent for service of process in a proceeding to enforce any obligation or rights of dissenting shareholders of each domestic corporation party to the merger; and
 - (b) To agree that it will promptly pay to the dissenting shareholders of each domestic corporation party to the merger the amount, if any, to which they are entitled under Subtitle 13 of KRS Chapter 271B.
- (4) The articles of merger filed by the surviving entity in accordance with this section shall also be deemed to have been filed for any domestic limited liability company party to the merger in accordance with the applicable provisions of KRS Chapter 275 and for any domestic corporation party to the merger in accordance with KRS Chapter 271B.
- (5) The filing of articles of merger shall act to cancel the certificate of limited partnership for a domestic limited partnership that is not the surviving entity of the merger and that partnership's certificate of limited partnership shall be canceled upon the effective date of the articles of merger.

Section 163. KRS 365.015 is amended to read as follows:

- (1) (a) The real name of an individual shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman.
- (b) The real name of a domestic:
 1. General partnership that is not a limited liability partnership and that has not filed a statement of partnership authority is that name which includes the real name of each of the partners;
 2. General partnership that is not a limited liability partnership and that has filed a statement of partnership authority is the name set forth on the statement of partnership authority;
 3. General partnership that is a limited liability partnership is the name stated on the statement of qualification filed pursuant to KRS 362.1-1001 or predecessor law;
 4. Limited partnership is that name stated in its certificate of limited partnership filed pursuant to KRS 362.2-201 or predecessor law;
 5. Business trust is the name set forth in the declaration of trust;
 6. Corporation is the name set forth in its articles of incorporation; and
 7. Limited liability company is the name set forth in its articles of organization.
- (c) The real name of a foreign:
 1. General partnership is the name recognized by the laws of the jurisdiction under which it is formed as being the real name;
 2. Limited liability partnership is the name stated in its statement of foreign qualification filed pursuant to KRS 362.1-1102 or predecessor law;
 3. Limited partnership is the name set forth in its certificate of limited partnership or the fictitious name adopted for use in this Commonwealth under KRS 362.2-905 or predecessor law;
 4. Business trust is the name recognized by the laws of the jurisdiction under which it is formed as being the real name of the business trust;
 5. Corporation is the name set forth in its articles of incorporation or the fictitious name adopted for use in this Commonwealth under KRS 271B.15-060; and
 6. Limited liability company is the name set forth in its articles of organization or the fictitious name adopted for use in this Commonwealth under KRS 275.410.
- (2) (a) No individual, general partnership, limited partnership, business trust, corporation, or limited liability company shall conduct or transact business in this Commonwealth under an assumed name or any style other than his or its real name, as defined in subsection (1) of this section, unless such individual, partnership, limited partnership, business trust, corporation, or limited liability company has filed a certificate of assumed name;

2007 Regular Session

- (b) The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of the individual, partnership, limited partnership, business trust, corporation, or limited liability company and his or its address, including street and number, if any;
 - (c) A separate certificate shall be filed for each assumed name;
 - (d) No certificate to be filed with the Secretary of State shall set forth an assumed name which is not distinguishable upon the records of the Secretary of State from any other name previously filed and on record with the Secretary of State;
 - (e) The certificate shall be executed for an individual, by the individual; for a general partnership, by at least one (1) partner authorized to do so by the partners; for a limited partnership, by a general partner; for a business trust, by a trustee; for a corporation, by any person authorized to act for the corporation; and for a limited liability company, by a member or manager authorized to act for the limited liability company.
- (3) Each certificate of assumed name for an individual shall be filed with the county clerk where the person maintains his or her principal place of business. Each certificate of assumed name for a general partnership, limited partnership, business trust, corporation, or limited liability company shall be delivered to the Secretary of State for filing, accompanied by one (1) exact or conformed copy. One (1) of the exact or conformed copies stamped as "filed" by the Secretary of State shall be filed with the county clerk of the county where the entity maintains its registered agent for service of process or, if no registered agent for service of process is required, then with the county clerk of the county where the entity maintains its principal office. If the entity does not maintain a registered agent for service of process and does not maintain a principal office in this Commonwealth, then the certificate of assumed name shall be filed only with the Secretary of State.
- (4) An assumed name shall be effective for a term of five (5) years from the date of filing and may be renewed for successive terms upon filing a renewal certificate within six (6) months prior to the expiration of the term, in the same manner of filing the original certificate as set out in subsection (3) of this section. Any certificate in effect on July 15, 1998, shall continue in effect for five (5) years and may be renewed by filing a renewal certificate with the Secretary of State.
- (5) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party formerly transacting business under the assumed name and the date upon which the original certificate was filed. The certificate of withdrawal shall be signed for a general partnership by at least one (1) partner authorized to act for the partnership, for a limited partnership by a general partner, for a business trust by a trustee, for a corporation by any person authorized to act for the corporation, and for a limited liability company by a member or manager authorized to act for the limited liability company.
- (6) A general partnership, except a limited liability partnership, shall amend an assumed name to reflect a change in the identity of partners. The amendment shall set forth:
- (a) The assumed name and date of original filing;
 - (b) A statement setting out the changes in identity of the partners; and
 - (c) Shall be signed by at least one (1) partner authorized to do so by the partners.
- (7) The filing of a certificate of assumed name shall not automatically prevent the use of that name or protect that name from use by other persons.
- (8) In the event of the merger or conversion of a partnership, limited partnership, business trust, corporation, or limited liability company, any certificate of assumed name filed by a party to a merger or conversion shall remain in full force and effect, as provided in subsection (4) of this section, as if originally filed by the business organization which survives the merger ~~or~~ conversion.
- (9) A certificate of assumed name may be amended to revise the real name or the address of the person or business organization holding the certificate of assumed name.
- (10) A certificate of assumed name, or its amendment or cancellation, shall be effective on the date it is filed, as evidenced by the Secretary of State's date and time endorsement on the original document, or at a time specified in the document as its effective time on the date it is filed. The document may specify a delayed effective time and date and, if it does so, the document shall become effective at the time and date specified. If a delayed effective date but no time is specified, the document shall be effective at the close of business on that date. A delayed effective date for a document shall not be later than the ninetieth day after the date it is filed.
- (11) The county clerk shall receive a fee pursuant to KRS 64.012 for filing each certificate, and the Secretary of State shall receive a fee of twenty dollars (\$20) for filing each certificate, amendment, and renewal certificate.

Section 164. KRS 386.370 is amended to read as follows:

- (1) A business trust is an express trust created by a written declaration of trust whereby property is conveyed to one (1) or more trustees, who hold and manage same for the benefit and profit of such persons as may be or become, the holders of transferable certificates evidencing the beneficial interest in the trust estate. For the purposes of KRS 386.370 to 386.440, business trusts shall include but are not limited to "Real Estate Investment Trusts" as defined by and which comply with the Federal Internal Revenue Code of ~~1986~~~~[1954]~~ as amended or such section or sections of any subsequent Internal

Revenue Code as may be applicable to real estate investment trusts.

- (2) "Business entity" means a domestic or foreign limited liability company, corporation, partnership, limited partnership, business or statutory trust, and not-for-profit unincorporated association;
- (3) "Name of record with the Secretary of State" means any real, fictitious, reserved, registered, or assumed name of a business entity.

Section 165. KRS 386.410 is amended to read as follows:

~~[Any business trust which exists under the laws of any foreign state and which are valid in said state shall be valid in the Commonwealth of Kentucky if they comply with the terms of KRS 386.390 to 386.440.]~~ No beneficial owner of certificates in a foreign business trust shall have his interests therein assessed and no beneficial owner of a foreign trust shall be personally liable for any debts or liabilities incurred by the trustees or by the foreign business trust after June 16, 1966.

Section 166. KRS 386.420 is amended to read as follows:

- (1) The written declaration of trust may provide for the election of successor trustees in the event of the death, resignation and removal of a trustee and may provide for the amendment of the declaration of trust. The declaration of trust may also contain such other provisions regarding the operating and administration of the business trust as may be necessary or desirable.
- (2) A declaration of trust filed on or after the effective date of this Act shall name or shall be accompanied by a document naming the initial registered agent and registered office conforming to Section 20 of this Act.
- (3) The declaration of trust shall be recorded in the office of the Secretary of State of the Commonwealth of Kentucky and in the office of the county clerk in the county in which its principal place of business is located and a recording charge of \$15 shall be paid at each of those offices.

Section 167. KRS 386.440 is amended to read as follows:

~~[(1)]~~ A business trust may be sued for debts and other obligations incurred by the trustees in the performance of their duties under the declaration of trust, and for any damages resulting from the negligence of such trustees and its property shall be subject to attachment and execution in like manner as if it were a corporation.

~~[(2)] Any foreign business trust doing business in this state must file with the Secretary of State of the Commonwealth of Kentucky the name of its agent in this state upon whom process may be served in any civil action instituted in the courts of this state.]~~

Section 168. KRS 275.090 is amended to read as follows:

- (1) It shall be unlawful for any person to sign a document the person knows is false in any material respect with intent that the document be delivered to the Secretary of State for filing.
- (2) Any person who violates the provisions of this section shall be guilty of an offense~~[a Class B misdemeanor]~~ punishable by a fine not to exceed one hundred dollars (\$100).

Section 169. KRS 362.1-105 is amended to read as follows:

- (1) A statement may be filed in the office of Secretary of State. A filed statement has the effect provided in this subchapter with respect to partnership property located in or transactions that occur in this Commonwealth.
- (2) A certified copy of a statement that has been filed in the office of the Secretary of State may be filed with and recorded by any county clerk to which the statement is presented for filing and recording.
- (3) A statement filed by a partnership shall be executed by at least two (2) partners. Other statements shall be executed by a partner or other person authorized by this subchapter.
- (4) A person authorized by this subchapter to file a statement may amend or cancel the statement by filing an amendment or cancellation that names the partnership, identifies the statement, and states the substance of the amendment or cancellation. No amendment or cancellation shall be made with respect to a statement of merger or statement of dissolution after filing with the Secretary of State.
- (5) A person authorized by this subchapter to file a statement may correct a filed statement if the statement contains information that was incorrect as of the time of the original filing or if the statement was defectively executed, attested, sealed, verified, or acknowledged. A statement is corrected by filing with the Secretary of State a statement of correction that describes the original filing, specifies the information that was incorrect as of the original filing or the manner in which the execution was defective, corrects the incorrect information or the defective execution, and is accompanied by a copy of the original defective statement, accompanied by the proper filing fee. A statement of correction shall be effective as of the effective date of the statement it corrects except as to persons relying on the uncorrected document adversely affected by the correction. As to those persons, the statement of correction shall be effective in the same manner as they were on notice of the original statement.
- (6) A person who files a statement pursuant to this section shall promptly send a copy of the statement to every nonfiling partner and to any other person named as a partner in the statement. Failure to send a copy of a statement to a partner or other person does not limit the effectiveness of the statement as to a person not a partner.
- (7) A person who executes a statement shall be deemed to have declared under penalty of perjury that to that person's

knowledge the contents of the statement are accurate.

- (8) (a) It shall be unlawful for any person to sign a statement the person knows is false in any material respect with the intent that the statement be delivered to the Secretary of State for filing.
- (b) Any person who violates this subsection shall be guilty of an offense~~[a Class B misdemeanor]~~ punishable by a fine not to exceed one hundred dollars (\$100).
- (9) The Secretary of State may collect a fee for filing or providing a certified copy of a statement. The county clerk may collect a fee of ten dollars (\$10) for recording a statement.
- (10) The Secretary of State may prescribe and furnish on request forms for:
 - (a) A statement of change of registered office or registered agent;
 - (b) An application to reserve a name;
 - (c) An application to cancel the reservation of a name;
 - (d) A resignation of a registered agent or registered office or both;
 - (e) An annual report; and
 - (f) An amendment to the annual report.
- (11) The Secretary of State may mandate the use of the forms listed in subsection (10) of this section.
- (12) The Secretary of State may prescribe and furnish on request forms for any other records required or permitted to be filed pursuant to this subchapter, but their use shall not be mandatory.

Section 170. KRS 362.575 is amended to read as follows:

- (1) A registered limited liability partnership, formed and existing under KRS 362.155, 362.175, 362.190, 362.220, 362.235, 362.315, 362.325, 362.345, and KRS 362.555 to 362.605, may conduct its business, carry on its operations, and have and exercise the powers granted by KRS 362.155, 362.175, 362.190, 362.220, 362.235, 362.315, 362.325, 362.345, and KRS 362.555 to 362.605 in any state, territory, district, or possession of the United States or in any foreign country.
- (2) It is the intent of the General Assembly that the legal existence of any registered limited liability partnership formed and existing under KRS 362.155, 362.175, 362.190, 362.220, 362.235, 362.315, 362.325, 362.345, and KRS 362.555 to 362.605 shall be recognized outside the boundaries of this Commonwealth and that the laws of this Commonwealth governing any registered limited liability partnership transacting business outside this Commonwealth shall be granted the protection of full faith and credit under the Constitution of the United States.
- (3) It is the policy of this Commonwealth that the internal affairs of registered limited liability partnerships, formed and existing under KRS 362.155, 362.175, 362.190, 362.220, 362.235, 362.315, 362.325, 362.345, and KRS 362.555 to 362.605, including the liability of partners for debts, obligations, and liabilities chargeable to partnerships, shall be subject to and governed by the laws of this Commonwealth.
- (4) Subject to any statutes for the regulation and control of specific types of business~~[and subject to KRS 362.585,]~~ limited liability partnerships, formed and existing under the laws of another state or jurisdiction, may engage in any business in this Commonwealth.
- (5) It is the policy of this Commonwealth that the internal affairs of partnerships, including limited liability partnerships, formed and existing under the laws of another state or jurisdiction, including the liability of partners for debts, obligations, and liabilities chargeable to partnerships, shall be subject to and governed by the laws of that other state or jurisdiction.

Section 171. KRS 45.560 is amended to read as follows:

As used in KRS 45.570 to 45.640, unless the context requires otherwise:

- (1) "Contract" means any binding legal relationship between the Commonwealth of Kentucky and a contractor for supplies and services, including construction, or for the use of Commonwealth property, in which the parties, respectively, do not stand in the relationship of employer and employee.
- (2) "Contractor" means any prime contractor holding a contract with the Commonwealth of Kentucky government, and shall include subcontractors when the context so indicates.
- (3) "Contracting agency" means the person or persons, board, commission, court, council, governing body, employee, or official which is authorized by law to purchase or contract for supplies, materials, services, or equipment for the state.
- (4) "Subcontractor" means any person, including a corporation, partnership, or business association of any kind, who holds an agreement or purchase order to perform all or any part of the work or to make or furnish any article or service required for the performance of a negotiated contract or of a subcontract entered thereunder.
- (5) "Cabinet" means the Finance and Administration Cabinet.
- (6) **"Equal employment opportunity job categories" means the major employment classifications described by the United States Equal Employment Opportunity Commission.**

Section 172. KRS 45.570 is amended to read as follows:

- (1) Except in contracts exempted in accordance with KRS 45.590, all government contracting agencies of the Commonwealth

of Kentucky, any county, city, town, school district, water district, hospital district, or other political subdivision of the state shall include in every directly or indirectly publicly funded contract for supplies, materials, services, or equipment hereinafter entered into the following provisions:

- (2) During the performance of this contract, the contractor agrees as follows:
- (a) The contractor ~~shall~~will not discriminate against any employee or applicant for employment because of race, color, religion, sex, age forty (40) and over, disability, veteran status, or national origin;
 - (b) The contractor ~~shall~~will take affirmative action in regard to employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, so as to ensure that applicants are employed and that employees during employment are treated without regard to their race, color, religion, sex, age forty (40) and over, disability, veteran status, or national origin; ~~however, when layoffs occur, employees shall be laid off according to seniority with the youngest employee being laid off first. When employees are recalled, this shall be done in the reverse of the way the employees were laid off;~~
 - (c) The contractor ~~shall~~will state in all solicitations or advertisements for employees placed by or on behalf of the contractor that all qualified applicants ~~shall~~will receive consideration for employment without regard to race, color, religion, sex, age forty (40) and over, disability, veteran status, or national origin;
 - (d) The contractor ~~shall~~will post notices in conspicuous places, available to employees and applicants for employment, setting forth the provisions of the nondiscrimination clauses required by this section; and
 - (e) The contractor ~~shall~~will send a notice to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding advising the labor union or workers' representative of the contractor's commitments under the nondiscrimination clauses.

Section 173. KRS 45.590 is amended to read as follows:

A contractor or subcontractor otherwise subject to the provisions of KRS 45.570 is exempt as to any affirmative action or reporting requirements if:

- (1) The contract or subcontract awarded is in the amount of five hundred thousand dollars (\$500,000)~~[\$250,000]~~ or less, and the amount of the contract is not a subterfuge to avoid compliance with the provisions of KRS 45.560 to 45.640;
- (2) The contractor or subcontractor utilizes the services of fewer than eight (8) employees during the course of the contract;
- (3) The contractor or subcontractor employs only family members or relatives;
- (4) The contractor or subcontractor employs only persons having a direct ownership interest in the business, and such interest is not a subterfuge to avoid compliance with the provisions of KRS 45.560 to 45.640; or
- (5) The subcontract is below the second-tier level of contracts.

Section 174. KRS 45.600 is amended to read as follows:

- (1) Any party not otherwise exempted by KRS 45.590 and intending to submit a bid on any contract covered by the provisions of KRS 45.560 to 45.640 shall within a time frame set by the contracting agency in the bid documents~~reasonable period of time as determined by the Finance and Administration Cabinet~~ submit to the contracting agency~~and the cabinet~~ upon being declared the successful bidder:
 - (a) A statement of intent to comply in full with all requirements of the Kentucky Civil Rights Act, and to submit data required by KRS 45.560 to 45.640 upon being designated the successful bidder.
 - (b) A breakdown of the bidding party's existing work force, indicating the race, ethnicity, gender, and equal employment opportunity job category~~sex, age, position held, county and state of residence, and date of employment~~ of each employee.
 - (c) A breakdown of subcontracts valued at five hundred thousand dollars (\$500,000) or more, indicating specific items of work on the contract for which the contractor has submitted or intends to submit a bid to the Commonwealth of Kentucky.

The reports~~This report~~ shall be submitted in a manner as shall be prescribed by the cabinet and on forms devised by the cabinet and supplied by the contracting agency.

- (2) Within ten (10) days after the receipt of the reports~~this report~~, the cabinet shall determine whether the bidding party's work force is reflective of the percentage of available minorities and women in the area from which the bidding party's employees are drawn. If a determination is made that the bidding party's work force is reflective of the percentage of available minorities and women in this drawn area, the bidding party shall be "certified" and be thereby qualified to bid on any contract covered by KRS 45.560 to 45.640 without filing additional data for a period of one (1) year~~six (6) months~~.
- (3) If it is determined by the cabinet that the bidding party's work force reflects an underutilization of minorities or women, the bidding party and contracting agency shall be so notified, and no certification shall be issued. The bidding party shall then have the option of filing with the contracting agency and the cabinet, an affirmative action program, indicating goals and timetables for recruiting and hiring minorities or women throughout the contractors' work force. The cabinet shall be available, upon the request of any contractor, to furnish technical assistance in fulfilling the requirements of KRS 45.560

2007 Regular Session

to 45.640.

- (4) If the bidding party is subsequently awarded the contract being sought, failure to comply with the goals and timetables set forth in the affirmative action plan shall be an unlawful practice under KRS 45.560 to 45.640 and shall constitute a material breach of the contract.
- (5) If the cabinet determines that the submitted affirmative action program does not fulfill the provisions of KRS 45.560 to 45.640, the bidding party and contracting agency shall be so notified, and no certification shall be granted.
- (6) If the bidding party's work force is not reflective of the percentage of minorities or women in the drawing area and the bidding party has complied with all other affirmative action requirements in KRS 45.560 to 45.640, the bidding party may certify by verified affidavit that the bidding party has made every reasonable effort to comply with said percentage requirements, and the bidding party shall thereafter be entitled to all the benefits of KRS 45.560 to 45.640.

Section 175. KRS 45.610 is amended to read as follows:

- (1) For the length of the contract, each contractor shall hire minorities and women from other sources within the drawing area, should the union with which he has collective bargaining agreements be unwilling to supply sufficient minorities or women to satisfy the agreed upon goals and timetables.
- (2) Each contractor shall, for the length of the contract, furnish such information as required by KRS 45.560 to 45.640 and by such rules, regulations, and orders issued pursuant thereto and will permit access to all books and records pertaining to his employment practices and work sites by the contracting agency and the cabinet for purposes of investigation to ascertain compliance with KRS 45.560 to 45.640 and such rules, regulations, and orders issued pursuant thereto.

Section 176. KRS 45.620 is amended to read as follows:

- (1) The Finance and Administration Cabinet may investigate the employment practices of any contractor or subcontractor to determine if any of the provisions of KRS 45.560 to 45.640 have been violated. If any contractor is found by the cabinet to have engaged in an unlawful practice under KRS 45.560 to 45.640 during the course of performing under a contract or subcontract covered under KRS 45.560 to 45.640, the cabinet shall so certify to the contracting agency and such certification shall be binding upon the contracting agency unless it is reversed in the course of judicial review.
- (2) If the contractor is found to have committed an unlawful practice under KRS 45.560 to 45.640, the contracting agency may cancel or terminate the contract, conditioned upon a program for future compliance approved by the contracting agency and the cabinet. The contracting agency may declare such a contractor ineligible to bid on further contracts with that agency until such time as the contractor complies in full with the requirements of KRS 45.560 to 45.640.
- (3) The equal employment provisions of KRS 45.560 to 45.640 may be met in part by a contractor by subcontracting to a minority or woman contractor or subcontractor. For the provisions of KRS 45.560 to 45.640, a minority or woman contractor or subcontractor shall mean a business that is owned and controlled by one (1) or more persons disadvantaged by racial, ~~or~~ ethnic, or gender circumstances.

Section 177. KRS 45.630 is amended to read as follows:

Any provision of KRS 45.560 to 45.640 notwithstanding, no contractor shall be required to terminate an existing employee ~~upon proof that that employee was employed prior to the date of the contract~~.

SECTION 178. A NEW SECTION OF KRS 45.560 TO 45.640 IS CREATED TO READ AS FOLLOWS:

The Finance and Administration Cabinet may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A to carry out the provisions of KRS 45.560 to 45.640.

Section 179. The General Assembly finds and declares that the amendment of KRS 271B.6-210, 271B.6-230, 271B.7-040, 271B.7-280, and 271B.8-080, as provided for in 2002 Ky. Acts, ch. 102, secs. 10, 11, 15, 18, and 19 respectively, are and were effective as of November 15, 2002.

Section 180. 2006 Ky. Acts ch. 149, sec. 239 is repealed.

Section 181. The following KRS sections are repealed:

- 274.087 Merger or consolidation.
- 362.495 Law governing foreign limited partnerships. (Effective until January 1, 2008)
- 362.497 Registration of foreign limited partnership. (Effective until January 1, 2008)
- 362.499 Filing of application by foreign limited partnership. (Effective until January 1, 2008)
- 362.501 Name under which foreign limited partnership must register. (Effective until January 1, 2008)
- 362.503 Changes and amendment. (Effective until January 1, 2008)
- 362.505 Cancellation of registration of foreign limited partnership. (Effective until January 1, 2008)
- 362.507 Registration required for access to courts -- Effects of failure to register. (Effective until January 1, 2008)
- 362.509 Action by Attorney General to restrain foreign limited partnership from transacting business. (Effective until January 1, 2008)
- 362.585 Registration of foreign limited liability partnership -- Effect of withdrawal -- Injunctive action by Attorney

General. (Effective until January 1, 2008)

Section 182. KRS 248.707 is amended to read as follows:

- (1) The Agricultural Development Board is created as a political subdivision of the Commonwealth to perform essential governmental and public functions by administering funds to provide economic assistance to the agriculture community of the Commonwealth. The board shall be a public agency within the meaning of KRS 61.805, 61.870, and other applicable statutes.
- (2) The board shall consist of sixteen (16)~~fifteen (15)~~ members as follows:
 - (a) Five (5)~~Four (4)~~ voting members or their designees, as follows:
 1. The Governor of the Commonwealth of Kentucky, who shall serve as chair;
 2. The Commissioner of the Kentucky Department of Agriculture, who shall serve as vice chair and shall serve as chair in the absence of the Governor;
 3. The secretary of the Cabinet for Economic Development;~~and~~
 4. The director of the University of Kentucky Cooperative Extension Service; and
 5. The president of Kentucky State University; and
 - (b) Eleven (11) voting members appointed by the Governor, who shall be geographically distributed throughout the state and subject to confirmation by the House of Representatives and Senate as provided in KRS 11.160(2). The members shall be as follows:
 1. Seven (7) active farmers, at least four (4) of whom shall be from counties that are substantially tobacco-impacted, as determined by a formula that includes tobacco income as a percentage of total personal income in the county, and at least two (2) of whom shall have experience in agricultural diversification;
 2. One (1) representative of the Kentucky Farm Bureau;
 3. One (1) representative of the Kentucky Chamber of Commerce, who shall be an agribusiness person;
 4. One (1) attorney with farm experience and familiarity with agricultural policy; and
 5. One (1) agricultural lender.
- (3) The members appointed under subsection (2)(b)2. and 3. of this section shall be chosen from a list of three (3) nominees submitted to the Governor by each of the respective organizations.
- (4) Consideration shall be given to racial and gender equity in the appointment of board members.
- (5) The majority of the voting members shall be active farmers.
- (6) Members of the board shall be reimbursed for expenses incurred in the performance of their duties.
- (7) Except as provided in paragraphs (a) to (d) of this subsection, the terms of the members appointed by the Governor shall be for four (4) years and until their successors are appointed and confirmed. A vacancy on the board shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members may be reappointed. The initial appointments shall be for staggered terms, as follows:
 - (a) Two (2) members shall be appointed for one (1) year;
 - (b) Three (3) members shall be appointed for two (2) years;
 - (c) Three (3) members shall be appointed for three (3) years; and
 - (d) Three (3) members shall be appointed for four (4) years.
- (8) The Governor shall convene the first meeting of the board by August 1, 2000.
- (9) The board shall meet monthly, or at the call of the chair or a majority of the voting members.
- (10) A quorum of the board shall consist of nine (9)~~eight (8)~~ voting members. A majority of the voting members present may act upon matters before the board.
- (11) The board shall be attached to the Office of the Governor for administrative purposes."

House Floor Amendment No. 2 to SB 59, by Representative Burch:

SB 59, On page 1, line 1, by deleting all text through page 35, line 7, and inserting the following in lieu thereof:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

In honor of Boni Frederick who lost her life in the performance of her official duties, Sections 1, 3, 4, 5, and 6 of this Act, and the amendments made to KRS 194A.065 in this Act shall be known as the "Boni Frederick Bill."

Section 2. KRS 194A.065 is amended to read as follows:

For the purposes of this section, "front-line staff" means an employee of the Division of Service Regions of the Department for Community Based Services or the immediate supervisor of an employee whose professional duties include ongoing adult or child protective services, protective services investigations or assessments, or regularly conducting interviews, visits, contacts,

or providing transportation services or other services in the homes of family members involved in adult or child protective services.

- (1) The Cabinet for Health and Family Services, the Department of Juvenile Justice, the Department of Corrections, the Administrative Office of the Courts, and the Kentucky State Police shall be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system.
- (2) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440.
- (3) The Cabinet for Health and Family Services shall provide access to the Kentucky State Police, the Department of Corrections, the Department of Juvenile Justice, and the Administrative Office of the Courts to its database.
- (4) The cabinet secretary and the secretary of the Justice Cabinet shall establish communications, policies, and procedures to enable designated cabinet staff of the Department for Community Based Services who are working on a protective services investigation or an ongoing protective services case to request a state criminal background check, and within a reasonable time frame, but no later than one (1) hour after receipt of a request, to have the state criminal background check sent to designated cabinet staff. Designated cabinet staff may request a state criminal background check at any time for a protective services investigation and may use the state criminal background check to assess staff safety concerns.
- (5) The Cabinet for Health and Family Services shall prioritize the safety needs of the front-line staff of the Department for Community Based Services and provide improvements in accordance with this section and Sections 3, 4, and 6 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 605 IS CREATED TO READ AS FOLLOWS:

- (1) Each staff member of the department shall report to his or her supervisor any physical or verbal conduct of a client or an individual associated with a client that appears to be threatening or menacing, and any incident of assault, attempted assault, or physical contact that appears to be threatening to any staff member. Any use or threat of use of any type of weapon shall be reported. The supervisor shall report threat or incident information to the commissioner of the department or his or her designee. An employee who reports under this subsection shall be protected from reprisals pursuant to KRS 61.102.
- (2) The department shall establish and maintain an information system and track all reports of threats or incidents involving violence against department staff as required by subsection (1) of this section. The department shall provide, upon request, the number and type of reports received and any information available regarding civil or criminal action or changes to policies and procedures resulting from threats or incidents of violence upon staff.
- (3) The department shall designate or establish a safety liaison position within its central office and in each regional office. The regional administrator may designate or establish a safety liaison position in each county office. The duties of the central office safety liaison shall include but not be limited to:
 - (a) Development and implementation of policies and procedures related to the prevention of violence in the office and in community settings;
 - (b) Screening and assessment of the level of threat for professional-client interactions;
 - (c) Facilitation of safety training and safety and first alert protocols with all law enforcement agencies that work with each county office. Existing multidisciplinary teams may be utilized in the development of local safety protocols; and
 - (d) Administration of a Web-based social worker safety site and a threat and violence incident database.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The cabinet shall conduct risk assessments on all local offices of the Division of Service Regions of the Department for Community Based Services and remediate the office environments that do not provide adequate safety and protection for cabinet staff to the extent possible with consideration of office space lease arrangements and availability of funding for office renovations.

SECTION 5. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

The cabinet secretary shall designate a study group composed of personnel within the Department for Community Based Services' field services staff and any other persons deemed necessary to make recommendations regarding personnel classifications for state agency social workers. The study group shall include in its deliberations, but is not limited to, special personnel designations that would permit or require specialized personal safety training and other requirements that reflect the sometimes dangerous nature of official job duties of state agency social workers. The study group shall report its recommendations by November 15, 2007, to the Governor and the Interim Joint Committees on Appropriations and Revenue and Health and Welfare.

SECTION 6. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

Front-line staff may request a risk or safety assessment prior to an investigation or delivery of services in a community setting. The direct supervisor of the requesting front-line staff and the safety liaison officer if a safety liaison officer position is designated for the county shall conduct the safety or risk assessment. If the situation warrants the accompaniment of front-line staff by a local law enforcement officer, the supervisor shall make the request to the local law enforcement agency.

Section 7. The Secretary of the Cabinet for Health and Family Services shall have the authority to declare a state of extraordinary circumstances upon a finding that the safety of social workers in the Commonwealth is in serious jeopardy. The secretary shall submit the declaration to the Governor for certification. Upon certification by the Governor, the secretary may then request approval from the Governor for funds not to exceed \$6,000,000 in fiscal biennium 2006-2008 to be deemed a necessary governmental expense. Upon approval by the Governor, funds not to exceed \$6,000,000 shall be transferred from the General Fund Surplus Account (KRS 48.700) or the Budget Reserve Trust Fund Account (KRS 48.705) to the cabinet to address immediate safety needs of front line staff which shall be expended in the following manner: \$2,500,000 in General Fund moneys to fill front line staff positions; and \$3,500,000 in General Fund moneys for updates to the office space used by the Department for Community Based Services, Division of Service Regions, to procure emergency alert technology for front line staff, and to provide safe and appropriate family visits for children in the custody of the cabinet on the premises of the cabinet. In no event shall funds transferred as necessary governmental expense exceed \$6,000,000. The transfer of any funds pursuant to this section shall be subject to the provisions and notification requirements of KRS 48.630. Moneys appropriated pursuant to this section shall be placed in a trust and agency account to be used for the purposes set forth in this section. Moneys appropriated for the personnel purposes set forth in this section shall be included in the department's base funding for fiscal biennium 2008-2010, and any new positions shall be in addition to the personnel cap in effect on July 1, 2006. The cabinet shall submit monthly updates to the Interim Joint Committees on Appropriations and Revenue and Health and Welfare on expenditures made pursuant to this section.

Section 8. Whereas the social workers employed by the Commonwealth of Kentucky are subject to dangerous circumstances, and children and citizens of the Commonwealth deserve an adequate response to allegations of adult or child abuse, neglect, or exploitation, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law."

House Floor Amendment No. 3 Title to **SB 59**, by Representative Burch:

SB 59, By amending the title to read "AN ACT relating to the safety for state social workers, declaring an emergency, and making an appropriation therefor."

House Floor Amendment No. 2 Title to **SB 143**, by Representative Moberly:

SB 143, Amend the title to read: "AN ACT relating to the University of Kentucky, making an appropriation therefor, and declaring an emergency."

House Floor Amendment No. 1 to **SB 143**, by Representative Moberly:

SB 143, On page 1, delete lines 1 to 25, on page 2, delete lines 1 to 4, and insert the following in lieu thereof:

"Section 1. 2006 Kentucky Acts Chapter 252, Part II, Capital Projects Budget; K. Postsecondary Education; 8. University of Kentucky, at page 1252, is amended to read as follows:

275.	Fayette County - Lease - Med Center Off-Campus Facility			
276.	Fayette County - Lease - Med Center Grant Projects			
277.	Fayette County - Lease - Pharmacy Contracted Program			
278.	Fayette County - Lease - Med College Off - Campus Clinic			
279.	Fayette County - Lease - Kentucky Utilities Building			
280.	Guaranteed Energy Savings Performance Contracts			
287.	<u>Lease-Purchase Samaritan Clinical Facility</u>			
	<u>Restricted Funds</u>	-0-	70,000,000	-0-
288.	<u>Renovate Samaritan Clinical Facility</u>			
	<u>Restricted Funds</u>	-0-	10,000,000	-0-
289.	<u>Lease-Purchase IT System for the Samaritan Clinical Facility</u>			
	<u>Restricted Funds</u>	-0-	10,000,000	-0-"; and

Section 2. Whereas it is critical to provide authorization in the current biennium to the University of Kentucky for the Samaritan Clinical Facility, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law."

Motions, Petitions, and Communications

The following member filed a request to have his name added as co-sponsor of a Resolution:

HR 182, Representative Horlander

Announcements

The Committee on Education Assessment and Accountability Review Subcommittee will meet at 1:00 p.m.

Majority Caucus, upon recess, Supreme Court Chamber, upon recess

Minority Caucus, No meeting, upon recess

Representative Adkins moved to dispense with reading and approval of the Journal of March 27, 2007. Agreed.

Representative Adkins moved that the reading of the Journal of the 2007 Regular Session, be dispensed with and the same approved. Agreed.

Adjournment

Representative Adkins moved that the House adjourn sine die until 12:00 noon, Tuesday, January 8, 2008, unless otherwise called into extraordinary session by the Governor.

The House adjourned sine die until 12:00 noon, Tuesday, January 8, 2008, unless otherwise called into extraordinary session by the Governor.

APPENDIX A

2007 REGULAR SESSION

LIST OF HOUSE MEMBERSHIP

OFFICERS

**SPEAKER
SPEAKER PRO TEM
CHIEF CLERK
ASSISTANT CLERK
ENROLLING CLERK
SERGEANT AT ARMS
CHIEF DOORKEEPER
CLOAKROOM KEEPER
JANITOR
JANITOR**

**REPRESENTATIVE JODY RICHARDS
REPRESENTATIVE LARRY CLARK
JEAN BURGIN
SANDI MORRIS
MARGARET WATTS
GEORGE FRITZ
J. O. WHITAKER
BARRY HOLDER
BOB GOODWIN
FRANK SMITH**

1st District Steven J. Rudy
3430 Blueridge Drive
West Paducah, KY 42806

2nd District Fred Nesler
P. O. Box 308
Mayfield, KY 42066

3rd District Frank Rasche
4100 Hillcrest Avenue
Paducah, KY 42001

4th District Mike Cherry
803 S. Jefferson Street
Princeton, KY 42445

5th District Melvin B. Henley
1305 S. 16th Street
Murray, KY 42071

6th District J. R. Gray
3188 Mayfield Hwy.
Benton, KY 42025

7th District John A. Arnold, Jr.
1301 N. Lee Street
Sturgis, KY 42459

8th District John Tilley
P.O. Box 648
Hopkinsville, KY 42241

9th District Myron Dossett
7155 Salubria Springs Rd.
Pembroke, KY 42266

10th District Joseph E. "Eddie" Ballard
P.O. Box 1736
Madisonville, KY 42431

11th District David Watkins
5600 Timberlake Drive
Henderson, KY 42420

12th District Jim Gooch, Jr.
714 Broadway B2
Providence, KY 42450

13th District Jim Glenn
P.O. Box 21562
Owensboro, KY 42304

14th District Tommy Thompson
P.O. Box 458
Owensboro, KY 42302

15th District Brent Yonts
232 Norman Circle
Greenville, KY 42345

16th District Sheldon E. Baugh
252 West Valley Drive
Russellville, KY 42276

17th District C. B. Embry, Jr.
P.O. Box 1215
Morgantown, KY 42261

18th District Dwight D. Butler
P.O. Box 9
Harned, KY 40144

19th District Dottie Sims
459 Violet Ave.
Horse Cave, KY 42749

20th District Jody Richards
817 Culpepper Street
Bowling Green, KY 42103

APPENDIX A - MEMBERSHIP OF THE HOUSE OF REPRESENTATIVES
2007 Regular Session

21st District Jim DeCesare
136 Cedar Trail Avenue
Bowling Green, KY 42101

23rd District Johnny Bell
108 North Green Street
Glasgow, KY 42141

25th District Jimmie Lee
901 Dogwood Drive
Elizabethtown, KY 42701

27th District Jeff Greer
2125 Highway 79
Brandenburg, KY 40108

29th District Kevin D. Bratcher
10215 Landwood Drive
Louisville, KY 40291

31st District Steve Riggs
8108 Thornwood Road
Louisville, KY 40220

33rd District Ron Crimm
P.O. Box 43244
Louisville, KY 40253

35th District Jim Wayne
1280 Royal Avenue
Louisville, KY 40204

37th District Ron Weston
423 Chieftain Drive
Fairdale, KY 40118

39th District Robert R. Damron
231 Fairway West
Nicholasville, KY 40356

41st District Tom Riner
1143 E. Broadway
Louisville, KY 40204

43rd District Darryl T. Owens
1300 W. Broadway
Louisville, KY 40203

45th District Stan Lee
P.O. Box 2090
Lexington, KY 40588

22nd District Rob Wilkey
220 Homestead Ct.
Scottsville, KY 42164

24th District Jimmy Higdon
507 W. Main Street
Lebanon, KY 40033

26th District Tim Moore
417 Bates Rd
Elizabethtown, KY 42701

28th District Charles W. Miller
3608 Gateview Circle
Louisville, KY 40272

30th District Thomas Burch
4012 Lambert Avenue
Louisville, KY 40218

32nd District Scott W. Brinkman
6001 Two Springs Lane
Louisville, KY 40207

34th District Mary Lou Marzian
2007 Tyler Lane
Louisville, KY 40205

36th District Lonnie Napier
302 Danville Street
Lancaster, KY 40444

38th District Tim Firkins
212 East Esplanade Ave.
Louisville, KY 40214

40th District Dennis L. Horlander
1806 Farnsley Road
Louisville, KY 40216

42nd District Reginald K. Meeks
P.O. Box 757
Louisville, KY 40201

44th District Joni Jenkins
2010 O'Brien Court
Shively, KY 40216

46th District Larry Clark
5913 Whispering Hills Blvd.
Louisville, KY 40219

47th District	Rick W. Rand P.O. Box 273 Bedford, KY 40006	48th District	Bob M. DeWeese 6206 Glenhill Road Louisville, KY 40222
49th District	Larry Belcher 4804 Hickory Hollow Lane Shepherdsville, KY 40165	50th District	David W. Floyd 102 Maywood Avenue Bardstown, KY 40004
51st District	Russ Mobley 900 Holly Street Campbellsville, KY 42718	52nd District	Ken Upchurch P.O. Box 991 Monticello, KY 42633
53rd District	James R. Comer, Jr. P. O. Box 338 Tompkinsville, KY 42167	54th District	Mike Harmon P.O. Box 458 Junction City, KY 40440
55th District	W. Milward Dedman, Jr. 300 South Chiles Harrodsburg, KY 40330	56th District	Carl Rollins II P. O. Box 424 Midway, KY 40347
57th District	Derrick W. Graham 702 Capitol Ave. Capital Annex Building, RM 329J Frankfort, KY 40601	58th District	Brad Montell 543 Main Street P.O. Box 1016 Shelbyville, KY 40065
59th District	David Osborne P. O. Box 8 Prospect, KY 40059	60th District	Sal Santoro 596 Walterlot Court Florence, KY 41042
61st District	Royce W. Adams 580 Bannister Road Dry Ridge, KY 41035	62nd District	Charlie Hoffman 406 Bourbon Street Georgetown, KY 40324
63rd District	Jon E. Draud 3081 Lyndale Court Edgewood, KY 41017	64th District	Thomas Robert Kerr 5415 Old Taylor Mill Taylor Mill, KY 41015
65th District	Arnold R. Simpson 28 West 5th Street Covington, KY 41011	66th District	Addia Kathryn Wuchner P.O. Box 911 Burlington, KY 41005
67th District	Dennis Keene 1040 Johns Hill Road Wilder, KY 41076	68th District	Joseph M. Fischer 126 Dixie Place Ft. Thomas, KY 41075
69th District	Adam Koenig 3346 Canterbury Court Erlanger, KY 41018	70th District	Mitchel B. "Mike" Denham, Jr. 306 Old Hill City Road Maysville, KY 41056
71st District	John Will Stacy P.O. Box 135 West Liberty, KY 41472	72nd District	Carolyn Belcher 51 Blevins Valley Road Owingsville, KY 40360

APPENDIX A - MEMBERSHIP OF THE HOUSE OF REPRESENTATIVES
2007 Regular Session

73rd District	Don Pasley 5805 Ecton Road Winchester, KY 40391	74th District	Richard Henderson 60 Myers Cemetery Road Jeffersonville, KY 40337
75th District	Kathy W. Stein 364 Transylvania Park Lexington, KY 40508	76th District	Ruth Ann Palumbo 10 Deepwood Drive Lexington, KY 40505
77th District	Jesse Crenshaw 121 Constitution Street Lexington, KY 40507	78th District	Thomas M. McKee 1053 Cook Road Cynthiana, KY 41031
79th District	Susan Westrom P.O. Box 22778 Lexington, KY 40522	80th District	Danny R. Ford P.O. Box 1245 Mt. Vernon, KY 40456
81st District	Harry Moberly, Jr. P.O. Box 721 Richmond, KY 40475	82nd District	Charles L. Siler 3570 Tackett Creek Road Williamsburg, KY 40769
83rd District	Jeffrey Hoover P.O. Box 985 Jamestown, KY 42629	84th District	Brandon D. Smith 350 Kentucky Blvd. Hazard, KY 41701
85th District	Tommy Turner 175 Clifty Grove Church Rd. Somerset, KY 42501	86th District	Jim Stewart, III 141 KY 223 Flat Lick, KY 40935
87th District	Rick G. Nelson Route 3, Box 686 Middlesboro, KY 40965	88th District	Bill Farmer 3361 Squire Oak Drive Lexington, KY 40515
89th District	Marie L. Rader P.O. Box 323 McKee, KY 40447	90th District	Tim Couch P.O. Box 710 Hyden, KY 41749
91st District	Ted "Teddy" Edmonds 1257 Beattyville Road Jackson, KY 41339	92nd District	Ancel Smith 1812 Wiley Fork Road LeBurn, KY 41831
93rd District	W. Keith Hall P.O. Box 466 Phelps, KY 41553	94th District	Leslie Combs 245 E. Cedar Drive Pikeville, KY 41501

APPENDIX A - MEMBERSHIP OF THE HOUSE OF REPRESENTATIVES
2007 Regular Session

2957

95th District Brandon Spencer
135 Calf Branch
Prestonsburg, KY 41653

97th District Hubert Collins
72 Collins Lane
Wittensville, KY 41274

99th District Rocky Adkins
P.O. Box 688
Sandy Hook, KY 41171

96th District Robin L. Webb
404 W. Main Street
Grayson, KY 41143

98th District Tanya Pullin
1026 Johnson Lane
South Shore, KY 41175

100th District John Vincent
P.O. Box 2528
Ashland, KY 41105

APPENDIX B

2007 REGULAR SESSION

HISTORY OF ACTION TABLES

2961

*Voting modifications are listed after the roll call vote - Appendix C.

[illegible]

[illegible]

Appendix B—History of House Bills in the House
2007 Regular Session

2963

Bill No.	Intro-duced	Re-ferred	Re-ported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HB 56	11	33										121
HB 57	11	33										1320
HB 58	11	33										36
HB 59	11	33	512	513	616							121, 123, 564, 617
HB 60	11	33										36, 42, 80, 123
HB 61	11	33	1066	1066	1252							42, 989, 992, 1553
HB 62	11	33	158	164	208	559	179, 211	560				60, 61, 208, 213, 373, 564, 653, 655, 715, 2813
HB 63	11	33	104	104	200	217	105	217	2171			36, 60, 123, 200, 204, 213, 230, 373, 375, 567, 2548, 2869
HB 64	11	33	62	62	117	2062	122, 123, 650, 993, 996, 997, 1329	2063				36, 42, 60, 80, 213, 230, 368, 564, 616, 2084, 2123, 2505
HB 65	11	33	1012	1013	1252	1557	1014	1557				123, 367, 1468, 1577
HB 66	11	33	1367	1367	1552	2010		2010	2542		2543 (2543)	80, 123, 130, 1553, 2053, 2085, 2869
HB 67	11	33	656	656	987		1568					123, 1253, 2505
HB 68	11	33										216
HB 69	11	33	130	130	208	676	369, 650	676	2543		2550 (2552)	70, 80, 208
HB 70	11	33	234	235	558	1557	235, 1481	1557				204, 213, 230, 373, 559, 1317, 1485, 1575, 1577, 2505
HB 71	11	33	158	192	208	216		216	2423	2475	2507	61, 80, 123, 204, 208, 230, 373, 375, 567, 2869
HB 72	11	43										
HB 73	11	43										
HB 74	11	33	1489	1489	2005							42, 123, 992, 2391
HB 75	11	33	419	423	616	1309	652	1309				36, 80, 123, 204, 211, 373, 564, 617, 653, 715, 997, 1272, 1317, 1319, 2506, 2869
HB 76	11	33	1066	1066	1252	2011	1068, 1270	2011				1553, 2053, 2085, 2869

Appendix B-- History of House Bills in the House
2007 Regular Session

Bill No.	Intro-duced	Re-ferred	Re-ported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HB 77	11	33										
HB 78	11	33	158	192	208	367	224	368	2544		2550 (2552)	36, 61, 204, 208, 213, 375
HB 79	11	33	102	102	200	1557	103, 122	1557				60, 124, 200, 213, 1317, 1577
HB 80	11	33										80, 124, 204
HB 81	11	33										211
HB 82	11	43	522	540	616	678	541	678	2544		2550 (2552)	130, 564, 617, 653, 715, 1163
HB 83	11	33	418	418	616	1471	1158, 1316	1471	2544		2550 (2552)	617, 1485, 1487, 1577
HB 84	11	33										
HB 85	11	33										
HB 86	11	33	1012	1015	1252		1020, 1157					124, 204, 367, 1321
HB 87	11	33										213
HB 88	11	33						2522				42, 2474, 2549, 2522
HB 89	11	33	345	345	558	620	372	620				201, 559, 720, 2869
HB 90	11	33										124, 1320
HB 91	12	33										36, 60, 61, 124, 2506
HB 92	12	33	512	516	616		518					37, 80, 121, 564, 617
HB 93	12	33	1001	1001	1252		1316					204, 219, 1553
HB 94	12	33	104	106	200	1309	109, 651	1309	2544		2550 (2552)	37, 60, 124, 200, 204, 213, 564, 1317, 1319, 2506, 2869
HB 95	12	33					370					2422
HB 96	12	33										1265
HB 97	12	33										56, 124, 1265
HB 98	12	33										
HB 99	12	33	158	195	208	367	197, 199	367				56, 61, 208
HB 100	12	33	236	237	558	989	239	989				130, 373, 559, 989
HB 101	12	33										373
HB 102	12	33	136	155	208	216	155	216	2544		2550 (2552)	117, 208, 375, 2869
HB 103	12	33	621	621	675	1253		1253				80, 124, 213, 675, 1272, 2506
HB 104	12	33										218
HB 105	12	33	512	518	616		1568					121, 124, 204, 564, 617, 992
HB 106	12	33					1481					681

2965

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Appendix B--History of House Bills in the House
2007 Regular Session

2969

Bill No.	Intro-duced	Re-ferred	Re-reported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HB 222	59	85										653, 716, 998, 1272
HB 223	59	85										368
HB 224	59	85	2013	2013	2059		2030					204, 616, 998, 1160, 1272, 2011, 2053, 2391
HB 225	59	85	683	683	987	1256	2571	1256, 2572	2544	2571, 2572	2669(2705)	124, 204, 560, 1065, 1272, 1275, 1577, 2506, 2550, 2711
HB 226	59	60	112	114	200							60, 124, 200, 373, 374, 564, 2506
HB 227	59	85	1632	1636	2059							368, 2391
HB 228	59	85	584	598	675	1471		1471	2783		2813(2866)	368, 675, 1485, 1577, 2053
HB 229	59	85	787	789	1064							130, 998, 1468
HB 230	59	85	787	791	1064	1471		1471	2783		2813(2866)	81, 207, 1253, 1331, 1577, 2506, 2869
HB 231	59	85	410	414	616							205, 219, 231, 1253
HB 232	59											83
HB 233	59	85										121
HB 234	59	85	621	628	675		997					560, 562, 1253
HB 235	59	85	787	793	1064	2063		2063				618, 1468, 2085, 2123, 2813
HB 236	59	85										
HB 237	59	215										214, 564, 1160, 1485
HB 238	67	207										81, 231, 998
HB 239	67	215	1040	1044	1252	1469		1469				368, 1253, 1577
HB 240	67	85	359	365	558	1255	365, 651	1256				211, 617, 1275, 1275, 2869
HB 241	67	207										
HB 242	67	207										562
HB 243	67	207	756	777	1064	1554	778, 779	1554	2508		2510 (2532)	373, 562, 653, 1321, 2869
HB 244	67	85	263	344	558	618	344, 345	618	2161		2163 (2171)	130, 231, 373, 559, 564, 653, 716, 720, 2869
HB 245	67	207	756	779	1064	1473	1268	1473				373, 562, 1321, 1577

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2971

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Appendix B-- History of House Bills in the House
2007 Regular Session

Bill No.	Intro-duced	Re-ferred	Re-reported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HB 305	66	85	567	568	675	1151	568, 695, 697, 699, 701, 703, 705, 709, 712, 713, 2585, 2591	1151, 2591	2508	2585, 2591	2669(2705)	81, 205, 211, 214, 231, 653, 675, 998, 1272, 1275, 2506, 2550, 2709, 2711
HB 306	66	85	787	793	1064	2008	799	2008				130, 1272, 1321, 2085
HB 307	66	207	1339	1343	1552							681, 2165
HB 308	66	207										
HB 309	66	130										214, 231, 374, 653
HB 310	66	85	1012	1035	1252	2108	1036, 1317, 2120	2108				205, 367, 653, 716, 998, 1314, 2123
HB 311	66	85										81, 618
HB 312	66	130	419	452	616	1257	563	1257	2423	2475	2507	130, 617, 1258, 1275, 1333, 1577, 2869
HB 313	66	215	1165	1165	1308		1483, 1484					723, 2005
HB 314	68	215	1233	1241	1308		1242					723, 1468
HB 315	68	85										2506
HB 316	66	85	1170	1170	1308	1469		1469	2423	2475	2507	217, 1321, 1577
HB 317	66	85	2143	2143	2390							214, 1160, 1316, 2053, 2391
HB 318	66	215	1590	1590	2059		2066, 2083					124, 214, 373, 653, 723, 1272, 1314, 1475, 2391
HB 319	66	85	569	575	675	1255		1255				368, 564, 1065, 1275
HB 320	66	215										
HB 321	66	130	419	458	616	1310	1270	1310	2423	2475	2507	124, 130, 1065, 1319, 2869
HB 322	68	85	1066	1072	1252	2107	2120	2108				989, 992, 1321
HB 323	68	85										
HB 324	68	215										
HB 325	68	207	584	599	675	1472		1473				368, 1065, 1487, 1577, 2869
HB 326	83	130	419	463	616	677	465, 468	677				124, 130, 205, 617, 716, 1163, 1317

Appendix B--History of House Bills in the House
2007 Regular Session

2973

Bill No.	Introduced	Referred	Re-reported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HB 327	83	130	935, 1521	939	1064		1521, 1538, 1565, 1567, 1569, 1570, 1571, 1572, 1573, 1574, 2030, 2036, 2066, 2488, 2491					681, 1065, 1151, 2165
HB 328	83	215										214
HB 329	83	215	737	743	1064	2011	744, 1156	2011				618, 1468, 2085
HB 330	84	215										205
HB 331	84	215										
HB 332	84	130	419	468	616	676		676				124, 130, 214, 617, 653, 716, 1163, 1272, 2506, 2709
HB 333	84	207										
HB 334	84	215	1066	1073	1252	2064	1160, 2836, 2838, 2839	2064, 2839	2782	2836, 2839	2867(2868)	380, 1321, 2123, 2829, 2869
HB 335	84	215					650					1272
HB 336	84	215										
HB 337	84	130	621	643	675	1310	2609, 2612, 2619	1310	2568, 2700	2609, 2619, 2701	2701(2705)	214, 368, 373, 564, 653, 1065, 1272, 1317, 1319, 2506, 2597, 2667, 2869
HB 338	84	215										205
HB 339	84	215										124, 214, 681, 1272
HB 340	84	207										681
HB 341	84	215	1012	1036	1252							560, 562, 564, 1553
HB 342	84	207	1062	1063	1252							655, 716, 1160, 1321
HB 343	84	215										124, 214, 565, 992
HB 344	84	215										205, 231, 654
HB 345	84	130	621	628	675	1256	563, 630, 697, 707, 993	1257				117, 124, 211, 214, 565, 654, 675, 1577, 2085
HB 346	84	207										
HB 347	84	130	1427	1427	1552	2009		2009				211, 1553, 2085
HB 348	84	215	1066	1147	1252		1160					214, 380, 1258, 1553
HB 349	84	207										681
HB 350	120	130	1001	1004	1252		1006					219, 1468

Appendix B-- History of House Bills in the House
2007 Regular Session

Bill No.	Introduced	Referred	Re-reported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HB 351	120	130										
HB 352	120	130	621, 2055	631	675		631, 1575, 2115					205, 211, 214, 231, 373, 565, 716, 1314, 1320, 2391, 2506, 2548
HB 353	120	215										
HB 354	120	215	1276	1286	1321	1554	1290, 1294, 1295	1554				205, 214, 373, 565, 1151, 1321
HB 355	120	130	756	783	1064	2062	650, 1316, 2591, 2593	2062, 2593	2508	2591, 2593	2669(2705)	211, 654, 1468, 2085, 2123, 2550, 2711, 2869
HB 356	120	130										124, 368
HB 357	120	215	756	784	1064	1469		1470				565, 618, 998, 1321, 1485, 1577
HB 358	120	130	1489	1491	2005	2062	707, 1503, 1569	2062	2783		2813(2866)	2005, 2085, 2869
HB 359	120	130	1170	1172	1308	2107	1476, 1481	2107				125, 130, 1321, 2123
HB 360	121	130	419	469	616	1471	490	1472	2705		2712(2782)	130, 617, 1577
HB 361	121	130	1215	1219	1308							368, 2005
HB 362	121	130	621, 1230	632	675	2007	635, 993, 1230, 1233, 1329, 1476, 2553	2008	2543, 2701, 2868	2553, 2554, 2866		125, 211, 214, 231, 368, 373, 654, 675, 716, 1151, 1253, 2085, 2550, 2568, 2822, 2867
HB 363	121	207	1489	1507	2005							380, 1489, 2391
HB 364	121	207	1489	1508	2005							380, 1489, 2391
HB 365	121	207	1489	1508	2005							380, 1489, 2391
HB 366	128	207	418	418	616	1555		1555				205, 214, 231, 565, 617, 1577
HB 367	128	207	380	406	616	1470	407	1470	2568		2669(2705)	216, 565, 1253, 1577
HB 368	128	207										
HB 369	128	215										
HB 370	128	207	345	352	558	678		678	2542		2543 (2543)	217, 559, 716, 1163
HB 371	128	215										618
HB 372	128	207										
HB 373	128	207	787	805	1064	1310		1311				618, 998, 1065, 1317, 1319, 2869

Appendix B--History of House Bills in the House
2007 Regular Session

2975

Bill No.	Introduced	Referred	Re-reported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HB 374	128	207	723	724	1064	1311	1267	1311	2701		2704(2705)	219, 616, 1253, 2869
HB 375	128	215										
HB 376	128	215	756	785	1064	2108		2108				231, 618, 679, 1253, 2869
HB 377	128	207										214
HB 378	128	215	1233	1243	1308	1470		1470	2544		2550 (2552)	231, 368, 998, 1321, 1577
HB 379	128	215										
HB 380	128	215	787	805	1064	2008	807, 2669, 2671	2008, 2851	2543, 2781	2669, 2671, 2851	2867(2868)	679, 681, 1468, 2085, 2669, 2829, 2869
HB 381	128	215	737	745	1064	2392	745, 2120	2392	2781		2781(2782)	618, 1468
HB 382	128	215										992
HB 383	128	215	1324	1324	1467	1556		1556	2544		2550 (2552)	1165, 1257, 1468
HB 384	128	207										
HB 385	128	215										231, 565, 654, 2053
HB 386	128	215	584	599	675	1473	2593	1473, 2593	2508	2593	2669(2705)	231, 368, 654, 716, 1253, 1577, 2550
HB 387	128	215	723	724	1064		2485					681, 1321
HB 388	201	207										216, 231, 373
HB 389	201	207	345	352	558	988	355	988	2781		2781(2782)	217, 559, 1001
HB 390	207	207	683	691	987	1256		1256	2508		2510 (2532)	560, 565, 716, 1065, 1577, 2506
HB 391	201	207	1012	1037	1252		1265					367, 716, 1324, 1553
HB 392	207	379										373
HB 393	210	215										231, 681
HB 394	210	215	380	409	616	1554	992, 2593	1554, 2595	2544	2593, 2595	2669(2705)	216, 1065, 1577, 2550, 2711, 2869
HB 395	210	215										368
HB 396	210	234										380
HB 397	210	234	1339	1343	1552	2391	1484	2391				621, 2005, 2165, 2422, 2423
HB 398	210	215	1204	1204	1308		1326, 1327, 1330, 1481					621, 1559
HB 399	210	234	410	416	616	1470	992	1471				368, 1065, 1577
HB 400	210	215	584	600	675	1322	2839, 2851	1322	2782, 2868	2839, 2851		368, 565, 1253, 1487, 2814, 2829, 2866
HB 401	210	379	1040	1046	1252	2106		2107				681, 1553, 2123

Appendix B-- History of House Bills in the House
2007 Regular Session

Bill No.	Introduced	Referred	Re-reported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HB 402	210	215	1170	1172	1308	1474	2560, 2561	1474	2423, 2701	2560, 2561, 2704		565, 654, 681, 998, 1321, 1577, 2508, 2568, 2704
HB 403	210	215	656, 1555	674	987	1557	674, 675, 711, 712, 993, 1555	1558				380, 565, 621, 654, 1065, 1315, 1331, 1557, 1575, 2506, 2709
HB 404	215	567										
HB 405	215	234	723	731	1064		734, 1156, 1316, 2490					616, 1468
HB 406	218	234										654, 723, 1324
HB 407	233	379										
HB 408	218	567										
HB 409	218	379										
HB 410	218	567	1040	1046	1252	2010	1047	2010				681, 1321, 2085, 2869
HB 411	218	567										
HB 412	218	380										618, 679
HB 413	218	234										565, 654
HB 414	218	234										368
HB 415	218	234										616, 1273
HB 416	218	234										373
HB 417	218	567										565, 1160, 1316, 1331, 1485, 1575
HB 418	218	234	584	602	675	1321	608, 2619, 2650, 2651	1322	2171, 2701	2619, 2653		368, 716, 1253, 1317, 1485, 1487, 2597, 2667, 2668, 2677
HB 419	218	234										681
HB 420	218	234	1590	1590	2059							380, 1489, 2391
HB 421	218	234	1489	1508	2005							380, 1489, 2391
HB 422	218	234										380
HB 423	218	234	1489	1509	2005							380, 1489, 2391
HB 424	218	234										380
HB 425	218	234										380
HB 426	218	234	1066	1147	1252	2010		2010	2783		2813(2866)	380, 1321, 2085, 2869
HB 427	218	567										
HB 428	219	567										681
HB 429	219	234										
HB 430	219	234	569	577	675	1255	2769	1255, 2769	2705	2769, 2769	2781(2782)	560, 565, 1065, 1273, 2715

Appendix B--History of House Bills in the House
2007 Regular Session

2977

Bill No.	Introduced	Referred	Reported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HB 431	219	567	1233	1243	1308	1554		1554				654, 723, 1273, 1468
HB 432	219	567										1590
HB 433	219	234										621
HB 434	219	380										
HB 435	233	380										373, 679, 716, 2065
HB 436	233	655										
HB 437	233	380	1204	1205	1308	2006	1209, 1329	2006				565, 621, 654, 1273, 1468, 2085
HB 438	233	380	1489	1509	2005	2107	1512, 2120	2107				560, 1273, 1314, 1316, 1317, 2005
HB 439	233	380	1215	1219	1308	2061	1328, 1330	2061				723, 1468, 2085, 2123
HB 440	233	379	787	809	1064	1470	810, 1317	1470				618, 1065, 1485, 1575, 1577
HB 441	233	379										
HB 442	233	656	1619	1619	2059		1622					1151, 1160, 1273, 2391
HB 443	233	379	1040	1047	1252	2162	1265, 2083, 2114	2162	2701		2704(2705)	565, 681, 1553, 2065, 2109, 2171
HB 444	233	380	1339	1344	1552							373, 618, 2005
HB 445	233	655										565, 654, 998, 1331
HB 446	233	379	1339	1349	1552							621, 1153, 1160, 1553
HB 447	233	380										
HB 448	233	380	756	786	1064	1310		1310	2781		2781(2782)	618, 1065, 1319, 2869
HB 449	233	379	1001	1008	1252	2007	1009, 1268	2007				989, 1553, 2085
HB 450	233	655										
HB 451	233	380										
HB 452	233	380										621
HB 453	234	656										
HB 454	234	380										
HB 455	234	656										565
HB 456	234	656										
HB 457	234	656										565
HB 458	234	655										
HB 459	368	380	1233	1247	1308	1475	1249, 1251	1475				621, 723, 1321, 1577, 2084
HB 460	368	567	1165	1167	1308							565, 654, 716, 723, 998, 1273, 1321

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2981

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**Appendix B--History of House Resolutions in the House
2007 Regular Session**

2983

Numbers refer to page of House Journal. The text of a concurrent or joint resolution is given on first reading.

The text of a simple resolution is given on its adoption.

*Voting modifications are listed after the roll call vote - Appendix C.

Bill No.	Intro-duced	Re-ferred	Re-reported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HR 1	13							14				
HR 2	13							14				
HR 3	31							32				
HR 4	13	43										
HJR 5	13	33	1066	1150	1252	1311	1160	1311				42, 1253, 1318, 2813, 2869
HCR 6	13	33										
HJR 7	13	33	236	248	558	1309	249	1309				207, 559, 1333, 2869
HCR 8	13	33										
HCR 9	13	33										681
HJR 10	13	33										
HJR 11	13	33	236	249	558	2392	250, 251	2393				85, 559, 2869
HCR 12	13	33	136	156	208	217	157	217				117, 208, 375, 567
HJR 13	13	33	1233	1251	1308							42, 560, 562, 565, 654, 2005
HJR 14	13	43	85	100	200	208	101	208				60, 200
HJR 15	13	33										231, 373
HCR 16	13	33	1215	1227	1308							723, 2005
HR 17	7							8				9
HCR 18	13	33	345	358	558		370, 372					125, 201, 373, 559, 1273
HCR 19	29	33	236	251	558	677		677				85, 559, 1163, 2869
HR 20	29	33						33				
HR 21	29	33						35				
HR 22	29	33						34				
HJR 23	29	33	136	157	208	216		216	2701		2704(2705)	117, 208, 375, 567, 2869
HR 24	32							40				42
HCR 25	32	43	236	252	558	620		620	2161		2163 (2171)	85, 559, 720, 2869
HCR 26	32	43	62	65	117	216		216	2161		2163 (2171)	60, 200, 567, 2869
HCR 27	32	43										120
HCR 28	32	43	85	101	200	208		208	2543		2550 (2552)	60, 200
HCR 29	32	43	236	252	558	620		620	2161		2163 (2171)	85, 559, 720, 2869
HCR 30	32	43	85	102	200	209		209	2543		2550 (2552)	60, 200, 215
HCR 31	32	43	236	252	558	620		620	2161		2163 (2171)	85, 559, 720, 2869

Appendix B-- History of House Resolutions in the House
2007 Regular Session

Bill No.	Introduced	Referred	Re-reported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HCR 32	32	43	236	253	558	620		620	2161		2163 (2171)	85, 559, 720, 2869
HCR 33	32	43	85	103	200	209		209	2543		2550 (2552)	60, 200
HR 34	32	44										
HR 35	32							34				
HR 36	32							35				
HR 37	41							41				
HR 38	43							54				
HR 39	56	60						720				998
HR 40	56	60										201
HR 41	54							54				
HR 42	59	85						2111				
HR 43	60	85						119				
HR 44	60	85						117				
HR 45	60	85						1257				
HCR 46	60	85	236	253	558	1256		1256				130, 559, 1273, 1275, 1577, 2869
HCR 47	70	207	410	416	616							219, 565, 617
HR 48	70	43, 85						71				
HR 49	70	85						560				
HJR 50	68	85										
HR 51	68	85										
HJR 52	69	85										
HCR 53	69	215										
HJR 54	69	85										
HR 55	69	85						679				
HR 56	69	85						1152				
HR 57	69	85						2060				
HR 58	69	85										218
HR 59	69	85						2528				
HR 60	69	85						2522				
HR 61	69	85	1062	1064	1252	1472		1472				125, 219, 1321, 1487, 1577
HR 62	69	85						83				
HR 63	69	85						2065				
HR 64	69	85						70				81
HR 65	69	85										
HJR 66	69	85										
HCR 67	69	85										
HR 68	69	85						2166				
HR 69	69	85						2396				
HR 70	69	234										
HCR 71	69	85										125
HJR 72	69	85	1420	1420	1552	2163	1420, 1421	2163	2781		2781(2782)	210, 1324, 1331, 1475, 1553
HR 73	69	85	568	569	675							121, 216,

2985

[illegible]

[illegible]

Appendix B--History of House Resolutions in the House
2007 Regular Session

2987

Bill No.	Intro-duced	Re-ferred	Re-reported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HCR 151	680	722	1215	1229	1308	2162	2114	2162				1151, 2005, 2171
HR 152	680	722										
HR 153	681	722										
HCR 154	722	1001	1363	1367	1552	2007		2007	2543		2550 (2552)	1165, 1553, 2085, 2869
HCR 155	722	1165	1339	1358	1552							1316, 2005
HR 156	722	1001						2479				
HR 157	722	1001										2084
HR 158	722	1001						1151				
HCR 159	722	1001	1489	1513	2005	2162	2035	2162				998, 1316, 2109
HCR 160	722	1001	2012	2012	2059		2012, 2013, 2066					998, 1161, 1314, 1316, 2084, 2113
HR 161	722	1001										
HR 162	722	1001										
HCR 163	992	1165										1257, 1260, 1324
HCR 164	992	1001										
HR 165	1259							1259				
HR 166	1259	1275						2005				2053
HR 167	1275							1313				1318
HR 168	1315							1315				
HR 169	1316	1320						1323				
HR 170	1319							1319				
HR 171	1320							1322				
HR 172	1320							1323				
HR 173	1324	1338						1467				
HR 174	1324	1338										
HR 175	1468							1468				
HR 176	1475							1552				
HR 177	1489	2055										
HR 178	1488	2055						1488				
HR 179	1489	2055						2111				
HR 180	1489						2035	1558				
HR 181	1559	2055						2474				
HR 182	1489	2055						2780				2813, 2949
HR 183	1590	2055						2531				
HR 184	2055	2086						2475				
HR 185	2065	2086						2123				
HR 186	2065	2086						2480				2506
HR 187	2085	2125						2526				
HR 188	2113	2125						2396				
HR 189	2113	2125										
HR 190	2110							2110				2124, 2125
HR 191	2112							2112				
HR 192	2113	2125						2165				

Appendix B-- History of House Resolutions in the House
2007 Regular Session

Bill No.	Intro-duced	Re-ferred	Re-reported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HR 193	2109							2110				
HCR 194	2125							2479				
HR 195	2166							2166				
HR 196	2166	2172						2530				
HR 197	2166	2172						2523				
HR 198	2166							2167				
HR 199	2166	2172						2481				
HR 200	2172	2425						2525				
HR 201	2172											2397
HR 202	2172							2393				
HR 203	2172	2425						2531				
HR 204	2172	2425						2482				
HR 205	2394							2394				
HR 206	2395							2395				
HR 207	2398	2425						2425				
HR 208	2397							2397				
HR 209	2398	2425						2423				
HR 210	2424	2550						2424				
HR 211	2424	2550						2480				2709
HR 212	2483	2550						2483				
HR 213	2482	2550						2482				
HR 214	2484											2532
HR 215	2507							2527				
HR 216	2507							2527				
HR 217	2507	2550						2817				
HR 218	2524							2524				
HR 219	2532	2550						2702				
HR 220	2521							2521				
HR 221	2529							2529				
HR 222	2550	2715										
HR 223	2714	2715						2821				
HR 224	2714	2715						2826				
HR 225	2714	2715										
HR 226	2714	2715										
HR 227	2714	2813						2817				
HR 228	2714							2780				
HR 229	2715	2813										
HR 230	2712							2713				
HR 231	2715	2813						2823				
HR 232	2715	2813						2826				
HR 233	2715	2813						2814				
HR 234	2715	2813						2815				
HR 235	2715	2813						2815				
HR 236	2783	2813						2828				
HR 237	2783	2813						2818				
HR 238	2783	2813						2818				
HR 239	2783	2813						2821				
HR 240	2783	2813						2819				

Appendix B--History of House Resolutions in the House
2007 Regular Session

2989

Bill No.	Intro-duced	Re-ferred	Re-ported	Readings			Sub or Amend	Voting*	Senate Message	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd						
HR 241	2813							2816				
HR 242	2813							2823				
HR 243	2813							2820				
HR 244	2813							2822				
HR 245	2813							2816				
HR 246	2824							2825				
HR 247	2824							2824				
HR 248	2824							2825				
HR 249	2827							2827				

**Appendix B--History of Senate Bills in the House
2007 Regular Session**

2991

Numbers refer to page of House Journal. The text of a bill is given on first reading.
*Voting modifications are listed after the roll call vote - Appendix D.

Bill No.	Senate Message	Re-ferred	Re-ported	Readings			Sub or Amend	Voting*	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd					
SB 1	1064	1320	2438	2438	2507	2551	2451, 2504	2552			1559, 2508, 2711
SB 2	1064	1320									1559
SB 3	233	655									
SB 4	233	655									992
SB 10	655	1001	1515	1518	2005	2551	2119	2551		2705	1322, 2391, 2711, 2869
SB 13	655	1165									
SB 14	1151	1320	2125	2125	2390	2668	2494	2668			1590, 2475, 2711, 2869
SB 22	376	722	1549	1551	2005	2607	2035, 2546	2607			1316, 2391, 2711
SB 23	1163	1275	2000	2000	2059	2477		2477		2532	1324, 2391, 2549, 2869
SB 24											
SB 25	2161	2173	2179	2179	2474	2607		2607			2165, 2475, 2711
SB 26	1064	1320	2000	2001	2059	2477		2477		2532	1338, 2391, 2549, 2869
SB 29	655	1165	2086	2087	2161	2478	2417, 2420, 2421	2478, 2521, 2568		2705	1476, 2391, 2521, 2549, 2711, 2813, 2869
SB 30	655	1001	2086, 2532	2087	2161	2608	2094, 2413, 2532, 2542	2608			1489, 2391, 2479, 2521, 2711
SB 31	1257	1338									
SB 34	207	380	2355	2355	2474		2358, 2363, 2420, 2421				992, 2475
SB 36	1064	1320									1559
SB 42	1333	2055									
SB 43	2161	2165	2399	2399	2474	2508		2508		2532	2165, 2475, 2549, 2711
SB 46	1487	2055	2126	2126	2390		2806, 2807				2086, 2109, 2391
SB 47	1064	1320	1619	1632	2059	2477		2477		2532	1476, 2391, 2549, 2869
SB 54	2106	2425									
SB 55	233	656	1632	1656	2059		2707				723, 2391
SB 56	1257	1275	1632	1679	2059	2511	2708	2511		2532	1476, 2391, 2711
SB 57	1487	2086	2126	2132	2390		2807				2086, 2109, 2475
SB 58	376	722	1632	1686	2059		2783, 2785, 2792, 2806, 2807				1476, 2475
SB 59	1064	1320	1632	1695	2059	2668	2066, 2946, 2948	2867, 2868		2869	1476, 2391
SB 60	233	656	1339	1359	1552	2391		2391		2508	1316, 2165,

Appendix B-- History of Senate Bills in the House
2007 Regular Session

Bill No.	Senate Message	Re-ferred	Re-reported	Readings			Sub or Amend	Voting*	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd					
											2423
SB 62	1487	2086									
SB 64											
SB 65	376	722	1489	1513	2005	2476		2476		2532	1320, 2391, 2549, 2869
SB 66											
SB 67	1487	2055									2086
SB 68	655	1001	1545	1548	2005	2477	1549	2477		2543	1320, 2391, 2549, 2869
SB 69	1064	1320	2056	2056	2106	2477		2478		2532	1475, 1476, 2391, 2549, 2869
SB 70											
SB 71											
SB 72	2161	2425									
SB 74	1257	1275	1614	1616	2059	2391	1618, 2168	2392		2543	1475, 2165, 2423
SB 75	1064	1320									
SB 76	1064	1320	1632	1709	2059	2511		2511		2532	1476, 2391, 2711, 2869
SB 78	1257	1275									
SB 79	1064	1320	1632	1761	2059	2478	1786, 2544	2478		2543	1476, 2391, 2526, 2549, 2869
SB 80	2009	2125									
SB 82	1163	1275	2438	2467	2507	2551		2551		2705	2398, 2508, 2711
SB 83	1064	1320	1420	1421	1552	2064	1423	2064		2543	1322, 1324, 2005, 2123
SB 85	1064	1320	1632	1810	2059		1821, 2870				1476, 2391
SB 86	1487	2055	2126	2132	2390						2086, 2109, 2391
SB 88	207	380	2355	2363	2474	2551	2377, 2504, 2544, 2545, 2546	2551		989	992, 2475, 2711
SB 89	2171	2550									
SB 91	1487	2086	2179	2180	2474	2509		2509		2532	2165, 2475, 2549, 2711
SB 92	2106	2125	2406	2406	2474	2509		2509		2532	2390, 2475, 2549, 2711
SB 95	1163	1338									
SB 96	1163	1338									2065
SB 98	1257	1338	2056	2057	2106	2510		2510		2532	1489, 1558, 2391, 2711
SB 99	1064	1320									
SB 100	1151	1320	2143	2147	2390	2607		2607			1559, 2475, 2711
SB 103	1333	2055	2432	2433	2507	2607	2434	2607			2113, 2508, 2711
SB 104	1163	1338	2000	2002	2059	2478		2478		2532	1489, 1558, 2391, 2549, 2869

Appendix B--History of Senate Bills in the House
2007 Regular Session

2993

Bill No.	Senate Message	Re-ferred	Re-reported	Readings			Sub or Amend	Voting*	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd					
SB 105	655	1165	2000	2004	2059	2551		2551		2705	1324, 2391, 2711
SB 110	1487	2086									
SB 111	1487	2055	2484	2484	2507	2552		2552		2705	2109, 2113, 2508, 2711
SB 112	1257	1338	2426	2426	2507						1590, 2011, 2508
SB 113	1151	1320									
SB 118	1257	1338									2109, 2113
SB 125	1163	1338	2173	2173	2474	2510		2510		2532	1590, 2475, 2711
SB 126	1151	1320	2143	2147	2390	2866		2866		2869	2012, 2508, 2869
SB 130	1487	2086	2126	2134	2390	2550	2413	2550			2086, 2109, 2475, 2711
SB 134	1064	1275	2086	2102	2161	2510	2169	2510		2552	1476, 2391, 2711
SB 138	1257	1338									1475
SB 139	1151	1320									
SB 140	1333	2055	2156	2156	2390	2478	2157, 2161, 2169	2478			2109, 2113, 2391, 2549, 2869
SB 143	1333	2055	2474	2474	2507	2868	2948	2868		2869	2165, 2508
SB 144	1151	1320	1632, 2185	1833	2059	2509	2185	2509		2552	1476, 2165, 2475, 2711
SB 145	1163	1338	2143	2148	2390	2608		2608			1559, 2508, 2711
SB 150	1487	2086									
SB 152	655	1165					1330				1590, 2011
SB 153	2064	2086	2143	2149	2390	2510		2510		2532	2109, 2391, 2549, 2711
SB 155	1163	1320	2136	2136	2390		2139, 2544, 2706, 2708				1590, 2475
SB 156	1257	1338	2086	2101	2161						1489, 2391
SB 159	655	1001	1367	1369	1552		1394, 1476, 1566, 1567, 1568, 2486, 2495, 2496, 2497, 2505, 2547, 2705				1165, 2165
SB 160	1333	2055									
SB 171	2009	2086	2432	2436	2507	2668		2668		2705	2165, 2508, 2711, 2813, 2869
SB 174	1333	2055									2165, 2167
SB 175	2161	2165	2181	2181	2474	2567	2413, 2417, 2497	2567		2705	2165, 2475, 2525, 2711, 2869
SB 179	1064	1320									2484
SB 185	1487	2086	2182	2182	2474	2508		2508		2532	2165, 2475, 2549, 2711, 2869
SB 186	1487	2086	2182	2183	2474	2509		2510		2532	2165, 2475, 2711

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**Appendix B--History of Senate Resolutions in the House
2007 Regular Session**

2995

Numbers refer to page of House Journal. The text of a concurrent or joint resolution is given on first reading.

*Voting modifications are listed after the roll call vote - Appendix C.

Bill No.	Senate Message	Referred	Re-reported	Readings			Sub or Amend	Voting*	Concur Activities	Enrolled (Del. to Gov.)	Other Action
				1st	2nd	3rd					
SJR 6	2009	2125	2426	2426	2507	2668		2668		2705	2125, 2165, 2550, 2711
SJR 16	233	567	681	681	987	1151		1151		1320	616, 621, 989, 1275
SCR 22	44							53			
SJR 48	1064	1275	1489	1515	2005	2392		2392		2508	1320, 2165, 2423
SJR 93	1064	1320	1420	1425	1552	2392	1426, 1427, 1560, 2168	2392			1322, 1324, 2165, 2423, 2869
SJR 109	1487	2055	2179	2180	2474	2608		2608			2165, 2475, 2711
SJR 125	2009	2125	2427	2431	2507						2172, 2393, 2508
SCR 218	2669							2702			2700
SCR 239	2816							2867			

APPENDIX C

2007 REGULAR SESSION

HOUSE ROLL CALLS

HB 1 Pass (Feb 28) Yeas 94—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 5**—Decesare, Farmer, Floyd, Koenig, S. Lee.

Modifications: Nesler, Yea - p 1577

HB 2 Pass (Feb 23) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0**.

Modifications: Hall, Yea; Webb, Yea - p 2869

HB 3 Pass (Feb 15) Yeas 71—Adams, Adkins, J. Arnold, Ballard, C. Belcher, L. Belcher, Bell, Burch, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Damron, Dedman, Denham, Edmonds, Embry, Farmer, Firkins, Glenn, Gooch, Graham, Gray, Greer, Hall, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Nelson, Nesler, Owens, Palumbo, Pasley, Pullin, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Simpson, A Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Yonts. **Nays 26**—Baugh, Bratcher, Brinkman, D Butler, Crimm, Decesare, Deweese, Dossett, Draud, Fischer, Floyd, Ford, Harmon, Kerr, Koenig, S. Lee, Mobley, Montell, Moore, Napier, Osborne, Rader, Santoro, Sims, B Smith, Wuchner.

Modifications: Siler, Nay - p 720; Webb, Yea - p 2869

HB 4 Pass (Feb 20) Yeas 95—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Couch, Crenshaw, Crimm, Damron, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Yonts. **Nays 3**—Comer, Decesare, Wuchner.

HB 5 Pass (Feb 16) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 1**—Stacy.

Modifications: Stacy, Nay to Yea - p 720

HB 6 Pass (Feb 16) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0**.

Modifications: Marzian, Yea - p 1163

HB 7 Pass (Feb 22) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0**.

Modifications: Sims, Yea - p 1275

HB 8 Pass (Feb 20) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 23 Pass (Feb 23) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Hall, Yea; Webb, Yea - p 2869

HB 32 Pass (Mar 2) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Edmonds, Yea - p 2123

HB 35 Pass (Mar 6) Yeas 94—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 4**—Collins, Greer, Nesler, Vincent.

Modifications: Marzian, Yea - p 2171

HB 46 Pass (Feb 16) Yeas 76—Adkins, J. Arnold, Baugh, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Combs, Couch, Crenshaw, Crimm, Damron, Dedman, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Glenn, Gooch, Gray, Greer, Henderson, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Rader, Rand, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Thompson, Tilley, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 19**—Adams, Collins, Comer, Decesare, Denham, Fischer, Floyd, Ford, Graham, Hall, Harmon, Henley, Higdon, Napier, Pullin, Siler, Stewart, Turner, Upchurch.

Modifications: Graham, Nay to Yea - p 720; Marzian, Yea - p 1163

HB 50 Pass (Mar 5) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Webb, Yea - p 2869

HB 50 Final Passage (Mar 12) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Fischer, Yea; Upchurch, Yea - p 2711

HB 53 Adopt Floor Amendment No. 5 (Feb 14) Yeas 36—Ballard, Baugh, Bratcher, Brinkman, D Butler, Collins, Combs, Comer, Crimm, Decesare, Deweese, Dossett, Embry, Fischer, Floyd, Ford, Hall, Harmon, Henley, Higdon, Kerr, Koenig, S. Lee, Montell, Moore, Napier, Rader, Rudy, Santoro, Siler, Stewart, Tilley, Turner, Upchurch, Vincent, Wuchner. **Nays 59**—Adams, Adkins, J. Arnold, C. Belcher, L. Belcher, Bell, Burch, Cherry, L. Clark, Crenshaw, Damron, Dedman, Denham, Draud, Edmonds, Farmer, Firkins, Glenn, Graham, Gray, Greer, Henderson, Hoffman, Horlander, Jenkins, Keene, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rand, Rasche, Richards, Riggs, Riner, Rollins, Simpson, Sims, B Smith, Spencer, Stacy, Stein, Thompson, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Yonts.

HB 53 Pass (Feb 14) Yeas 89—Adams, Adkins, J. Arnold, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Ford, Glenn, Graham, Gray, Greer, Hall, Henderson, Henley, Higdon, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Yonts. **Nays 9**—Ballard, Decesare, Floyd, Gooch, Harmon, Montell, Rader, A Smith, Wuchner.

Modifications: Hoover, Yea; Mobley, Yea - p 655; Wuchner, Nay to Yea - p 720

HB 62 Pass (Feb 14) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Montell, Moore, Napier, Nelson, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Hoover, Yea; Mobley, Yea - p 655; Nesler, Yea - p 2813

HB 63 Pass (Feb 12) Yeas 95—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Ford, Yea - p 233; Thompson, Yea - p 375; B. Smith, Yea - p 567; Webb, Yea - p 2869

HB 64 Pass (Mar 2) Yeas 91—Adams, Adkins, J. Arnold, Ballard, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Westrom, Wilkey, Wuchner, Yonts. **Nays 4**—Baugh, Decesare, Ford, Mobley.

Modifications: Edmonds, Yea - p 2123

HB 65 Pass (Feb 28) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Stacy, Yea - p 1577

HB 66 Pass (Mar 1) Yeas 92—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Glenn, Graham, Gray, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Crimm, Yea; Ford, Yea; Hall, Yea; Lee, S., Yea; Napier, Yea - p 2085; Webb, Yea - p 2869

HB 69 Pass (Feb 16) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, McKee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HB 70 Pass (Feb 28) Yeas 70—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Couch, Crenshaw, Damron, Dedman, Denham, Edmonds, Farmer, Firkins, Glenn, Gooch, Graham, Gray, Greer, Hall, Henderson, Henley, Higdon, Hoffman, Horlander, Jenkins, Keene, J. Lee, Marzian, McKee, Meeks, Miller, Moberly, Napier, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Siler, Simpson, Sims, A Smith, Spencer, Stein, Thompson, Tilley, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Yonts. **Nays 28**—Bratcher, Brinkman, Comer, Crimm, Decesare, Deweese, Dossett, Embry, Fischer, Floyd, Ford, Harmon, Hoover, Kerr, Koenig, S. Lee, Mobley, Montell, Moore, Nelson, Rader, Santoro, B Smith, Stewart, Turner, Upchurch, Vincent, Wuchner.

Modifications: Stacy, Yea - p 1577

HB 71 Pass (Feb 12) Yeas 94—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, McKee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Webb, Yea - p 233; Thompson, Yea - p 375; B. Smith, Yea - p 567; Crenshaw, Yea - p 2869

HB 75 Pass (Feb 23) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, McKee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Crenshaw, Yea - p 1319; Webb, Yea; Hall, Yea - p 2869

HB 76 Pass (Mar 1) Yeas 91—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Glenn, Graham, Gray, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, McKee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Crimm, Yea; Ford, Yea; Hall, Yea; S. Lee, Yea; Napier, Yea - p 2085; Farmer, Yea - p 2869

HB 78 Pass (Feb 13) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, McKee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Graham, Yea; B. Smith, Yea - p 375

HB 79 Pass (Feb 28) Yeas 90—Adams, Adkins, J. Arnold, Ballard, C. Belcher, L. Belcher, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Couch, Crenshaw, Crimm, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, J. Lee, S. Lee, Marzian, McKee, Meeks, Miller, Moberly, Mobley, Montell, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Yonts. **Nays 9**—Bell, Comer, Damron, Decesare, Farmer, Floyd, Koenig, Moore, Wuchner.

Modifications: Bell, Nay to Yea - p 1577

HB 82 Pass (Feb 16) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Marzian, Yea - p 1163

HB 83 Pass (Feb 27) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: DeWeese, Yea - p 14873; Clark, Yea - p 1577

HB 88 Suspend the Rules to Consider Discharge Petition (Mar 9) Yeas 37—Baugh, Bratcher, Brinkman, D Butler, Comer, Couch, Crimm, Decesare, Deweese, Dossett, Draud, Embry, Farmer, Fischer, Floyd, Ford, Harmon, Henley, Higdon, Hoover, Kerr, Koenig, S. Lee, Mobley, Montell, Moore, Napier, Osborne, Rader, Rudy, Santoro, Siler, Stewart, Turner, Upchurch, Vincent, Wuchner. **Nays 20**—Adkins, J. Arnold, Burch, L. Clark, Crenshaw, Edmonds, Firkins, Graham, Horlander, Jenkins, Marzian, Mckee, Moberly, Owens, Palumbo, A Smith, Spencer, Wayne, Webb, Weston.

Modifications: Edmonds, Nay to Abstain - p 2549

HB 89 Pass (Feb 15) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 94 Pass (Feb 23) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Crenshaw, Yea - p 1319; Hall, Yea; Webb, Yea - p 2869

HB 99 Pass (Feb 13) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 100 Pass (Feb 20) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 102 Pass (Feb 12) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Webb, Yea - p 233; Thompson, Yea - p 375; B. Smith, Yea - p 2869

HB 103 Pass (Feb 22) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HB 107 Pass (Feb 23) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Wayne, Yea - p 1319; Hall, Yea; Webb, Yea - p 2869

HB 108 Pass (Feb 22) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HB 109 Pass (Feb 23) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Hall, Yea; Webb, Yea - p 2869

HB 112 Pass (Mar 5) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HB 114 Pass (Mar 1) Yeas 95—Adams, Adkins, J. Arnold, Ballard, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Ford, Yea; S. Lee, Yea - p 2085; Cherry, Yea - p 2869

HB 115 Pass (Feb 22) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HB 120 Pass (Feb 15) Yeas 96—Adams, Adkins, J. Arnold, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Simpson, Sims, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Siler, Yea - p 720; Webb, Yea - p 2869

HB 123 Pass (Feb 22) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HB 124 Pass (Feb 23) Yeas 94—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Crenshaw, Yea - p 1319; Hall, Yea; Webb, Yea - p 2869

HB 125 Pass (Feb 16) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Rasche, Yea - p 720; Marzian, Yea - p 1163

HB 127 Pass (Mar 5) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Webb, Yea - p 2123; Palumbo, Nay - p 2869

HB 128 Pass (Feb 20) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HB 130 Pass (Feb 22) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Denham, Yea to Nay - p 1487; Hall, Yea - p 1577

HB 131 Pass (Mar 2) Yeas 83—Adams, Adkins, J. Arnold, Ballard, Baugh, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Ford, Glenn, Graham, Gray, Greer, Henderson, Henley, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Napier, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Richards, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Webb, Westrom, Wilkey, Yonts. **Nays 13**—C. Belcher, Comer, Floyd, Hall, Harmon, Higdon, Hoover, Moore, Nelson, Rasche, Riggs, Wayne, Wuchner.

Modifications: Edmonds, Yea - p 2123

HB 136 Pass (Feb 14) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Mobley, Yea - p 655

HB 137 Pass (Feb 13) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Hoover, Yea; Weston, Yea - p 375

HB 138 Pass (Feb 23) Yeas 60—J. Arnold, Ballard, C. Belcher, L. Belcher, Bratcher, Brinkman, Burch, Cherry, L. Clark, Comer, Crenshaw, Crimm, Decesare, Dedman, Deweese, Dossett, Draud, Edmonds, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Henderson, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Moore, Osborne, Owens, Palumbo, Pasley, Rand, Richards, Riggs, Rollins, Santoro, Simpson, A Smith, Stein, Thompson, Tilley, Watkins, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 30**—Adams, Adkins, Baugh, Bell, D Butler, Collins, Couch, Damron, Embry, Ford, Greer, Harmon, Henley, Hoover, S. Lee, Mobley, Napier, Nelson, Nesler, Pullin, Riner, Rudy, Sims, B Smith, Spencer, Stacy, Stewart, Turner, Upchurch, Vincent.

Modifications: Combs, Nay; Wayne, Nay - p 1319; Denham, Nay; Webb, Nay - p 2869

HB 138 Concur Senate Committee Substitute No. 1 (Mar 12) Yeas 56—J. Arnold, Ballard, C. Belcher, L. Belcher, Brinkman, Burch, Cherry, L. Clark, Crenshaw, Crimm, Decesare, Dedman, Deweese, Dossett, Draud, Edmonds, Farmer, Firkins, Floyd, Gooch, Graham, Gray, Greer, Henderson, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Moore, Osborne, Owens, Palumbo, Pasley, Rand, Richards, Riggs, Rollins, Santoro, Simpson, A Smith, Tilley, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 40**—Adams, Adkins, Baugh, Bell, D Butler, Collins, Combs, Comer, Couch, Damron, Denham, Embry, Ford, Glenn, Hall, Harmon, Henley, Higdon, Hoover, S. Lee, Mobley, Montell, Napier, Nelson, Nesler, Pullin, Rader, Riner, Rudy, Siler, Sims, B Smith, Spencer, Stacy, Stewart, Thompson, Turner, Upchurch, Vincent, Webb.

Modifications: Fischer, Yea - p 2711

HB 138 Final Passage (Mar 12) Yeas 55—J. Arnold, Ballard, C. Belcher, L. Belcher, Bratcher, Brinkman, Burch, Cherry, L. Clark, Crenshaw, Crimm, Decesare, Dedman, Deweese, Dossett, Draud, Edmonds, Farmer, Firkins, Floyd, Gooch, Graham, Henderson, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Moore, Osborne, Owens, Palumbo, Pasley, Rand, Richards, Riggs, Rollins, Santoro, Simpson, A Smith, Tilley, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 41**—Adams, Adkins, Baugh, Bell, D Butler, Collins, Combs, Comer, Couch, Damron, Denham, Embry, Ford, Glenn, Gray, Greer, Hall, Harmon, Henley, Higdon, Hoover, S. Lee, Mobley, Montell, Napier, Nelson, Nesler, Pullin, Riner, Rudy, Siler, Sims, B Smith, Spencer, Stacy, Stewart, Thompson, Turner, Upchurch, Vincent, Webb.

Modifications: Fischer, Yea - p 2711; Cherry, Yea to Nay - p 2869

HB 144 Pass (Feb 15) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: B. Smith, Yea - p 655; Siler, Yea - p 720; Webb, Yea - p 2869

HB 145 Pass (Feb 27) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Clark, Yea - p 1577; Gray, Yea - p 2813

HB 145 Final Passage (Mar 27) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Stacy, Yea; Stein, Yea - p 2869

HB 152 Pass (Feb 23) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Wayne, Yea - p 1319

HB 156 Pass (Mar 2) Yeas 88—Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, A Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Westrom, Wilkey, Wuchner, Yonts. Nays 4—Adams, Collins, Hall, Sims.

Modifications: Moberly, Yea; B. Smith, Yea; Spencer, Yea to Nay; Webb, Yea - p 2085; Edmonds, Yea - p 2123

HB 156 Final Passage (Mar 27) Yeas 94—Adams, Adkins, J. Arnold, Ballard, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Upchurch, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 3—Baugh, Sims, Vincent.

HB 167 Pass (Feb 27) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Clark, yea - p 1577

HB 175 Pass (Feb 20) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 177 Pass (Feb 26) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Farmer, Yea - p 1487; Collins, Yea - p 2869

HB 177 Motion to Lay on the Clerk's Desk (Mar 12) Yeas 91—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Wayne, Webb, Weston, Westrom, Wilkey, Yonts. **Nays 0.**

Modifications: Moore, Yea; Wuchner, Yea - p 2711

HB 177 Motion to Take From Clerk's Desk (Mar 12) Yeas 91—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, A Smith, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 1—Sims.**

HB 177 Motion to Reconsider Senate Floor Amendment No. 3 (Mar 12) Yeas 92—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, A Smith, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 1—Sims.**

HB 177 Not Concur Senate Floor Amendment No. 3 (Mar 12) Yeas 89—Adams, Adkins, J. Arnold, Ballard, Baugh, L. Belcher, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, A Smith, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 3—C. Belcher, Damron, Hall.**

Modifications: Fischer, Yea - p 2711

HB 177 Motion to Reconsider Senate Floor Amendment No. 2 (Mar 12) Yeas 93—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 3—Damron, Firkins, Sims.**

Modifications: Fischer, Yea - p 2711

HB 180 Pass (Mar 6) Yeas 89—Adams, Adkins, J. Arnold, Ballard, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Damron, Decesare, Dedman, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Rollins, Rudy, Santoro, Siler, Simpson, A Smith, B Smith, Stacy, Stein, Stewart, Thompson, Tilley, Upchurch, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 7**—Baugh, Floyd, Hall, Sims, Spencer, Turner, Vincent.

Modifications: Crimm, Yea - p 2171

HB 185 Pass (Feb 26) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Farmer, Yea - p 2869

HB 185 Final Passage (Mar 12) Yeas 98—Adams, Adkins, J. Arnold, Ballard, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Dossett, Yea - p 2869

HB 185 Motion to Reconsider Free Conference Committee Report No. 1 (Mar 12) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 185 Motion to Reconsider (Mar 12) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 185 Final Passage (Mar 27) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 186 Pass (Feb 22) Yeas 94—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Butler, Yea - p 1333; Hall, Yea - p 1577

HB 187 Pass (Feb 28) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Crenshaw, Yea; Upchurch, Yea; Webb, Yea - p 1577

HB 190 Pass (Mar 1) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Ford, Yea; S. Lee, Yea - p 2085

HB 191 Pass (Mar 5) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 2**—Bratcher, Decesare.

HB 191 Final Passage (Mar 26) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 191 Final Passage (Mar 26) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 1**—Bratcher.

HB 192 Pass (Feb 9) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Burch, Yea - p 215

HB 196 Pass (Feb 27) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: DeWeese, Yea; Henderson, Yea; Nesler, Yea - p 1487; Clark, Yea - p 1577

HB 197 Pass (Feb 15) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Siler, Yea - p 720; Webb, Yea - p 2869

HB 201 Pass (Feb 16) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Marzian, Yea - p 1163

HB 202 Pass (Feb 13) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Embry, Yea; S. Lee, Yea; Upchurch, Yea - p 375

HB 203 Pass (Feb 23) Yeas 94—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Henderson, Yea - p 1319; Nesler, Yea - p 2813; Hall, Yea; Webb, Yea - p 2869

HB 207 Pass (Mar 6) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HB 207 Final Passage (Mar 12) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, D Butler, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Burch, Yea; Cherry, Yea; Fischer, Yea - p 2711

HB 208 Pass (Mar 2) Yeas 93—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Vincent, Watkins, Wayne, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Webb, Yea - p 2085; Edmonds, Yea - p 2123; B. Smith, Yea - p 2869

HB 210 Pass (Feb 23) Yeas 94—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 1**—Koenig.

Modifications: Crenshaw, Yea - p 1319; Hall, Yea; Webb, Yea - p 2869

HB 212 Pass (Feb 20) Yeas 93—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Couch, Crenshaw, Crimm, Damron, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 4**—Comer, Decesare, Floyd, S. Lee.

Modifications: Wuchner, Yea to Nay - p 1001; Henderson, Yea - p 1163

HB 213 Pass (Mar 1) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Crimm, Yea; Ford, Yea; S. Lee, Yea - p 2085

HB 215 Pass (Feb 16) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Marzian, Yea - p 1163

HB 216 Pass (Mar 2) Yeas 88—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, S. Lee, Marzian, Mckee, Meeks, Miller, Mobley, Montell, Napier, Nelson, Nesler, Osborne, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Westrom, Wilkey, Yonts. **Nays 1**—Hoover.

Modifications: Moore, Yea; Owens, Yea; Wuchner, Yea - p 2085; Edmonds, Yea; J. Lee, Yea; Moberly, Yea - p 2123; Gray, Yea - p 2813

HB 220 Pass (Mar 5) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 225 Pass (Feb 22) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 1**—Meeks.

Modifications: Meeks, Nay to Yea - p 1275; Gray, Yea - p 1577

HB 225 Final Passage (Mar 12) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Fischer, Yea; Upchurch, Yea - p 2711

HB 228 Pass (Feb 27) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, S. Lee, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Clark, Yea - p 1577

HB 230 Pass (Feb 27) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Clark, Yea - p 1577; Edmonds, Yea; Hall, Yea - p 2869

HB 235 Pass (Mar 2) Yeas 93—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Vincent, Watkins, Wayne, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Webb, Yea - p 2085; Edmonds, Yea - p 2123; Richards, Yea - p 2813

HB 239 Pass (Feb 27) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Clark, Yea - p 1577

HB 240 Pass (Feb 22) Yeas 86—Adams, Adkins, J. Arnold, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Combs, Couch, Crenshaw, Crimm, Damron, Dedman, Denham, Deweese, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Glenn, Gooch, Graham, Gray, Greer, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 9—Baugh, Bratcher, Collins, Comer, Decesare, Fischer, Harmon, Higdon, S. Lee.

Modifications: Dossett, Yea; Sims, Yea to Nay - p 1275; Hall, Yea - p 2869

HB 243 Pass (Feb 28) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Simpson, Yea - p 2869

HB 244 Pass (Feb 15) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Siler, Yea - p 720; Webb, Yea - p 2869

HB 245 Pass (Feb 27) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Clark, Yea - p 1577

HB 246 Pass (Mar 2) Yeas 91—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Higdon, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Henderson, Yea; Henley, Yea; Moberly, Yea; B. Smith, Yea - p 2085; Edmonds, Yea - p 2123

HB 253 Pass (Feb 27) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Clark, Yea - p 1577

HB 258 Pass (Feb 16) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Webb, Yea - p 720; Marzian, Yea - p 1163; Nesler, Yea - p 2813

HB 258 Final Passage (Mar 9) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Dedman, Yea; B. Smith, Yea - p 2711; Webb, Yea - p 2869

HB 259 Pass (Feb 27) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Meeks, Yea - p 1487; Clark, Yea - p 1577

HB 259 Final Passage (Mar 9) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Dedman, Yea; B. Smith - p 2711

HB 262 Pass (Feb 22) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HB 266 Pass (Feb 23) Yeas 95—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Spencer, Yea - p 1319; Hall, Yea; Webb, Yea - p 2869

HB 273 Pass (Feb 15) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Siler, Yea - p 720; Webb, Yea - p 2869

HB 274 Pass (Mar 6) Yeas 73—Adkins, J. Arnold, Baugh, L. Belcher, Burch, D Butler, Cherry, L. Clark, Combs, Crenshaw, Crimm, Dedman, Denham, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Ford, Glenn, Gooch, Graham, Gray, Greer, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Kerr, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Simpson, A Smith, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Yonts. Nays 21—Adams, C. Belcher, Bell, Brinkman, Collins, Comer, Damron, Decesare, Deweese, Fischer, Floyd, Hall, Harmon, Koenig, S. Lee, Mobley, Montell, Santoro, Siler, Sims, Wuchner.

Modifications: DeWeese, Nay to Yea; Stein, Yea - p 2171

HB 275 Pass (Mar 6) Yeas 97—Adams, Adkins, J. Arnold, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 1—Vincent.

Modifications: Gray - p 2171

HB 278 Pass (Feb 27) Yeas 95—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 1—Harmon.

Modifications: Harmon, Nay to Yea - p 1487; Clark, Yea - p 1577

HB 280 Pass (Feb 27) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Clark, Yea - p 1577

HB 280 Final Passage (Mar 12) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 2**—Marzian, Stein.

Modifications: Fischer, Yea - p 2711

HB 281 Pass (Mar 2) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Edmonds, Yea - p 2123

HB 282 Pass (Feb 22) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 282 Final Passage (Mar 12) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 284 Pass (Mar 1) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Ford, Yea; S. Lee, Yea - p 2085

HB 285 Pass (Feb 22) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 287 Pass (Mar 2) Yeas 94—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Moberly, Yea - p 2085; Edmonds, Yea - p 2123; Horlander, Yea - p 2813

HB 287 Final Passage (Mar 12) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Fischer, Yea; Upchurch, Yea - p 2711

HB 288 Pass (Mar 6) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Mobley, Yea; B. Smith, Yea - p 2171

HB 289 Pass (Mar 1) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Ford, Yea; S. Lee, Yea - p 2085

HB 291 Pass (Feb 20) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 293 Pass (Feb 28) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Henderson, Yea; Weston, Yea - p 1577

HB 295 Pass (Feb 27) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Clark, Yea - p 1577

HB 296 Pass (Mar 2) Yeas 92—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Mobley, Montell, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Moberly, Yea; Moore, Yea; B. Smith, Yea - p 2085; Edmonds, Yea - p 2123

HB 296 Final Passage (Mar 12) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Fischer, Yea - p 2711

HB 305 Pass (Feb 21) Yeas 89—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Dedman, Denham, Deweese, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Napier, Nelson, Nesler, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Yonts. Nays 10—Decesare, Dossett, Fischer, Kerr, Koenig, S. Lee, Montell, Osborne, Santoro, Wuchner.

Modifications: Morre, Yea - p 1275

HB 305 Final Passage (Mar 12) Yeas 93—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Dedman, Denham, Deweese, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Moore, Napier, Nelson, Nesler, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 5—Decesare, Dossett, Koenig, S. Lee, Osborne.

Modifications: Fischer, Yea - p 2711

HB 306 Pass (Mar 1) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Crimm, Yea; Ford, Yea; S. Lee, Yea - p 2085

HB 310 Pass (Mar 5) Yeas 86—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Farmer, Firkins, Fischer, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Henderson, Higdon, Hoffman, Hoover, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Yonts. Nays 13—Decesare, Embry, Floyd, Graham, Harmon, Henley, Horlander, S. Lee, Napier, Osborne, Sims, Upchurch, Wuchner.

Modifications: Moore, Yea to Nay - p 2123

HB 312 Pass (Feb 22) Yeas 91—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, Cherry, L. Clark, Collins, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stein, Stewart, Thompson, Tilley, Turner, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Stacy, Yea - p 1275; Bulter, Yea - p 1333; Hall, Yea - p 1577; Combs, Yea - p 2869

HB 316 Pass (Feb 27) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Clark, Yea - p 1577

HB 319 Pass (Feb 22) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Wilkey, Wuchner, Yonts. **Nays 1—Stein.**

Modifications: Westrom, Yea - p 1275

HB 321 Pass (Feb 23) Yeas 94—Adams, Adkins, J. Arnold, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 1—Kerr.**

Modifications: Crenshaw, Yea - p 1319; Hall, Yea; Webb, Yea - p 2869

HB 322 Pass (Mar 5) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 325 Pass (Feb 27) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Horlander, Yea - p 1487; Clark, Yea - p 1577; B. Smith, Yea - p 2869

HB 326 Pass (Feb 16) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Marzian, Yea - p 1163

HB 329 Motion to Lay on the Clerk's Desk (Mar 1) Yeas 88—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Glenn, Graham, Gray, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Rollins, Rudy, Santoro, Siler, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Crimm, yea - p 2085

HB 332 Pass (Feb 16) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Marzian, Yea - p 1163

HB 334 Pass (Mar 2) Yeas 95—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Edmonds, Yea - p 2123; Riggs, Yea - p 2869

HB 334 Final Passage (Mar 27) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 337 Pass (Feb 23) Yeas 94—Adams, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Adkins, Yea; Crenshaw, Yea; Napier, Yea - p 1319; Hall, Yea; Webb, Yea - p 2869

HB 345 Adopt Floor Amendment No. 3 (Feb 22) Yeas 38—Ballard, Baugh, Bratcher, Brinkman, D Butler, Comer, Couch, Crimm, Decesare, Dedman, Deweese, Dossett, Draud, Embry, Fischer, Floyd, Ford, Harmon, Henley, Higdon, Hoover, Kerr, Koenig, S. Lee, Mobley, Montell, Moore, Napier, Osborne, Rader, Riner, Rudy, Santoro, B Smith, Stewart, Upchurch, Vincent, Wuchner. **Nays 59**—Adams, Adkins, J. Arnold, C. Belcher, L. Belcher, Bell, Burch, Cherry, L. Clark, Collins, Combs, Crenshaw, Damron, Denham, Edmonds, Farmer, Firkins, Glenn, Gooch, Graham, Gray, Greer, Henderson, Hoffman, Horlander, Jenkins, Keene, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Nelson, Nesler, Owens, Palumbo, Pasley, Pullin, Rand, Richards, Riggs, Rollins, Siler, Simpson, Sims, Spencer, Stacy, Stein, Thompson, Tilley, Turner, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Yonts.

HB 345 Pass (Feb 22) Yeas 59—Adams, Adkins, J. Arnold, C. Belcher, L. Belcher, Bell, Burch, Cherry, L. Clark, Collins, Combs, Crenshaw, Damron, Dedman, Denham, Edmonds, Firkins, Glenn, Gooch, Graham, Gray, Greer, Henderson, Hoffman, Horlander, Jenkins, Keene, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Nelson, Nesler, Owens, Palumbo, Pasley, Pullin, Rand, Richards, Riggs, Rollins, Siler, Simpson, Sims, Spencer, Stacy, Stein, Thompson, Tilley, Turner, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Yonts. **Nays 39**—Ballard, Baugh, Bratcher, Brinkman, D Butler, Comer, Couch, Crimm, Decesare, Deweese, Dossett, Draud, Embry, Fischer, Floyd, Ford, Harmon, Henley, Higdon, Hoover, Kerr, Koenig, S. Lee, Mobley, Montell, Moore, Napier, Osborne, Rader, Rasche, Riner, Rudy, Santoro, A Smith, B Smith, Stewart, Upchurch, Vincent, Wuchner.

Modifications: Hall, Yea - p 1577; Ford, Nay to Yea - p 2085

HB 347 Pass (Mar 1) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Crimm, Yea; Ford, Yea; S. Lee, Yea - p 2085

HB 354 Pass (Feb 28) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HB 355 Pass (Mar 2) Yeas 90—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Wayne, Webb, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Moberly, Yea; B. Smith, Yea - p 2085; Edmonds, Yea - p 2123; Cherry, Yea; Riggs, Yea - p 2869

HB 355 Final Passage (Mar 12) Yeas 97—Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Fischer, Yea; J. Lee, Yea - p 2711; Adams, Yea - p 2869

HB 357 Pass (Feb 27) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Clark, Yea - p 1577

HB 358 Pass (Mar 2) Yeas 95—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Moberly, Yea - p 2085; Edmonds, Yea - p 2869

HB 359 Pass (Mar 5) Yeas 92—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Comer, Couch, Crenshaw, Crimm, Damron, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Westrom, Wilkey, Yonts. Nays 3—Decesare, Floyd, Wuchner.

Modifications: Combs, Yea; Simpson, Yea; Webb, Yea; Weston, Yea - p 2123

HB 360 Pass (Feb 27) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Clark, Yea - p 1577

HB 362 Pass (Mar 1) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Ford, Yea; S. Lee, Yea - p 2085

HB 366 Pass (Feb 28) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bratcher, Brinkman, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Bell, Yea; Burch, Yea; J. Lee, Yea; Rollins, Yea - p 1577

HB 367 Pass (Feb 27) Yeas 81—Adkins, J. Arnold, Ballard, Baugh, L. Belcher, Bell, Bratcher, Brinkman, Burch, Cherry, Collins, Combs, Couch, Crenshaw, Crimm, Damron, Decesare, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Moore, Nelson, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Yonts. Nays 18—Adams, C. Belcher, D Butler, Comer, Dedman, Denham, Farmer, Ford, Henley, Hoover, Montell, Napier, Nesler, Osborne, Stein, Turner, Upchurch, Wuchner.

Modifications: Clark, Yea - p 1577

HB 370 Pass (Feb 16) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Upchurch, Vincent, Watkins, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Marzian, Yea - p 1163

HB 373 Pass (Feb 23) Yeas 94—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 1—Meeks.

Modifications: Graham, Yea; Meeks, Nay to Yea - p 1319; Hall, Yea; Webb, Yea - p 2869

HB 374 Pass (Feb 23) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Hall, Yea; Webb, Yea - p 2869

HB 376 Pass (Mar 5) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Riggs, Yea - p 2869

HB 378 Pass (Feb 27) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Clark, Yea - p 1577

HB 380 Pass (Mar 1) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Ford, Yea; S. Lee, Yea - p 2085

HB 380 Final Passage (Mar 27) Yeas 93—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Fischer, Floyd, Ford, Glenn, Gooch, Gray, Hall, Harmon, Henderson, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 4—Firkins, Greer, Henley, Vincent.

Modifications: Graham, Yea - p 2869

HB 381 Pass (Mar 7) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HB 383 Pass (Feb 28) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HB 386 Pass (Feb 27) Yeas 95—Adams, Adkins, J. Arnold, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 1—S. Lee.

Modifications: Clark, Yea - p 1577

HB 386 Final Passage (Mar 12) Yeas 92—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Couch, Crenshaw, Crimm, Damron, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 7—Bratcher, Comer, Decesare, Hoover, S. Lee, Rudy, Turner.

HB 389 Pass (Feb 20) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Moore, yea - p 1001

HB 390 Pass (Feb 22) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Hall, Yea - p 1577

HB 394 Pass (Feb 28) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Crimm, Yea - p 1577

HB 394 Final Passage (Mar 12) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Fischer, Yea - p 2711; Riggs, Yea - p 2869

HB 397 Pass (Mar 7) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: DeCesare, Yea; Spencer, Yea - p 2423

HB 399 Pass (Feb 27) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 1**—B Smith.

Modifications: Clark, Yea - p 1577

HB 400 Pass (Feb 26) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Farmer, Yea - p 1487

HB 401 Pass (Mar 5) Yeas 95—Adams, Adkins, J. Arnold, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, McKee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 1**—Damron.

Modifications: Crenshaw, Yea; Simpson, Yea; Webb, Yea - p 2123

HB 402 Pass (Feb 27) Yeas 95—Adams, Adkins, J. Arnold, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, McKee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0**.

Modifications: Clark, Yea - p 1577

HB 403 Motion to Lay on the Clerk's Desk (Feb 28) Yeas 34—Ballard, Baugh, Bratcher, D Butler, Comer, Crenshaw, Crimm, Decesare, Dedman, Deweese, Dossett, Farmer, Fischer, Floyd, Ford, Gooch, Harmon, Higdon, Hoover, Koenig, S. Lee, Mobley, Montell, Moore, Osborne, Rader, Rudy, Santoro, Siler, B Smith, Stewart, Turner, Upchurch, Wuchner. **Nays 59**—Adams, Adkins, J. Arnold, C. Belcher, L. Belcher, Burch, Cherry, L. Clark, Collins, Combs, Couch, Denham, Draud, Edmonds, Embry, Firkins, Glenn, Graham, Gray, Greer, Hall, Henderson, Hoffman, Horlander, Jenkins, Keene, Kerr, J. Lee, Marzian, McKee, Meeks, Miller, Moberly, Nelson, Nesler, Owens, Palumbo, Pullin, Rand, Rasche, Richards, Riggs, Riner, Rollins, Simpson, A Smith, Spencer, Stacy, Stein, Thompson, Tilley, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Yonts.

HB 403 Pass (Feb 28) Yeas 93—Adams, Adkins, J. Arnold, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Couch, Crenshaw, Crimm, Damron, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, McKee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 7**—Ballard, Baugh, Comer, Decesare, Gooch, Higdon, Osborne.

HB 410 Pass (Mar 1) Yeas 92—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Glenn, Graham, Gray, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, McKee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0**.

Modifications: Crimm, Yea; Ford, Yea; Hall, Yea; S. Lee, Yea; Napier, Yea - p 2085; Farmer, Yea; Webb, Yea - p 2869

HB 418 Pass (Feb 26) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, McKee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0**.

Modifications: Farmer, Yea - p 1487

HB 426 Pass (Mar 1) Yeas 90—Adams, Adkins, J. Arnold, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Glenn, Graham, Gray, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, McKee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 1**—Watkins.

Modifications: Crimm, Yea; Ford, Yea; Hall, Yea; S. Lee, Yea; Napier, Yea - p 2085; Farmer, Yea; Webb, Yea - p 2869

HB 430 Pass (Feb 22) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HB 430 Final Passage (Mar 26) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HB 431 Pass (Feb 28) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Yonts. Nays 0.

HB 437 Pass (Mar 1) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Ford, Yea; S. Lee, Yea - p 2085

HB 438 Pass (Mar 5) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HB 439 Pass (Mar 2) Yeas 94—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Moberly, Yea; B. Smith, Yea - p 2085; Edmonds, Yea - p 2123

HB 440 Pass (Feb 27) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Clark, Yea - p 1577

HB 443 Pass (Mar 6) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Miller, Yea - p 2171

HB 448 Pass (Feb 23) Yeas 95—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Crenshaw, Yea - p 1319; Hall, Yea; Webb, Yea - p 2869

HB 449 Pass (Mar 1) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Ford, Yea; S. Lee, Yea - p 2085

HB 459 Pass (Feb 27) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Clark, Yea - p 1577

HB 461 Pass (Feb 27) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Clark, yea - p 1577

HB 462 Pass (Mar 1) Yeas 88—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Glenn, Graham, Gray, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Tilley, Turner, Vincent, Watkins, Wayne, Weston, Westrom, Yonts. Nays 1—Wilkey.

Modifications: Thompson, Yea; Wuchner, Yea - p 2055; Crimm, Yea; Ford, Yea; Hall, Yea; S. Lee, Yea; Napier, Yea - p 2085; Webb, Yea - p 2869

HB 465 Pass (Mar 1) Yeas 88—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Kerr, J. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 8—Bratcher, Damron, Firkins, Fischer, Harmon, Jenkins, Koenig, Marzian.

Modifications: Crimm, Yea; Ford, Yea - p 2085; Harmon, Nay to Yea - p 2171; Keene, Yea - p 2869

HB 467 Pass (Mar 1) Yeas 95—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 3**—Marzian, Nesler, B Smith.

Modifications: B. Smith, Nay to Yea - p 2055; Ford, Yea; S. Lee, Yea - p 2085

HB 468 Pass (Feb 28) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 469 Pass (Mar 2) Yeas 93—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Webb, Westrom, Wilkey, Wuchner, Yonts. **Nays 3**—Burch, Marzian, Wayne.

Modifications: Edmonds, Yea - p 2123

HB 471 Pass (Mar 6) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 476 Pass (Mar 6) Yeas 90—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Riner, Rollins, Rudy, Santoro, Siler, Simpson, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 7**—L. Belcher, Bratcher, L. Clark, Collins, Floyd, Riggs, Sims.

Modifications: Collins, Nay to Yea; Mobley, Yea - p 2171

HB 490 Pass (Mar 1) Yeas 85—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Comer, Couch, Crenshaw, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Glenn, Graham, Gray, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Pasley, Pullin, Rader, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Wilkey, Wuchner, Yonts. **Nays 4**—Palumbo, Rand, Stein, Westrom.

Modifications: Combs, Yea; Spencer, Yea; Stacy, Yea - p 2055; Crimm, Yea; Ford, Yea; Hall, Yea; S. Lee, Yea; Napier, Yea - p 2085; Farmer, Yea - p 2869; Webb, Yea - p 2869

HB 490 Final Passage (Mar 27) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Stacy, Yea - p 2869

HB 500 Pass (Feb 27) Yeas 97—Adams, Adkins, J. Arnold, Ballard, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Clark, Yea; Hoffman, Yea - p 1577

HB 506 Pass (Mar 2) Yeas 95—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Moberly, Yea - p 2085; Edmonds, Yea - p 2123

HB 509 Pass (Feb 27) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Clark, Yea - p 1577

HB 514 Pass (Feb 27) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner. **Nays 0.**

Modifications: Yonts, Yea - p 1487; Clark, Yea - p 1577; Fischer, Yea - p 2711

HB 514 Final Passage (Mar 12) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 523 Pass (Mar 6) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Stein, Yea - p 2171

HB 526 Pass (Mar 2) Yeas 89—Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Westrom, Wilkey, Wuchner, Yonts. **Nays 6**—Adams, Bell, Comer, J. Lee, Richards, B Smith.

Modifications: Stacy, Yea - p 2085; Edmonds, Yea - p 2123

HB 536 Pass (Feb 28) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HB 536 Final Passage (Mar 12) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Fischer, Yea - p 2711

HB 540 Pass (Mar 2) Yeas 92—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Moberly, Yea; B. Smith, Yea - p 2085; Edmonds, Yea - p 2123; Cherry, Yea; Greer, Yea - p 2869

HB 549 Pass (Mar 1) Yeas 79—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, Bratcher, Brinkman, Burch, D Butler, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Damron, Decesare, Denham, Deweese, Draud, Edmonds, Firkins, Fischer, Glenn, Gooch, Graham, Gray, Greer, Hall, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, Marzian, Mckee, Meeks, Miller, Moberly, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Stacy, Stein, Stewart, Thompson, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 13**—L. Belcher, Bell, Dedman, Dossett, Embry, Harmon, J. Lee, Mobley, Montell, Moore, Spencer, Tilley, Turner.

Modifications: Crimm, Yea; Farmer, Yea; Ford, Nay - p 2085

HB 549 Final Passage (Mar 12) Yeas 85—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Denham, Deweese, Draud, Edmonds, Farmer, Firkins, Fischer, Glenn, Gooch, Graham, Gray, Greer, Hall, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, Marzian, Mckee, Meeks, Miller, Mobley, Montell, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Turner, Upchurch, Vincent, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 11**—Dedman, Dossett, Embry, Ford, Harmon, J. Lee, S. Lee, Moberly, Moore, Pasley, Tilley.

Modifications: Collins, Yea to Nay; Spencer, Yea to Nay - p 2711

HJR 5 Pass (Feb 23) Yeas 92—Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Moberly, Mobley, Montell, Moore, Napier, Nelson, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 1—Stein.

Modifications: Miller, Yea; Nesler, Yea - p 2813; Adams, Yea; Hall, Yea; Webb, Yea - p 2869

HJR 7 Pass (Feb 23) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Crenshaw, Yea - p 1333; Hall, Yea; Webb, Yea - p 2869

HJR 11 Pass (Mar 7) Yeas 91—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Spencer, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: B. Smith, Yea; Westrom, Yea - p 2869

HJR 11 Motion to Reconsider (Mar 7) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HJR 11 Pass (Mar 7) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HCR 12 Pass (Feb 12) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Webb, Yea - p 233; Thompson, Yea - p 375; B. Smith, Yea - p 567

HJR 14 Pass (Feb 9) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HR 17 Co-Sponsor (Jan 2) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HCR 19 Pass (Feb 16) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 1—Floyd.**

Modifications: Marzian, Yea - p 1163; L. Belcher, Yea - p 2869

HR 20 Co-Sponsor (Jan 3) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HR 21 Co-Sponsor (Jan 3) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

HJR 23 Pass (Feb 12) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Webb, Yea - p 233; Thompson, Yea - p 375; B. Smith, Yea - p 567, 2869

HCR 25 Pass (Feb 15) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, McKee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Siler, Yea - p 720; Webb, Yea - p 2869

HCR 26 Pass (Feb 12) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, McKee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Webb, Yea - p 233; B. Smith, Yea - p 567; Thompson, Yea - p 2869

HCR 28 Pass (Feb 9) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, McKee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HCR 29 Pass (Feb 15) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, McKee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Siler, Yea - p 720; Webb, Yea - p 2869

HCR 30 Pass (Feb 9) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, McKee, Meeks, Miller, Moberly, Mobley, Montell, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Moore, Yea - p 215

HCR 31 Pass (Feb 15) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, McKee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Siler, Yea - p 720; Webb, Yea - p 2869

HCR 32 Pass (Feb 15) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Siler, Yea - p 720; Webb, Yea - p 2869

HCR 33 Pass (Feb 9) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HCR 46 Pass (Feb 22) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Gray, Yea - p 1275; Hall, Yea - p 1577; Simpson, Yea - p 2869

HR 61 Pass (Feb 27) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, S. Lee, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Westrom, Yea - p 1487; Clark, Yea - p 1577

HR 62 Co-Sponsor (Feb 7) Yeas 91—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Kerr, Koenig, S. Lee, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Vincent, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HJR 72 Pass (Mar 6) Yeas 77—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, Cherry, L. Clark, Collins, Combs, Crenshaw, Crimm, Damron, Dedman, Denham, Deweese, Draud, Edmonds, Embry, Firkins, Glenn, Gooch, Graham, Gray, Greer, Hall, Henderson, Henley, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Thompson, Tilley, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Yonts. Nays 23—Bratcher, D Butler, Comer, Couch, Decesare, Dossett, Farmer, Fischer, Floyd, Ford, Harmon, Higdon, Hoover, S. Lee, Montell, Rudy, Santoro, Siler, B Smith, Stewart, Turner, Upchurch, Wuchner.

HCR 75 Pass (Feb 23) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Hall, Yea; Webb, Yea - p 2869; Nesler, Yea - p 2813

HJR 84 Pass (Feb 27) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Clark, Yea - p 1577; Fischer, Yea - p 2711

HJR 84 Final Passage (Mar 12) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HCR 120 Pass (Feb 22) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Sims, Yea - p 1275

HR 123 Pass (Mar 5) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HCR 126 Pass (Feb 27) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Clark, Yea; - p 1577

HCR 127 Pass (Feb 22) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Hall, Yea - p 1577

HR 132 Co-Sponsor (Feb 28) Yeas 92—Adams, Adkins, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Vincent, Watkins, Weston, Westrom, Wilkey, Yonts. Nays 0.

HJR 137 Pass (Mar 1) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Ford, Yea; S. Lee - p 2085

HCR 141 Pass (Mar 1) Yeas 91—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Glenn, Graham, Gray, Greer, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Crimm, Yea; Farmer, Yea; Ford, Yea; Hall, Yea; S. Lee, Yea; Napier, Yea; Webb, Yea - p 2085

HCR 151 Pass (Mar 6) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Miller, Yea - p 2171

HCR 154 Pass (Mar 1) Yeas 95—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Ford, Yea; S. Lee, Yea; - p 2085; Keene, Yea - p 2869

HCR 159 Pass (Mar 6) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HR 182 Co-Sponsor (Mar 26) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Horlander, Yea - p 2813

HR 209 Co-Sponsor (Mar 8) Yeas 100—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HR 241 Co-Sponsor (Mar 27) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

HR 248 Co-Sponsor (Mar 27) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

SB 1 Pass (Mar 12) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Fischer, Yea - p 2711

SB 10 Pass (Mar 12) Yeas 61—Adkins, J. Arnold, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, Cherry, L. Clark, Crenshaw, Crimm, Damron, Dedman, Draud, Embry, Farmer, Firkins, Floyd, Glenn, Gooch, Graham, Gray, Greer, Henderson, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Montell, Moore, Osborne, Owens, Palumbo, Pasley, Rand, Rasche, Richards, Riggs, Riner, Rollins, Santoro, Siler, Sims, Stewart, Thompson, Tilley, Watkins, Wayne, Webb, Weston, Wilkey, Yonts. **Nays 37**—Adams, Ballard, Baugh, D Butler, Collins, Combs, Comer, Couch, Decesare, Denham, Deweese, Dossett, Edmonds, Ford, Hall, Harmon, Henley, Higdon, Hoover, S. Lee, Mobley, Napier, Nelson, Nesler, Pullin, Rader, Rudy, Simpson, A Smith, B Smith, Spencer, Stacy, Stein, Turner, Upchurch, Vincent, Wuchner.

Modifications: Fischer, Nay - p 2711; Westrom, Yea - p 2869

SB 14 Pass (Mar 12) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 1**—Sims.

Modifications: Fischer, Yea - p 2711; Edmonds, Yea - p 2869

SB 22 Pass (Mar 12) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Fischer, Yea - p 2711

SB 23 Pass (Mar 8) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Crenshaw, Yea; Ford, Yea - p 2549; Farmer, Yea - p 2869

SB 25 Pass (Mar 12) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Fischer, Yea - p 2711

SB 26 Pass (Mar 8) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Crenshaw, Yea; Ford, Yea - p 2549; Farmer, Yea - p 2869

SB 29 Pass (Mar 8) Yeas 46—Adkins, J. Arnold, C. Belcher, Bratcher, Brinkman, Burch, Cherry, L. Clark, Crimm, Decesare, Dedman, Deweese, Dossett, Draud, Edmonds, Fischer, Glenn, Gooch, Graham, Henderson, Horlander, Jenkins, Keene, Kerr, Koenig, Marzian, Meeks, Miller, Moberly, Moore, Osborne, Owens, Palumbo, Pasley, Rand, Riggs, Rollins, Santoro, Simpson, A Smith, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner. **Nays 47**—Adams, Ballard, Baugh, L. Belcher, Bell, D Butler, Collins, Combs, Comer, Couch, Damron, Denham, Embry, Firkins, Floyd, Gray, Greer, Hall, Harmon, Henley, Hoffman, Hoover, J. Lee, S. Lee, Mckee, Mobley, Montell, Napier, Nelson, Nesler, Pullin, Richards, Riner, Rudy, Siler, Sims, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Webb, Yonts.

Modifications: Edmonds, Yea to Nay; Glenn, Yea to Nay; A. Smith, Yea to Nay - p 2507; Crenshaw, Yea; Ford, Nay - p 2549; Cherry, Yea to Nay; Fischer, Yea; Yonts, Yea to Nay - p 2711; Glenn, Nay - p 2813; Farmer, Yea - p 2869

SB 29 Motion to Reconsider (Mar 9) Yeas 63—Adkins, J. Arnold, C. Belcher, L. Belcher, Bratcher, Brinkman, Burch, Cherry, L. Clark, Crenshaw, Crimm, Decesare, Deweese, Dossett, Draud, Edmonds, Farmer, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Henderson, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Montell, Moore, Osborne, Owens, Palumbo, Pasley, Rand, Richards, Riggs, Rollins, Santoro, Siler, Simpson, Sims, Stein, Thompson, Tilley, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 30**—Adams, Ballard, Baugh, Bell, D Butler, Collins, Comer, Couch, Damron, Embry, Ford, Hall, Harmon, Henley, Hoover, S. Lee, Mobley, Napier, Nelson, Nesler, Pullin, Riner, Rudy, A Smith, Spencer, Stacy, Stewart, Turner, Upchurch, Vincent.

Modifications: Combs, Nay - p 2549

SB 29 Pass (Mar 12) Yeas 54—Adkins, J. Arnold, C. Belcher, L. Belcher, Bratcher, Brinkman, Burch, Cherry, L. Clark, Crenshaw, Crimm, Decesare, Dedman, Deweese, Dossett, Draud, Edmonds, Farmer, Firkins, Floyd, Gooch, Graham, Gray, Henderson, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Montell, Moore, Osborne, Owens, Palumbo, Pasley, Rand, Riggs, Rollins, Santoro, Simpson, Stein, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 39**—Adams, Ballard, Baugh, Bell, D Butler, Collins, Combs, Comer, Couch, Damron, Denham, Embry, Ford, Greer, Hall, Harmon, Henley, Higdon, Hoover, S. Lee, Mobley, Napier, Nelson, Nesler, Pullin, Richards, Riner, Rudy, Sims, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Webb.

SB 30 Pass (Mar 12) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Fischer, Yea - p 2711

SB 43 Pass (Mar 9) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Hoover, Yea - p 2549; Dedman, Yea - p 2711

SB 47 Pass (Mar 8) Yeas 94—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Harmon, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Henderson, Yea - p 2507; Crenshaw, Yea; Ford, Yea - p 2549; Collins, Yea; Farmer, Yea; Hall, Yea - p 2869

SB 56 Pass (Mar 9) Yeas 96—Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 2**—Adams, Firkins.

Modifications: Dedman, Yea - p 2711

SB 59 Adopt Floor Amendment No. 2 (Mar 27) Yeas 94—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riner, Rollins, Rudy, Santoro, Siler, Simpson, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Wilkey, Wuchner, Yonts. **Nays 0.**

SB 59 Pass (Mar 27) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

SB 60 Pass (Mar 7) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 1**—Gray.

Modifications: Spencer, Yea - p 2423

SB 65 Pass (Mar 8) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Crenshaw, Yea; Ford, Yea - p 2549; Farmer, Yea - p 2869

SB 68 Pass (Mar 8) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Crenshaw, Yea; Ford, Yea - p 2549; Farmer, Yea - p 2869

SB 69 Pass (Mar 8) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Crenshaw, Yea; Ford, Yea - p 2549; Cherry, Yea; Farmer, Yea - p 2869

SB 74 Pass (Mar 7) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 1**—Moberly.

Modifications: Bell, Yea to Abstain, Bell, Abstain to Nay - p 2423

SB 76 Pass (Mar 9) Yeas 82—Adkins, Baugh, C. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Fischer, Floyd, Ford, Glenn, Gooch, Gray, Greer, Harmon, Henley, Higdon, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Riggs, Riner, Rollins, Santoro, Siler, Simpson, A Smith, B Smith, Spencer, Stein, Stewart, Thompson, Tilley, Turner, Vincent, Watkins, Wayne, Webb, Westrom, Wilkey, Wuchner, Yonts. **Nays 14**—Adams, J. Arnold, Ballard, Firkins, Graham, Hall, Henderson, Hoffman, Nelson, Richards, Rudy, Sims, Stacy, Weston.

Modifications: Dedman, Yea - p 2711; L. Belcher, Yea - p 2869

SB 79 Pass (Mar 8) Yeas 90—Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Fischer, Glenn, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 5**—Adams, Firkins, Floyd, Gooch, Nesler.

Modifications: Crenshaw, Yea; Ford, Yea - p 2549; Farmer, Yea - p 2869

SB 82 Pass (Mar 12) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 1**—Upchurch.

Modifications: Fischer, Yea; Upchurch, Nay to Yea - p 2711

SB 83 Pass (Mar 2) Yeas 69—Adkins, J. Arnold, Baugh, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Farmer, Firkins, Fischer, Ford, Glenn, Gray, Hall, Harmon, Henderson, Henley, Higdon, Hoover, Horlander, Keene, Kerr, Koenig, J. Lee, S. Lee, Meeks, Miller, Moberly, Mobley, Moore, Nesler, Owens, Palumbo, Pasley, Rader, Richards, Rudy, Santoro, Siler, Sims, A Smith, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Westrom, Wilkey, Wuchner, Yonts. **Nays 27**—Adams, Ballard, C. Belcher, Draud, Embry, Floyd, Graham, Greer, Hoffman, Jenkins, Marzian, Mckee, Montell, Napier, Nelson, Osborne, Pullin, Rand, Rasche, Riggs, Riner, Rollins, Simpson, Stein, Watkins, Wayne, Webb.

Modifications: Edmonds, Yea - p 2123

SB 88 Pass (Mar 12) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Fischer, Yea - p 2711

SB 91 Pass (Mar 9) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Hoover, Yea - p 2549; Dedman, Yea - p 2711

SB 92 Pass (Mar 9) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Denham, Deweese, Dossett, Draud, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Edmonds, Yea; Hoover, Yea - p 2549; Dedman, Yea - p 2711

SB 98 Pass (Mar 9) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Dedman, Yea - p 2711

SB 100 Pass (Mar 12) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Fischer, Yea - p 2711

SB 103 Pass (Mar 12) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Fischer, Yea - p 2711

SB 104 Pass (Mar 8) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Crenshaw, Yea; Ford, Yea - p 2549; Farmer, Yea - p 2869

SB 105 Pass (Mar 12) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Fischer, Yea; B. Smith, Yea - p 2711

SB 111 Pass (Mar 12) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Fischer, Yea - p 2711

SB 125 Pass (Mar 9) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Dedman, Yea - p 2711

SB 126 Pass (Mar 27) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, S. Lee, J. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Upchurch, Yea - p 2869

SB 130 Pass (Mar 12) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Fischer, Yea; B. Smith, Yea - p 2711

SB 134 Pass (Mar 9) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Dedman, Yea - p 2711

SB 140 Pass (Mar 8) Yeas 96—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Firkins, Fischer, Floyd, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Crenshaw, Yea; Ford, Yea - p 2549; Farmer, Yea - p 2869

SB 143 Adopt Floor Amendment No. 1 (Mar 27) Yeas 95—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

SB 143 Pass (Mar 27) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

SB 144 Pass (Mar 9) Yeas 96—Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 2—Adams, Firkins.

Modifications: Dedman, Yea - p 2711

SB 145 Pass (Mar 12) Yeas 81—Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bratcher, Brinkman, Burch, Cherry, Collins, Combs, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Embry, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Henderson, Henley, Higdon, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pullin, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, A Smith, B Smith, Spencer, Stacy, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Westrom, Wilkey, Wuchner, Yonts. Nays 18—Adams, Bell, D Butler, L. Clark, Comer, Edmonds, Farmer, Firkins, Harmon, Hoover, S. Lee, Marzian, Montell, Pasley, Rader, Sims, Stein, Weston.

Modifications: Bell, Nay to Yea; Fischer, Yea - p 2711

SB 153 Pass (Mar 9) Yeas 89—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Couch, Crenshaw, Crimm, Damron, Decesare, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Harmon, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, A Smith, B Smith, Spencer, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 9—Bell, Comer, Hall, Henley, Nesler, Sims, Stacy, Vincent, Webb.

Modifications: Hall, Nay to Yea; Henderson, Yea - p 2549; Dedman, Yea - p 2711

SB 171 Pass (Mar 12) Yeas 65—Adams, Adkins, J. Arnold, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, Cherry, L. Clark, Crimm, Damron, Dedman, Denham, Firkins, Ford, Glenn, Gooch, Graham, Gray, Greer, Henderson, Henley, Higdon, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Napier, Owens, Palumbo, Pasley, Rand, Rasche, Richards, Riggs, Riner, Rollins, Santoro, Simpson, Sims, B Smith, Stein, Thompson, Tilley, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Yonts. **Nays 28**—D Butler, Collins, Combs, Comer, Couch, Decesare, Deweese, Dossett, Edmonds, Embry, Farmer, Floyd, Hall, Harmon, Hoover, S. Lee, Montell, Moore, Nelson, Osborne, Rader, Rudy, Siler, Spencer, Stacy, Stewart, Turner, Wuchner.

Modifications: Fischer, Nay - p 2711; Nesler, Yea - p 2813; Crenshaw, Yea - p 2869

SB 175 Pass (Mar 12) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Fischer, Yea - 2711; Webb, Yea - p 2869

SB 185 Pass (Mar 9) Yeas 92—Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Horlander, Jenkins, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Webb, Weston, Westrom, Wilkey, Yonts. **Nays 2**—Adams, Firkins.

Modifications: Hoover, Yea - p 2549; Dedman, Yea - p 2711; Keene, Yea - 2869

SB 186 Pass (Mar 9) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Dedman, Yea - p 2711

SB 187 Pass (Mar 9) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Hoover, Yea - p 2549; Dedman, Yea - p 2711

SB 196 Pass (Mar 9) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. **Nays 0.**

Modifications: Hoover, Yea; Rollins, Yea to Nay - p 2549; Dedman, Yea - p 2711

SJR 6 Pass (Mar 12) Yeas 98—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Fischer, Yea - p 2711

SJR 16 Pass (Feb 21) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Moore, Yea - p 1275

SJR 48 Pass (Mar 7) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Stein, Yea - p 2423

SJR 93 Pass (Mar 7) Yeas 97—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Firkins, Yea; Graham, Yea; Kerr, Yea; Firkins, Yea to Abstain - p 2423

SJR 109 Pass (Mar 12) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

Modifications: Fischer, Yea - p 2711

SCR 218 Pass (Mar 12) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Marzian, Mckee, Meeks, Miller, Moberly, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 0.

SCR 239 Pass (Mar 27) Yeas 94—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Osborne, Owens, Palumbo, Pullin, Rader, Rand, Rasche, Richards, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts. Nays 1—Upchurch.

Legislative Citation No. 88 Co-Sponsor (Mar 27) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts.
Nays 0.

Legislative Citation No. 89 Co-Sponsor (Mar 27) Yeas 99—Adams, Adkins, J. Arnold, Ballard, Baugh, C. Belcher, L. Belcher, Bell, Bratcher, Brinkman, Burch, D Butler, Cherry, L. Clark, Collins, Combs, Comer, Couch, Crenshaw, Crimm, Damron, Decesare, Dedman, Denham, Deweese, Dossett, Draud, Edmonds, Embry, Farmer, Firkins, Fischer, Floyd, Ford, Glenn, Gooch, Graham, Gray, Greer, Hall, Harmon, Henderson, Henley, Higdon, Hoffman, Hoover, Horlander, Jenkins, Keene, Kerr, Koenig, J. Lee, S. Lee, Mckee, Meeks, Miller, Moberly, Mobley, Montell, Moore, Napier, Nelson, Nesler, Osborne, Owens, Palumbo, Pasley, Pullin, Rader, Rand, Rasche, Richards, Riggs, Riner, Rollins, Rudy, Santoro, Siler, Simpson, Sims, A Smith, B Smith, Spencer, Stacy, Stein, Stewart, Thompson, Tilley, Turner, Upchurch, Vincent, Watkins, Wayne, Webb, Weston, Westrom, Wilkey, Wuchner, Yonts.
Nays 0.

APPENDIX D

2007 REGULAR SESSION

SPONSOR AND SUBJECT INDEX

BILLS BY SPONSOR INDEX

*Indicates the Legislator was the Primary Sponsor of a Bill or Resolution

(HJR means Joint Resolution; HCR means Concurrent Resolution; HR means Simple Resolution)

ADAMS, ROYCE W.

HB 2, 5, 7, 65, 86, 94, 187, 215*, 230*, 231*, 238*, 315, 339, 347, 352, 354, 362, 418, 462, 467, 469, 510*, 520, 521, 522*, 555*
HCR 148, 159
HJR 52
HR 17, 20, 21, 57*, 62, 78, 132, 182, 205*, 209, 215, 241, 248

ADKINS, ROCKY

HB 1, 5*, 7, 69, 190*, 213, 219, 305, 315, 325*, 326*, 332, 356, 409, 467, 500*
HCR 25*, 26*, 27*, 28*, 29*, 30*, 31*, 32*, 33*, 75*, 76*, 154*
HJR 84*
HR 17, 20, 21, 24*, 34, 44*, 62, 78, 85*, 100*, 132, 153*, 169, 182*, 183*, 186*, 203*, 209, 241, 248
HB 5: HFA(1)

ARNOLD JR, JOHN A.

HB 1, 2, 3, 4, 5, 6, 7, 8, 69*, 75, 309, 339, 448*, 520
HR 17, 20, 21, 62, 171*, 182, 185*, 209, 241, 248
HB 69: HFA(1), (2)

BALLARD, EDDIE

HB 1, 2, 3, 4, 5, 7, 128*, 167, 170*, 179*, 180*, 187, 230, 261*, 280, 317*, 339*, 342*, 343, 466*, 467, 469, 520
HJR 23*
HR 17, 20, 21, 61*, 62, 132, 182, 209, 233, 234, 235, 241, 246, 248
HB 123: HCA(1); HB 180: HFA(1); HB 213: HFA(1), (2)
HCR 12: HCA(1)

BAUGH, SHELDON E.

HB 26, 48, 70, 94, 140*, 174, 195, 217, 237, 268*, 330*, 339, 343, 352, 381*, 442*, 467
HCR 71
HJR 5
HR 17, 20, 21, 62, 64, 78, 132, 182, 209, 241, 248

BELCHER, CAROLYN

HB 4, 16, 60, 64, 70, 106*, 109, 128*, 129*, 130, 187, 219, 224, 257*, 258*, 259*, 260*, 261*, 262*, 276*, 280*, 299, 307*, 321*,
326, 330, 332, 352, 361*, 469, 476, 479*, 480*, 531*, 532*
HJR 50*
HR 17, 20, 21, 62, 132, 135*, 147*, 166, 182, 209, 219, 241, 248
HB 128: HFA(1); HB 321: HFA(1)

BELCHER, LARRY

HB 1, 2, 3, 4, 5, 6, 7, 8, 63, 114, 187, 197, 213, 219, 224, 225, 226, 295, 309, 311, 318, 326, 339, 352, 362, 390, 435*, 440*, 466,
469, 471*, 476, 490, 520, 536
HCR 110*, 141
HJR 142*
HR 17, 20, 21, 62, 97*, 132, 182, 209, 241, 248

BELL, JOHNNY

HB 1, 2, 3, 4, 5, 6, 21, 60, 103, 139*, 222, 265*, 266*, 302*, 362, 366, 377, 403, 467, 468*, 469, 523*
HCR 139*, 148
HR 17, 20, 21, 62, 78, 82*, 132, 182, 209, 241, 248
HB 468: HFA(1)

BRATCHER, KEVIN D.

HB 26, 109, 173, 279*, 339, 343, 393, 472, 505, 536
HCR 120
HR 17, 20, 21, 39, 62, 64, 132, 146, 182, 209, 215, 241, 246, 248
HB 64: HFA(7)

BRINKMAN, SCOTT W.

HB 23, 26, 88, 91*, 109*, 173, 213, 296*, 309, 312*, 334*, 335*, 337, 339, 346*, 352, 366, 393*, 416*, 466, 472, 480*, 486, 503*, 505*, 515*, 520, 536*, 549

HCR 120

HJR 13*, 144*

HR 17, 20, 21, 39*, 62, 64, 132, 182, 209, 241, 246, 248

HB 219: HFA(2), (3), (4); HB 252: HFA(1)

SB 85: HFA(1), (2)

BURCH, TOM

HB 2, 3, 4, 5, 17, 40*, 53*, 54, 70, 75, 112*, 124, 143, 150*, 151*, 156, 198*, 199*, 200*, 201, 219, 233*, 252*, 253*, 254*, 255*, 256*, 278, 301*, 305, 306, 318, 344*, 345*, 362*, 378, 385, 393, 412, 431*, 434*, 472, 536, 546, 547

HCR 71*, 88*

HJR 54

HR 17, 20*, 21, 39, 90, 132, 140, 146, 169, 182, 192*, 202*, 209, 215, 241, 248

HB 254: HFA(1); HB 255: HFA(1); HB 362: HCA(1), HFA(1), (2)

SB 59: HFA(2), (3); SB 140: HCA(1), HFA(1); SB 175: HFA(3), (4)

BUTLER, DWIGHT D.

HB 75, 103, 167, 182*, 210, 213, 237, 277*, 298, 306, 314*, 315, 339, 342, 343, 366, 377*, 389, 488*, 560*

HR 17, 20, 21, 62, 64, 78, 108, 132, 182, 205, 209, 215, 241, 248

CHERRY, MIKE

HB 62*, 63*, 64*, 78*, 79*, 95*, 152, 210, 305, 306, 339, 343, 362, 395*, 403, 414*, 417, 418, 466, 523

HJR 13, 119*

HR 17, 20, 21, 62, 132, 182, 191, 209, 215, 233, 234, 235, 241, 248

HB 99: HCA(1)

SB 58: HFA(2), (3), (4), (5)

CLARK, LARRY

HB 1, 3, 4, 5, 6, 7, 17, 23, 64, 66, 75, 92, 94, 124*, 156, 173, 201, 213, 219, 291, 305, 318, 319, 326, 332, 356, 362, 367, 377, 388*, 389, 391*, 393, 400, 403, 412, 415*, 416, 435, 437, 444, 472, 486*, 490, 536, 546*, 547*, 548, 549*

HCR 120, 127*, 164

HJR 5, 84

HR 17, 20, 21, 39, 62, 90, 132, 140, 146*, 169*, 172*, 182, 205, 209, 215, 223*, 241, 248

COLLINS, HUBERT

HB 1, 5, 6, 7, 8, 130*, 187, 213, 305, 315, 352, 356, 370*, 389, 403, 408*, 459*, 478*, 500, 509*, 520, 543*

HR 17, 20, 21, 62, 132, 176, 182, 206*, 209, 219, 220*, 241, 248

HB 459: HCA(1); HB 543: HFA(1)

HJR 72: HCA(1); HJR 84: HCA(1)

SJR 93: HCA(1)

COMBS, LESLIE

HB 1, 2, 3, 4, 5, 17, 186, 187, 213, 219, 296, 299, 305, 309, 358*, 396*, 418, 430*, 454*, 500*, 520

HCR 126

HJR 84, 116*

HR 17, 20, 21, 62, 104*, 132, 166, 176*, 182, 209, 219, 241, 248

HB 358: HFA(1)

COMER JR, JAMES R.

HB 5, 71, 87, 88, 103, 120, 159, 185, 187, 203, 237, 249, 263*, 298, 317, 366, 415, 467, 469, 520

HCR 47

HR 17, 20, 21, 62, 64, 78, 124*, 132, 182, 209, 241, 248

HB 93: HFA(1); HB 106: HFA(1); HB 405: HFA(2)

COUCH, TIM

HB 5, 26, 75, 100, 101, 111, 186, 197, 210, 222, 229, 339, 467, 498*, 500, 521

HJR 84

HR 17, 20, 21, 62, 64, 132*, 182, 209, 241, 246, 248

HB 1: HFA(5); HB 465: HFA(1)

CRENSHAW, JESSE

HB 1, 2, 3, 4, 5, 17, 23, 70*, 207, 226, 237, 247*, 289, 305, 332, 339, 348*, 362, 403, 467, 506, 526*
HCR 141*
HJR 15
HR 17, 20, 21, 62, 65*, 103*, 132, 182, 209, 241, 246, 248
HB 348: HFA(1)

CRIMM, RON

HB 11, 22*, 23, 24*, 26, 35*, 65, 80*, 93*, 103, 124, 139, 173, 201, 217, 310, 337, 339, 366, 382*, 393, 417, 451*, 464*, 466, 472, 505, 506, 507, 520, 536
HCR 9*, 120, 164
HJR 10*, 118
HR 17, 20, 21, 37*, 39, 62, 64*, 90*, 132, 146, 182, 209, 241, 248
HB 1: HFA(3); HB 35: HFA(1), (2); HB 327: HFA(17), (18)

DAMRON, ROBERT R.

HB 5, 7, 60*, 125*, 280*, 281*, 282*, 283*, 284*, 315, 332*, 339, 366, 390, 469*, 554*
HJR 84
HR 17, 20, 21, 62, 86*, 91*, 132, 135*, 143*, 158*, 182, 209, 232*, 233*, 234*, 235*, 241, 248
HB 53: HFA(1), (4)
SB 29: HFA(1), (2), (3); SB 152: HFA(1)

DECESARE, JIM

HB 26, 30, 47, 48, 87*, 88, 159, 195*, 197, 294*, 328*, 329*, 332, 339, 343, 453*, 455*, 456*, 457*, 458*, 466, 468, 512*
HJR 77*
HR 17, 20, 21, 62, 63*, 64, 68*, 69*, 93*, 94*, 132, 182, 199*, 200*, 209, 241, 246, 248
HB 64: HFA(1), (2); HB 95: HFA(1); HB 188: HFA(1), (2), (3); HB 219: HFA(1), (6), (7); HB 305: HFA(6), (7); HB 398: HFA(3)
HJR 77: HFA(1)

DEDMAN JR, MILWARD

HB 26, 31*, 152, 197, 339, 348, 380*, 418, 467, 520
HCR 148
HR 17, 20, 21, 64, 78, 105*, 109*, 132, 161*, 162*, 179*, 182, 209, 241, 248

DENHAM, MIKE

HB 1, 2, 5, 7, 75, 81*, 82*, 83*, 84*, 85*, 94, 119*, 187, 240*, 242*, 244, 280, 326, 339, 350*, 354, 362, 366, 376, 397, 401*, 433*, 441*, 449*, 472, 500, 514
HCR 47*, 148*
HR 17, 20, 21, 35*, 36*, 43*, 62*, 111*, 132, 165*, 182, 205, 209, 215, 227*, 241, 246, 247*, 248
HB 83: HFA(2); HB 240: HFA(1); HB 449: HFA(1)

DEWEESE, BOB M

HB 80, 88, 109, 124, 152, 173, 310, 339, 378*, 383*, 393, 431, 466, 467, 472, 473*, 505*, 506*, 536
HCR 120, 151*
HJR 13
HR 17, 20, 21, 39, 62, 64, 132, 182, 209, 215, 241, 246, 248
HB 327: HFA(8), (9), (10), (11), (12)

DOSSETT, MYRON

HB 26, 63, 187, 195, 218, 225, 293, 309, 339, 342, 343, 390, 520
HR 17, 20, 21, 62, 64, 115*, 132, 182, 209, 213*, 226*, 236*, 241, 246, 248

DRAUD, JON

HB 2, 5, 27*, 43*, 64, 75, 94, 96*, 97*, 156, 175*, 177*, 187, 230, 234*, 235*, 237, 299, 309, 324*, 339, 347, 349*, 352*, 362, 386*, 389, 392, 413, 431, 445, 549*
HR 17, 20, 21, 40, 62, 64, 132, 182, 198, 207*, 209, 215, 241, 248

EDMONDS, TED

HB 1, 2, 3, 4, 5, 6, 7, 8, 56*, 57*, 63, 70, 71*, 78, 79, 89*, 103, 160*, 161*, 167, 176*, 178*, 180, 187, 195*, 226, 244, 250*, 267*, 296, 305, 310, 339, 352, 357, 362, 366, 403, 438, 440, 461*, 500, 512*
HJR 84
HR 17, 20, 21, 62, 125*, 132, 182, 209, 241, 246, 248

EMBRY JR, C. B.

HB 14, 21, 23, 26, 41*, 42*, 45, 52*, 58, 60, 62, 75, 78, 80, 86, 88, 91, 92, 94, 103, 109, 119, 122, 131, 146, 167, 174, 187, 207, 210, 222, 224, 228, 249, 293, 295, 317, 339, 343, 362, 366, 445*, 460, 480, 490
HCR 8*, 76
HJR 137
HR 17, 20, 21, 62, 78, 87*, 182, 209, 241, 248

FARMER, BILL

HB 87, 88*, 181*, 183*, 248*, 249*, 331*, 339, 460, 466, 480, 490, 505
HR 17, 20, 21, 62, 132, 182, 209, 233*, 234*, 235*, 241, 248
HB 183: HFA(1), (2); **HB** 305: HFA(2), (3), (4), (5), (8), (9); **HB** 318: HFA(1), (2); **HB** 398: HFA(1), (2)
SB 10: HFA(1)

FIRKINS, TIM

HB 1, 2, 3, 4, 5, 17, 75, 124, 156, 173, 201, 219, 278, 305, 309*, 310*, 311, 319*, 343, 352, 362, 389, 393, 402*, 412*, 467, 469, 472, 486, 536, 546, 547, 549
HCR 120
HR 17, 20, 21, 39, 62, 90, 132, 140, 146, 169, 182, 209, 215, 241, 248
HB 310: HFA(1)

FISCHER, JOSEPH M.

HB 11, 26, 48, 80, 88, 110, 137, 158*, 159*, 195, 211*, 251*, 297*, 300*, 339, 347, 366, 368*, 520*
HR 17, 20, 21, 62, 64, 132, 182, 193, 209, 215, 241, 248
HB 403: HFA(1), (2), (3), (4)
SB 34: HFA(2); **SB** 159: HFA(1), (6)

FLOYD, DAVID

HB 5, 26, 29*, 30*, 47*, 50, 63, 66, 75, 80, 87*, 88*, 91, 97, 170, 174*, 188*, 195, 217*, 218*, 290, 299, 337, 339, 342, 343, 354, 417, 460, 467, 480, 505, 520
HCR 88, 141
HR 17, 20, 21, 62, 64, 132, 182, 209, 211, 241, 248
HB 64: HFA(4), (5), (6); **HB** 210: HFA(1), (2); **HB** 305: HFA(10); **HB** 345: HFA(2), (4); **HB** 359: HFA(2); **HB** 391: HFA(1); **HB** 403: HFA(5), (6); **HB** 549: HFA(5)

FORD, DANNY

HB 5, 26, 66, 87, 88, 94, 171*, 187, 209*, 246*, 310, 339, 366, 459, 467
HR 17, 20, 21, 62, 64, 78, 132, 182, 195*, 209, 241, 244*, 248
HB 327: HFA(3), (4), (5), (6), (7); **HB** 359: HFA(1)

GLENN, JIM

HB 2, 4, 5, 7, 8, 17, 70, 71, 75, 76, 92, 103, 105, 156, 213, 219*, 278, 305, 306, 311*, 339, 343, 352, 362, 373*, 436*, 437*, 508*
HCR 70*
HJR 15, 54
HR 17, 20, 21, 62, 132, 169, 182, 209, 241, 242*, 248
HB 437: HFA(1)
SB 46: HFA(1), (2); **SB** 57: HFA(1), (2)

GOOCH JR, JIM

HB 1, 2, 5, 7, 18*, 69, 75, 339, 352, 366, 417*, 442, 513*, 529*
HCR 148, 160
HR 17, 20, 21, 62, 78, 89*, 182, 209, 241, 248
HB 79: HFA(1); **HB** 207: HFA(1)
HCR 160: HCA(1)
SB 175: HFA(1), (2)

GRAHAM, DERRICK

HB 1, 3, 4, 5, 6, 7, 17, 23, 62, 70, 99, 187, 191, 197, 207, 210, 212*, 219, 289*, 305, 352, 356, 357*, 362, 385, 418*, 467, 481*, 511*, 520
HCR 151*
HJR 54
HR 17, 20, 21, 59*, 60*, 62, 132, 182, 209, 241, 248
HB 212: HFA(1)
HCR 151: HFA(1)
SB 58: HFA(1), (6), (7)

GRAY, J. R.

HB 5, 6, 17*, 48, 51, 60, 70, 110*, 111*, 167, 206, 210*, 213, 219, 246, 303*, 304*, 305*, 315, 318, 339, 352, 366, 397*, 398*, 403, 404*, 469, 508, 516*, 517*, 520, 544*
HCR 12*, 46, 67*
HJR 66*
HR 17, 20, 21, 132, 169, 181*, 182, 191, 209, 241, 248
HB 397: HFA(1)
SB 159: HFA(2), (3), (4), (5)

GREER, JEFF

HB 2, 3, 4, 5, 21, 26, 50, 51, 61, 75, 78, 94, 122, 145*, 182, 187, 208, 219, 224, 225, 277*, 290, 295, 326, 339, 343, 357, 362, 366, 373, 377*, 378, 389, 390*, 403, 430, 435, 438, 467, 468, 469, 536, 555
HCR 159*
HJR 5, 84
HR 17, 20, 21, 62, 78, 108*, 132, 182, 209, 215, 241, 248
HB 78: HFA(1)
HCR 159: HFA(1)

HALL, KEITH

HB 1, 3, 4, 5, 7, 17, 70, 71, 79, 103, 140, 142, 152, 165, 167, 176*, 186, 187, 195, 204*, 244, 263, 296, 305, 310, 339, 357, 362, 366, 370, 403, 409*, 418, 438, 440, 469, 500
HCR 126*, 160
HJR 74*, 116*
HR 17, 20, 21, 62, 73*, 104, 125*, 132, 176*, 182, 209, 241, 246, 248*
HB 207: HFA(7), (8), (9), (10), (11)

HARMON, MIKE

HB 11, 12, 13, 22, 26, 30, 48, 87, 88, 94, 152, 193*, 197, 211*, 251*, 300*, 339, 348*, 352, 366, 417, 427*, 467, 499*, 520
HR 17, 20, 21, 62, 64, 132, 182, 186, 209, 241, 248
HB 53: HFA(2), (3), (5), (6); **HB** 305: HFA(11), (12), (13)
SB 34: HFA(1)

HENDERSON, RICHARD

HB 1, 2, 3, 4, 5, 6, 7, 8, 17, 120, 128, 136, 187, 197, 237, 291*, 295, 306, 309, 339, 343, 376*, 385, 403, 437, 447*, 490, 520, 545*
HJR 84*
HR 17, 20, 21, 62, 78, 101*, 132, 182, 205, 209, 241, 248

HENLEY, MELVIN B.

HB 14*, 20*, 33*, 34*, 72*, 73*, 74*, 93, 103, 162*, 163*, 164*, 166*, 213, 224, 232*, 237, 290, 291, 339, 343, 352, 362, 385, 403, 417, 467
HJR 84
HR 17, 20, 21, 62, 64, 80*, 132, 182, 209, 241, 246, 248

HIGDON, JIMMY

HB 26, 50*, 66*, 174, 187, 224, 299, 337, 352, 357, 362, 366, 467
HJR 142
HR 17, 20, 21*, 62, 64, 132, 182, 204*, 209, 241, 248
SB 30: HFA(1), (2)

HOFFMAN, CHARLIE

HB 1, 2, 3, 4, 5, 6, 7, 8, 70, 71, 94, 108*, 109, 113*, 120, 132, 136, 187, 213, 214, 219, 278, 305, 306, 315, 317, 318, 326, 332, 352, 385*, 389, 403, 418, 428*, 429*, 430, 470*, 486, 490, 500, 549, 551*
HCR 126*
HJR 15, 54
HR 17, 20, 21, 62, 78, 132, 133*, 156*, 157*, 169, 182, 205, 209, 225*, 228*, 229*, 239*, 241, 248
HB 108: HFA(1), (2)

HOOVER, JEFF

HB 5, 50, 63, 88, 103, 187, 226*, 339, 390, 467, 549
HR 17*, 20, 21, 62, 64, 132, 182, 209, 224*, 241, 248

HORLANDER, DENNIS

HB 3, 27, 80, 120, 124*, 156, 213, 214, 219, 278, 305, 315, 318, 352, 362, 366*, 388, 389, 393, 472, 489*, 490, 536, 546, 547, 549
HCR 120, 164
HJR 54
HR 17, 20, 21, 62, 90, 132, 140, 169, 182, 209, 215, 241, 246, 248

JENKINS, JONI L.

HB 1, 2, 3, 4, 17, 23, 25, 54*, 70, 74, 124, 173*, 201*, 205*, 206*, 207, 213, 219*, 247, 278*, 296*, 309, 310, 318*, 337, 344, 345, 362, 367*, 385, 388*, 389, 391, 393*, 394*, 396*, 403, 406, 412, 416*, 444, 447, 472, 475*, 486, 490, 496*, 497*, 528*, 535, 536*, 546, 547, 549, 567*, 569*
HCR 79, 120*
HJR 54
HR 17, 20, 21, 39*, 62, 81*, 90*, 132, 138*, 140*, 146, 166*, 169*, 182, 209, 215, 219*, 241, 245*, 248, 249*
HB 124: HCA(1); **HB** 278: HFA(1); **HB** 296: HFA(1), (2); **HB** 394: HFA(1)
SB 30: HCA(1)

KEENE, DENNIS

HB 3, 4, 5, 7, 8, 15*, 27, 60, 65, 75, 86, 103*, 124, 138*, 139*, 156, 230, 262, 278, 305, 315, 341, 347*, 352*, 366, 377, 388, 389, 412, 413, 445, 466, 472, 486, 490, 530*, 546, 547, 549
HCR 141
HR 17, 20, 21, 40*, 132, 182, 193*, 209, 215, 241, 246, 248
HB 352: HFA(3); **HB** 398: HFA(4)

KERR, THOMAS

HB 14, 21, 103, 296, 299, 336*, 339, 343, 347, 349, 381, 384*, 403, 413, 445, 462*, 465, 485*, 530, 549, 572*
HR 17, 20, 21, 38*, 40, 62, 64, 132, 182, 198*, 209, 241, 246, 248

KOENIG, ADAM

HB 75, 80, 103, 126, 175, 187, 189, 230, 291, 296, 297*, 299, 309, 320*, 328, 347, 349, 355, 390, 392*, 413, 432*, 443, 445, 455, 457, 462, 490, 505, 520, 542*
HR 17, 20, 21, 40, 62, 64, 132, 182, 193, 209, 212*, 241, 246, 248

LEE, JIMMIE

HB 2, 3, 4, 5, 185*, 187, 219, 244*, 292, 326, 332, 343*, 374*, 385, 467, 477*
HR 17, 20, 21, 62, 99*, 132, 182, 209, 241, 248
HB 362: HFA(3)

LEE, STAN

HB 11*, 12*, 13*, 19*, 28*, 30*, 44*, 48*, 87, 88, 94, 109, 194*, 251, 322, 338, 339, 343, 438, 467, 520
HJR 145*
HR 4*, 17, 20, 21, 62, 64, 132, 182, 209, 211, 241, 248

MARZIAN, MARY LOU

HB 1, 2, 3, 4*, 23, 53, 54*, 64, 70, 103, 120, 152*, 173, 196*, 201, 219, 226, 278, 295, 296, 299, 305, 318, 324*, 326, 337*, 344*, 345, 352, 353, 362, 379*, 383*, 385, 393, 403, 410*, 444, 447, 472, 474*, 475*, 503, 504*, 548*
HCR 79, 120, 122*, 164
HJR 11*, 54
HR 17, 20, 21, 39, 41*, 62, 90, 132, 140, 146, 166, 169, 172*, 175*, 182, 202*, 209, 215, 219
HB 152: HCA(1), HFA(1); **HB** 180: HFA(2); **HB** 196: HFA(1); **HB** 410: HCA(1)

MCKEE, TOM

HB 1, 2, 3, 4, 5, 6, 7, 8, 63, 94, 103, 165*, 176, 187, 192*, 202*, 203*, 213, 219, 225, 230, 315, 326, 332, 347, 354*, 362, 399*, 440, 445, 448*, 449*, 506, 540*

HCR 127*, 148*

HJR 84

HR 17, 20, 21, 40, 62*, 78*, 132, 168*, 182, 193*, 205*, 209, 215, 223*, 241, 248

HB 120: HCA(1); **HB** 203: HCA(1); **HB** 399: HFA(1)

HJR 14: HCA(1)

SB 74: HFA(1), (2); **SB** 134: HFA(1)

MEEKS, REGINALD

HB 2, 3, 4, 5, 7, 8, 16, 17, 23, 25*, 54, 67, 70, 90, 115*, 116*, 117*, 118*, 120, 127*, 141, 142, 173*, 213, 219, 226, 237, 293*, 301*, 305, 311, 318, 339, 344, 362, 385, 387*, 393, 472, 503*, 506, 507*, 508*, 536

HCR 16*, 18, 53*, 164*, 194*

HJR 7*, 15*, 54*

HR 17, 20, 21, 39, 62, 65*, 90, 132, 136*, 140, 157, 166, 169, 182, 187*, 188*, 209, 215, 241, 248

HB 118: HFA(1)

HCR 160: HFA(1)

SB 197: HFA(1)

MILLER, CHARLES

HB 1, 2, 3, 4, 5, 17, 23, 27, 75, 103, 109, 124, 156, 167, 168, 170, 173, 185, 201, 213*, 219, 230, 278, 288, 305, 306, 315*, 318, 339, 343, 352, 362, 377, 389*, 390, 393, 412, 444, 467, 472*, 490, 536, 546, 547, 549

HCR 120, 164

HJR 54

HR 17, 20, 21, 39, 62, 90, 132, 140, 146, 169, 182, 209, 215, 241, 248

MOBERLY JR, HARRY

HB 1*, 2, 3, 4, 5, 6*, 7, 136*, 184*, 185*, 262*, 276*, 291*, 292, 316*, 326*, 327*, 332*, 356, 359*, 360*, 374*, 385, 403, 419*, 467*, 477*, 479*, 500

HR 17, 20, 21, 62, 132, 182, 207, 209*, 241, 248

HB 1: HFA(6); **HB** 5: HCA(1); **HB** 185: HCA(1), HFA(1); **HB** 244: HCA(1); **HB** 326: HCA(1); **HB** 327: HCA(1), HFA(14); **HB** 354: HCA(1), (2); **HB** 549: HCA(1)

SB 55: HFA(1), (2); **SB** 143: HFA(1), (2)

MOBLEY, RUSS

HB 11, 12, 13, 14, 21, 26, 45, 48, 60, 66, 88, 103, 136, 171, 174, 187, 195, 209, 299, 339, 352, 467

HR 17, 20, 21, 62, 64, 132, 182, 209, 241, 248

MONTELL, BRAD

HB 23, 26*, 32*, 45*, 49*, 109, 122*, 126*, 187, 195, 270*, 278, 338*, 339, 343, 354, 357, 418, 435, 460*, 469, 520

HCR 148

HR 17, 20, 21, 62, 64, 78, 132, 182, 205, 209, 222*, 231*, 241, 246, 248

HB 16: HFA(1); **HB** 31: HFA(1); **HB** 219: HFA(5); **HB** 305: HFA(1)

MOORE, TIM

HB 23, 26, 50, 51, 59, 63, 94, 95, 105, 114, 167, 187, 213, 225, 244, 278, 291, 339, 343*, 354, 372, 390, 469, 483*, 484*, 490, 520, 571*

HCR 120

HR 17, 20, 21, 61, 62, 64, 132, 174*, 182, 209, 211*, 233, 234, 235, 241, 248

HB 280: HFA(1), (2)

NAPIER, LONNIE

HB 48, 165, 187, 237*, 339, 343, 403, 417, 442, 467*, 520

HR 17, 20, 21, 62, 64, 78, 83*, 132, 169, 182, 209, 241, 248

NELSON, RICK G.

HB 1, 2, 3, 4, 5, 6, 7, 8, 10*, 17, 21*, 32, 75, 144*, 146*, 147*, 148*, 172*, 195, 210, 213, 214, 219, 220*, 221*, 222*, 223*, 224*, 225, 230, 278, 280, 305, 326, 339, 352, 369*, 418, 452*, 454, 469, 476*, 500
HCR 19*
HR 17, 20, 21, 62, 132, 169, 182, 209, 241*, 248
HB 1: HFA(1), (2)
SJR 93: HFA(1)

NESLER, FRED

HB 5, 7, 8, 17, 75, 156, 192*, 214, 224, 231, 278, 305, 337, 339, 352, 362, 403, 409, 446, 466, 504, 508
HR 17, 20, 21, 34*, 62, 78, 132, 169, 182, 191, 209, 215, 241, 246*, 248

OSBORNE, DAVID

HB 26, 51, 87, 88, 109, 124, 125, 127*, 138, 139, 173, 189, 202, 217*, 218*, 238, 298*, 335, 339, 343, 354, 357, 393, 435, 460, 466, 472, 476, 480, 482*, 505, 506, 536
HJR 7
HR 17, 20, 21, 39, 62, 64, 78, 132, 182, 209, 215, 241, 248
HB 127: HFA(1); **HB** 335: HFA(1), (2)
SB 159: HFA(7), (8), (9)

OWENS, DARRYL T.

HB 2, 3*, 4, 5, 7, 17, 23, 54, 64, 67*, 68*, 70, 90*, 92*, 109, 125, 173, 175, 191, 201, 219, 271*, 272*, 274*, 278, 296, 309, 318, 337, 344, 352, 387*, 393, 395*, 405*, 412, 472, 506*, 508, 520, 536
HCR 120, 164*, 194*
HJR 54*, 118*
HR 17, 20, 21, 39, 62, 90, 132, 136*, 140*, 166, 169, 182, 209, 215, 241, 248
HB 224: HCA(1); **HB** 387: HFA(1); **HB** 405: HFA(1), (3); **HB** 476: HFA(1)
SB 14: HFA(1); **SB** 159: HFA(10)

PALUMBO, RUTH ANN

HB 1, 2, 3, 4, 5, 6, 7, 8, 16, 53, 63, 64, 82, 124, 219, 230, 278, 299, 310, 332, 344, 345, 385, 403, 431, 460, 462, 467, 480, 486, 538*, 550*, 552*, 553*
HCR 120
HJR 13
HR 17, 20, 21, 62, 112, 113, 114, 121*, 132, 166, 167*, 170*, 180*, 182, 209, 219, 233, 234, 235, 241, 246*, 247*, 248*
HB 86: HFA(1), (2), (3); **HB** 291: HFA(1)

PASLEY, DON

HB 2, 3, 4, 5, 7, 8, 62, 114*, 136*, 145*, 202*, 326, 359, 385*, 399*, 449, 467, 520, 549, 557*, 558*, 559*
HCR 141
HJR 15
HR 17, 20, 21, 62, 78, 132, 178*, 182, 184*, 209, 216*, 217*, 241, 248
HB 114: HFA(1)

PULLIN, TANYA

HB 1, 2, 5*, 6, 8, 61*, 77*, 94*, 98*, 99*, 100*, 101*, 102*, 103, 107*, 123*, 187, 229*, 343, 362, 390, 403, 460*, 467, 500, 518*, 519*
HCR 18*, 107*, 141*
HJR 14*
HR 17, 20, 21, 42*, 62, 82, 83, 85, 87, 89, 92, 93, 94, 95, 102, 103, 105, 106, 108, 109, 111, 132, 166, 182, 209*, 215*, 219, 224*, 233, 234, 235, 241, 248
HB 92: HCA(1); **HB** 94: HFA(1); **HB** 107: HFA(1); **HB** 123: HFA(1)
HCR 18: HFA(1), (2)
SB 22: HFA(1), (2); **SB** 130: HFA(1); **SB** 196: HFA(1)

RADER, MARIE

HB 103, 178*, 187, 211, 299, 339, 386, 467
HCR 126, 141
HJR 144
HR 17, 20, 21, 62, 64, 78, 132, 166, 182, 196*, 209, 219, 241, 248

RAND, RICK

HB 1, 2, 3, 4, 6, 7, 8, 23, 64, 65*, 86*, 120, 187, 270, 273*, 352, 366, 385, 386, 403, 435*, 520, 570*
HR 17, 20, 21, 62, 78, 132, 182, 209, 215, 241, 248

RASCHE, FRANK

HB 2, 3, 6, 285*, 326, 366, 461*, 487*, 561*, 563*, 564*, 565*
HCR 159
HR 17, 20, 21, 62, 182, 191, 207*, 209, 215, 241, 248
HB 210: HFA(3); HB 285: HFA(1); HB 440: HFA(1), (2)
HJR 5: HFA(1); HJR 7: HCA(1); HJR 11: HCA(1)
SB 1: HFA(1)

RICHARDS, JODY

HB 1*, 2*, 3, 4, 5, 6, 7*, 8, 17*, 66, 119, 121*, 187*, 197, 219, 291, 295*, 306*, 318, 326, 332, 356*, 407*, 419*, 462, 467, 539*
HJR 84
HR 1*, 2*, 3*, 17, 20, 21, 61*, 68*, 69*, 93*, 94*, 132, 182, 189*, 209, 228*, 233, 234, 235, 241, 248
HB 187: HFA(1), (2), (3)

RIGGS, STEVE

HB 1, 2, 4, 5, 26, 80, 173, 187, 201, 214*, 243, 245, 264*, 296, 339, 362, 366, 393, 412, 472, 486, 490, 514*, 536, 573*
HCR 120
HR 17, 20, 21, 37*, 39, 62, 90, 132, 140, 146, 182, 209, 215, 241, 248
HB 214: HFA(1), (2), (3), (4); HB 243: HCA(1); HB 245: HFA(1)
SB 155: HFA(1), (2)

RINER, TOM

HB 1, 2, 4, 5, 6, 7, 17, 25, 36*, 37*, 64, 67, 70, 75, 91, 94, 103, 109, 113, 173, 219, 225, 226, 230, 278, 286*, 287*, 291, 305, 315, 332, 337, 339, 343, 352, 356, 362, 385, 390, 393, 403, 450*, 467, 472, 525*, 536, 549
HCR 6*, 120
HR 17, 20, 21, 39, 62, 132, 169, 182, 201*, 208*, 209, 215, 237*, 238*, 240*, 241, 248
HB 64: HFA(3); HB 287: HFA(1)
SB 155: HFA(3), (4), (5), (6); SB 159: HFA(11), (12), (13), (14), (15), (16), (17)

ROLLINS II, CARL

HB 2, 3, 6*, 17, 26, 62, 75, 108, 109, 124, 156, 187, 197*, 208*, 210, 213, 219, 222, 225, 237, 238, 289*, 290*, 305, 311, 332, 345, 385, 402, 403, 418*, 465, 524*
HR 17, 20, 21, 55*, 56*, 57*, 58*, 128*, 132, 134*, 182, 209, 241, 246, 248

RUDY, STEVEN

HB 48, 109, 187, 192, 354, 467, 505, 520
HCR 18, 148
HR 17, 20, 21, 62, 64, 132, 182, 191*, 209, 215, 241, 248

SANTORO, SAL

HB 11, 26, 51, 75, 97, 124, 156, 189, 231, 291, 299, 309, 310, 339, 343, 347*, 372*, 390, 402, 413, 445, 467, 490, 520
HR 17, 20, 21, 40, 62, 123*, 132, 182, 209, 211, 215, 241, 248

SILER, CHARLES

HB 23, 26, 39*, 71, 80, 103, 167*, 168*, 213*, 224, 237, 288*, 292*, 299, 315*, 339*, 342*, 343, 352, 389*, 467, 527*, 541*
HR 17, 20, 21, 62, 64, 102*, 132, 169, 182, 196, 209, 241, 248
HB 327: HFA(13)

SIMPSON, ARNOLD

HB 1, 3, 4, 5, 16, 64, 70, 75, 103, 191, 213, 225, 226, 299, 311, 320, 321, 322*, 333*, 340*, 341*, 352, 355*, 356, 357, 371*, 403, 413*, 462*, 465*, 467, 549, 572*
HJR 54
HR 17, 20, 21, 40*, 62, 96*, 132, 169, 182, 197*, 209, 215, 218*, 241, 246, 248
HB 327: HFA(1), (2), (15), (16); HB 355: HFA(1); HB 549: HFA(2)

SIMS, DOTTIE

HB 1, 4, 5, 63, 187, 207, 213, 219, 291, 299, 305, 306, 315, 339, 362, 366, 385, 390, 469, 502*
HCR 79*
HR 17, 20, 21, 62, 64, 78*, 132, 150*, 166, 182, 209, 219, 241, 246, 248

SMITH, ANCEL

HB 1, 3, 5, 6, 7, 8, 17, 71, 197, 219, 305, 315, 339, 362, 454*, 467, 469, 500
HJR 84
HR 17, 20, 21, 62, 104, 132, 182, 209, 230*, 241, 248

SMITH, BRANDON

HB 5, 6, 23, 109, 169*, 186*, 339, 362, 366, 406, 500, 520*, 521*
HR 17, 20, 21, 22*, 62, 132, 182, 209, 241, 248

SPENCER, BRANDON

HB 5, 343, 438*, 500, 520, 537*
HJR 72*
HR 17, 20, 21, 62, 132, 182, 209, 241, 248

STACY, JOHN WILL

HB 5, 6, 7, 8, 17, 278, 305, 315, 337*, 339, 362, 366*, 389, 409*, 486, 500, 562*
HCR 160*
HJR 84
HR 17, 20, 21, 62, 78, 100*, 132, 153*, 169, 182, 209, 241, 246, 248
HB 549: HFA(1)

STEIN, KATHY W.

HB 1, 2, 3, 4, 17, 54, 55, 64, 141*, 142*, 143*, 206*, 219, 225, 269*, 278, 299, 305, 315, 318, 332, 344, 345, 352, 353*, 362, 385, 410*, 420*, 421*, 422*, 423*, 424*, 425*, 467, 520, 549
HCR 122*, 159*
HJR 15
HR 17, 20, 21, 51*, 112*, 113*, 114*, 132, 149*, 166, 167, 169, 173*, 182, 209, 214*, 219*, 241, 248
HB 175: HFA(1); HB 214: HCA(1); HB 403: HCA(1)
SB 34: HCA(1); SB 79: HFA(1); SB 88: HFA(3)

STEWART III, JIM

HB 48, 210, 222, 237, 278, 323*, 339, 343, 351*, 467, 520
HCR 148
HR 17, 20, 21, 62, 64, 78, 132, 182, 196*, 209, 241, 248
SB 59: HFA(1)

THOMPSON, TOMMY

HB 1, 2, 3, 4, 5, 6, 7, 8, 23, 26, 46*, 51*, 53, 58*, 59*, 62, 63, 64, 71, 75*, 76*, 79, 105*, 137, 156, 175, 187, 219, 243*, 245*, 305, 306, 326, 332, 339, 343, 349, 352, 362, 366, 437, 443*, 446*, 460, 480, 523*, 549, 566*
HR 17, 20, 21, 48*, 62, 95*, 132, 182, 190*, 209, 215, 241, 246, 248
HB 51: HFA(1); HB 75: HFA(1); HB 76: HFA(1); HB 105: HFA(1); HB 443: HFA(2), (3)

TILLEY, JOHN

HB 1, 2, 3, 4, 5, 6, 7, 23, 51, 59, 63, 75, 83, 94, 103, 105, 109, 145, 167, 187, 197, 213, 219, 225*, 228, 280, 292*, 295, 306, 308*, 309, 326, 337, 339, 343, 362, 366, 377, 390*, 438, 469, 520, 523
HR 17, 20, 21, 62, 78, 98*, 115*, 132, 177*, 182, 209, 226*, 236*, 241, 248

TURNER, TOMMY

HB 187, 216*, 237, 339, 466, 467, 520
HCR 148
HR 17, 20, 21, 62, 64, 132, 182, 196, 209, 241, 248

UPCHURCH, KEN

HB 88, 366, 460, 469, 490, 501*, 520
HR 17, 20, 21, 64, 182, 209, 241, 248
SJR 93: HFA(2), (3)

VINCENT, JOHN

HB 5, 7, 61*, 82, 210*, 214, 278, 308*, 339, 343, 377, 439*, 462, 467, 468, 469, 500

HCR 18, 159

HJR 5*, 52*

HR 17, 20, 21, 24*, 62, 64, 78, 85*, 132, 182, 209, 215*, 241, 248

HB 83: HFA(1); HB 89: HFA(1); HB 284: HFA(1); HB 312: HFA(1); HB 329: HFA(1); HB 334: HFA(1), (2); HB 439: HFA(1), (2)

SB 88: HFA(2), (4)

WATKINS, DAVID

HB 1, 2, 3, 4, 5, 6, 17, 41, 60, 103, 213, 305, 306, 311, 337, 339, 345*, 353*, 362, 389, 402

HJR 5

HR 17, 20, 21, 132, 182, 209, 215, 241, 248

WAYNE, JIM

HB 1, 2, 3, 4, 6, 7, 8, 17, 23*, 38*, 53, 54, 55*, 64, 70, 104*, 113*, 120*, 153*, 154*, 155*, 156*, 157*, 173, 201, 278, 295, 305, 318, 353, 362, 366, 385, 400*, 411*, 463*, 472*, 503, 535*, 536, 548

HCR 120*, 155*, 164

HJR 54

HR 17, 20, 21, 39, 62, 146, 166*, 169, 182, 209, 241, 243*, 248

HB 120: HFA(1), (2); HB 549: HFA(3), (4)

WEBB, ROBIN L.

HB 1, 2, 3, 4*, 5, 7*, 16, 70, 191*, 214, 216*, 219, 271*, 274*, 275*, 299, 313*, 339, 354*, 356*, 375*, 490*, 491*, 492*, 493*, 494*, 495*, 500, 520, 533*, 534*, 556*

HCR 131*, 163*

HJR 130*

HR 17, 20, 21, 62, 85, 152*, 166, 182, 209, 210*, 215, 219, 221*, 241, 248

HB 187: HCA(1); HB 207: HFA(3), (4), (5), (6); HB 313: HFA(1), (2), (3); HB 358: HFA(2)

SB 88: HFA(1); SB 196: HFA(2)

WESTON, RON

HB 3, 5, 17, 23, 25, 27, 54, 64, 75, 124, 155, 156, 173, 201*, 219, 237, 278, 295, 309, 310, 315, 318, 352, 362, 389, 393, 403, 412*, 444*, 467, 472, 486*, 536, 538*, 546, 547, 549

HCR 120

HJR 5

HR 17, 20, 21, 39, 62, 90, 106*, 132, 140, 146*, 166, 169, 182, 209, 215, 241, 248

WESTROM, SUSAN

HB 1, 2, 3, 4, 5, 6, 7, 8, 16, 23, 70, 74, 82, 94, 109, 124, 125*, 141, 175*, 191, 219, 238*, 239*, 241*, 243, 273, 299*, 337, 339, 346, 362, 366, 373, 386, 389, 406*, 460, 480, 520, 570*

HCR 117*, 148

HJR 13, 15, 137*

HR 17, 20, 21, 49*, 62, 132, 166, 182, 209, 219, 221*, 241, 248

HB 234: HFA(1)

WILKEY, ROB

HB 1, 2, 3*, 4, 5, 7, 16*, 17, 66, 191*, 219, 225*, 226*, 227*, 228*, 305, 306, 309, 326, 332, 356, 363*, 364*, 365*, 403*, 407*, 426*, 465*, 467, 520, 539*, 568*

HCR 139*, 148

HJR 5*

HR 17, 20, 21, 62, 78, 129*, 132, 182, 209, 241, 248

HB 1: HFA(4); HB 124: HFA(1); HB 374: HFA(1); HB 443: HFA(1)

WUCHNER, ADDIA

HB 11, 23, 26, 51, 63, 66, 80, 88, 97, 156, 174, 187, 189*, 195, 211, 218, 238, 291, 299*, 343, 347, 349, 354, 390, 413, 431*, 445, 462, 469, 505, 549

HCR 163*

HR 17, 20, 21, 40, 62, 64*, 92*, 123*, 166, 182, 209, 211, 215, 219, 241, 246, 248

HB 67: HFA(1); HB 70: HFA(1); HB 299: HFA(1); HB 345: HFA(1), (3); HB 352: HFA(1), (2)

YONTS, BRENT

HB 1, 2, 3, 4, 5, 6, 7, 8*, 17, 62, 64, 70, 75, 131*, 132*, 133*, 134*, 135*, 137*, 149*, 207*, 226, 236*, 244, 295, 305, 339, 352, 362, 370, 452*, 490*

HCR 46*

HR 17, 20, 21, 45*, 62, 132, 169, 182, 209, 241, 248

HB 62: HFA(1); HB 137: HFA(1); HB 140: HFA(1); HB 207: HFA(2); HB 490: HFA(1), (2)

Accountants

Board of Accountants, scope of jurisdiction - HB 259
Uniform Prudent Management of Institutional Funds Act, adoption of - HB 515

Actuarial Analysis

Classified employees, job benefits - HB 210
Kentucky
Retirement Systems, definitions of hazardous duty - HB 545
Teachers Retirement Systems, increase for death in the line of duty benefits - HB 511
Retirement,
defined contribution plan for employees hired on or after July 1, 2009 - HB 331
high-three final compensation and 2.2 percent benefit factor extension - HB 223, 414, 486, 538
high-three final compensation and 2.2 percent factor extension - HB 223
high-three final compensation and 2.2. percent benefit factor extension - HB 418
School board member, service credit for retirement - HB 267
Senior status judge program, sunseting of - HB 465
Social services employees, participation in hazardous duty retirement - HB 52
Solid waste employees, hazardous duty retirement coverage - HB 247
State retirement systems, the Sudan, divestment of investments in - HB 25
Teachers' Retirement System, omnibus revisions - HB 461

Administrative Regulations and Proceedings

Boxing administrative regulations, Greg Page Boxing and Safety Initiative, recognition as - HCR 194
Cab. for Health & Family Services, Mental Health & Substance Abuse, compulsive gamblers fund - HB 41
Dieticians and nutritionists board, mandate for administrative regulations to be promulgated by - SB 156
Education Professional Standards Board to promulgate - SB 2
Finance and Administration Cabinet, state contractors, equal employment opportunity requirements for - HB 181
Franklin Circuit Court, creation of alternative concurrent jurisdiction - SB 75
Gaming
commission, regulatory agency - HB 546
commission, regulatory agency established - HB 27
Kentucky
Board of Education, drug testing for school employees - HB 408
Board of Education, illness-related low attendance days - HB 440
Board of Education, Kentucky financial literacy trust fund, application and disbursal - HB 346
Board of Education, physical activity requirement, administrative regulations for - HB 299
Board of Education, student physical activity requirements - SB 110
Heritage Council, expanded regulatory power of - HB 118
State Use Commission, authorization to promulgate administrative regulations by - HB 23
Long-term care partnership insurance program, Office of Insurance - HB 126
Office of Charitable Gaming, review of regulations promulgated by - SB 212
Orthotics, prosthetics, and pedorthics, promulgate administrative regulations to govern practice of - SB 30
Outpatient data reporting, required by hospitals - HB 445
Personnel Cabinet, work-related dispute resolution methods, development of - HB 62
Railroads, safe walkways, provision for - HB 172
Real
estate broker escrow account violations, emergency hearing for allegations of - HB 86
Estate Commission, required post-license education course - HB 65

Advertising

Academic degree, forgery of, Class D felony - HB 175
Alcoholic beverage advertising ban, exception created - SB 29
Automotive mobility dealer, permit to advertise if licensed - HB 389
Billboards, establish vegetation control permit - SB 155
Immigration assistance services, misleading advertisements proscription on - HB 166
Legal notices, public broadcast, study of - HCR 155
Motor vehicle renting companies, allow to charge daily vehicle license recovery fees - HB 310
Planning and zoning notices, allow use of first-class mail for - HB 496
Practitioner of healing arts, advertising by - HB 424
Telephone directories, misrepresentation of location of floral businesses, prohibition - HB 246
Unsolicited fax, prohibitions and penalty - HB 437

Aeronautics and Aviation

Capital City Airport, transfer operational control to Transportation Cabinet - SB 59

Aged Persons and Aging

Adapted motor vehicles, license dealers of - HB 389
Alzheimer's disease, direct study of service delivery for - HJR 13
Alzheimer's, direct the Cabinet for Health and Family Services to assess - SJR 6
Assault on the elderly, penalty enhancement - HB 77
Chronic obstructive pulmonary disease, initiatives for - HR 49
Continuing care retirement community, nursing home bed sunset clause, removal of - HB 282
Department for Aging and Independent Living, creation of - SB 79
Diabetes, prevention, control, and treatment of - HB 406
I-SaveRx Internet program, cooperative agreement with - HB 256
Kentucky
Farmers Market Nutrition Program, creation of - SB 25
Golden alert system, establish for missing impaired adult - HB 142
Long-term
care facilities, nurse staffing requirements, establishment of - HB 290
care facilities, training, policies and services for dementia - HB 141
care partnership insurance program, establishment - HB 126
Medicare prescription drug benefit, improvements in - HR 125
Office of Inspector General, licensure inspections, provide results to news media - HB 463
Prescription drug importation from foreign countries, provisions for - HB 252
Senior Center, Campbell County, honoring - HR 193
Universal health care, urge Congress to support policies to provide - HCR 6

Agriculture

Agricultural
Development Board, membership, changes to - HB 289
Development Board, Vickie Yates Brown, reappointment to - HCR 33
Development Board, Wayne Hunt, reappointment to - HCR 30
Development Board, Wayne Mattingly, appointment to - HCR 28
district, requirements for - HB 202
Agroterrorism, penalties for - HB 350
American Saddlebred Day, proclamation of - HR 231
ATV Usage Taskforce, establishment of - HJR 14
Cloned food products, labeling of - HCR 163
Cotton, referendum, procedures for - HB 192
Coyotes,
buying and selling, conditions for - HB 231
regulation of - HR 205
Emergency Action Plans for impoundments, promulgate administrative regulations for - HJR 130
Equine health permits, encourage to coincide - HCR 148
Farm equipment, maximum width for annual overdimensional permit, increase of - HB 182
Farmers markets, preparation and serving of ready-to-eat foods at - HB 120
Fertilizer regulation, declare state preemption - SB 91; HB 399
Floyds Fork Water Resources Council, establishment of - HB 435
Food Checkout Day, recognition of - HR 62
Fort Harrod Beef Festival, recognition of - HR 179
Horse
sales, commission ensues, conditions predicated - HB 367
sales, medical conditions and ownership disclosure required - HB 388
Kentucky Wine and Vine Festival, official designation of - HB 283
Noncitizen workers, study of - HCR 127; HR 223
Rock fences, preservation and construction of - HB 108
Show cattle, exhibiting of - HB 203
Soil and Water Conservation districts, infrastructure, loans and grants for - SB 92; HB 136
Spay/neuter,
require for adoption, release - HB 270
urge formation of working group on - HR 222
Special districts, raise audit maximum - HB 448
State Rural Development Council, creation, feasibility of - HCR 47
Tobacco
packages, allow moisture devices for - HB 449

Agriculture Continued

products and cigarettes purchases on behalf of minors, prohibition on - HB 567
Task Force, reauthorize - HR 78
Unauthorized alien, prohibit employment of - HB 148
Unpasteurized milk, regulation of - HB 298
White City Wildlife Management Area, renaming of - HJR 23

Alcoholic Beverages

Advertising ban, exemption for items sent to customer's residence - SB 29
Alcohol vaporizing device, sale and use ban - HB 125
Distilled spirits retail drink license, eligibility for - HB 340
DUI, court order requiring blood or urine test, removal of statutory right to consult attorney - HB 34
Election days, after 12 noon, permit sale of - HB 341
Kentucky Wine and Vine Festival, official designation of - HB 283
Sales at qualified historic sites, local option elections for - HB 138
State parks, wine and malt beverage sales, local option election authorized - HB 391

Alcoholism

National Alcohol and Drug Addiction Recovery Month, declare - HR 198
Pretrial diversion, alcohol or substance abuse - SB 34

Amusements and Recreation

Charitable gaming, regulation of - SB 212
Create task force to study charitable gaming oversight - HCR 9
Sexually oriented business, prohibit a semi-nude employee from being within six feet of a patron - SB 95

Animals, Livestock, and Poultry

Agroterrorism, penalties for - HB 350
American Saddlebred Day, proclamation of - HR 231
Animal cruelty, amend to include shelter from elements - HB 450
Assistance dogs, medical treatment of - SB 23
Bloodstock agent and equine consignor licenses, establishment of - HB 497
Cloned food products, labeling of - HCR 163
Coyotes,
 buying and selling, conditions for - HB 231
 regulation of - HR 205
Cruelty to, maintenance fees and forfeiture - HB 74
Cruelty, ownership, prohibition and forfeiture of - HB 93
Dairy, unpasteurized milk, regulation of - HB 298
Dog or cat, redefine torture of, increase penalty for - HB 475
Equine health permits, encourage similar time frames - HCR 148
Euthanasia, approval required for - HB 49
Horse
 sales, contracts, enforcement of, conditions predicated - HB 367
 sales, medical conditions and ownership disclosure required - HB 388
Interlocal agreements, aid for counties in animal control - HB 116
Local government, limitation on certain regulations - HB 375
Shelters, spay/neuter, require for adoption, release - HB 270
Show cattle, exhibiting of - HB 203
Spay Day commemoration, recognize - HR 80
Spay/neuter, urge formation of working group on - HR 222
Veterinarian volunteers, registration of out-of-state licensed - HB 287

Annexation

Court action to void annexation, filing of judgment with Secretary of State - HB 451

Appropriations

06 HB 380, state/executive branch budget bill, amendments to - HB 327
Budget, uniform forms to be used - HB 559
Casino gaming net profits, distribution of - HB 27, 546
Claims bills - HB 312
Compulsive gamblers awareness and treatment fund, funding mechanism, creation of - HB 41
Gross Revenues and Excise Tax Fund, increase - HB 80
Kentucky Cardiovascular Disease Initiative - HB 185
Line-item vetoes, 2006 General Assembly, restoration of - HB 1
Postsecondary institutions, debt issuance by - HB 332
Property valuation administrator salaries - HB 446
Public Service Student Law Loan Program - HB 226
Reporting requirements for, publication of - HB 159
Retirement Systems, appropriations for - HB 419
Revolving trust and agency account for HVAC permit office - SB 10
Runoff primaries, payment of - HB 476
SEEK, excess funds, allocation of - HB 326
Show cattle, funding for - HB 203
University
 of Kentucky employees, one-time bonus - HB 544
 of Louisville equine industry program, funding increased - HB 40
 of Louisville Stadium Expansion, authorization of - HB 416
Withdrawals from State Treasury for refund of certain tax claims, prohibition of - HB 316

Arbitration

Conflict Resolution Week in Kentucky, declaration of - HJR 118
Medical malpractice, constitutional amendment - HB 505

Architects

Uniform state building permit, provisions for - HB 372

Archives and Records

DNA collection, any felony - HB 507

Arts and Crafts

Bluegrass music, designation as official state music - HB 71
Louisville Orchestra, designation as official state orchestra - HB 173

Associations

Board of Accountants, professional organization membership authorized - HB 259
Charitable Gaming Advisory Commission, membership - HB 180
Kentucky Psychological Association, honor - HR 175

Athletics

Boxing administrative regulations, Greg Page Boxing and Safety Initiative, recognition as - HCR 194
Brandon Webb, naming of highway in honor of in city of Ashland - HJR 52
High school athletics, exemption to eligibility requirements - HB 380
Honor
 Brandon Webb, 2006 NL Cy Young Winner - HR 24
 Mercer Co. Football, 2006 KHSAA Class 2A Champs - HR 161
 U of L football team, 2007 Orange Bowl champions - HR 39
 UK football, 2006 Music City Bowl champions - HR 149
Interscholastic athletic program, cooperative agreement for - HB 409
June Buchanan School boys basketball team, honor as 14th Region champions - HR 230
Scott County Cardinals, 2007 KHSAA Boys Sweet 16 Champs, honor - HR 239
Smith, Orlando "Tubby," honor career as UK head basketball coach for public service - HR 248
Union County Braves, 2007 KHSAA Wrestling Champs, honor - HR 185

Attorney General

Attorney General, set fire-safe cigarette duties for - SB 134; HB 278
Charitable Gaming Advisory Commission, membership - HB 180
Credit cards, disclosures, consumer protection - HB 250
Death
 penalty task force, established - HCR 88
 Penalty, abolition of - HB 200
Gift cards, regulate - HB 254
Identity theft, data protection, omnibus revision - HB 7
Immigration assistance provider, Attorney General's Office, registration required - HB 166
Late loan payments, reporting of - HB 529
Long-term care insurance rates - HB 79
Medicaid fraud, civil and administrative proceedings for - HB 477
Reorganization, Department of Law, Attorney General Executive Order AG 05-01 - HB 190
Uniform Prudent Management of Institutional Funds Act, adoption of - HB 515
Unsolicited fax, prohibitions and penalty - HB 437

Attorney, Commonwealth's

Charitable Gaming Advisory Commission, membership - HB 180
Commonwealth detective, training - HB 78
Commonwealth's detective, training - HB 277
Death
 penalty task force, established - HCR 88
 Penalty, abolition of - HB 200
Detective, certified court security officers - SB 153
Detectives, certified court security officers - HB 427
DUI,
 amount and type of substances impairing driving ability - HB 149
 substances other than alcohol - SB 67
Expungement of records, Class D felony and misdemeanor - HB 16
Sexual offenses against minors, penalty increase - HB 548
Trials, time frame, cost of detention - HB 551

Attorney, County

County detective, training - HB 78, 277
Elected officials, salary upon reemployment after retirement - HB 132
Gift cards, regulate - HB 254
Trials, time frame, cost of detention - HB 551

Attorneys

Attorney fee, usury case - HB 274
Certificates of delinquency, limitation on attorney fees - HB 171
Child support, increase minimum amount of - HB 369
Conflict Resolution Week in Kentucky, declaration of - HJR 118
County law libraries, location and material of - HB 273
Death
 penalty task force, established - HCR 88
 Penalty, abolition of - HB 200
DUI,
 amount and type of substances impairing driving ability - HB 149
 substances other than alcohol - SB 67
Durable power of attorney - HB 275
Medicaid fraud, civil and administrative proceedings for - HB 477
Public Service Student Law Loan Program - HB 226
Uniform Prudent Management of Institutional Funds Act, adoption of - HB 515
Workers'
 compensation, attorney fee increase - HB 491
 compensation, fees for medical disputes - HB 495

Auctioneers

Tax collection, charitable auctions - HB 24
Theft by deception, bad checks - HB 217

Auditor of Public Accounts

Reorganization, confirmation of APA Executive Order #06-01 - HB 325
Representative included in task force to study charitable gaming - HCR 9

Audits and Auditors

Uniform Prudent Management of Institutional Funds Act, adoption of - HB 515

Bail and Pretrial Release

Sexual offenses, HIV testing upon victim's request, required - HB 528

Banks and Financial Institutions

Attorney fee, usury case - HB 274
Bank robbery, violent offender status - HB 84
Consumer credit, disclosures - HB 260
Credit cards, disclosures, consumer protection - HB 250
Deferred deposit transactions, limitation on fees charged to members of military - HB 92
Delinquent taxes, seizure of financial assets - HB 443
Industrial
 loan corporation, restrictions - HB 366
 loan corporations, commercial activity - HB 366
Late loan payments, reporting of - HB 529
Prepayment fees or penalties, limitation on - HB 90
Require notification to state local debt officer when entering into specified financial obligations - HB 281
State depositories, collateral - HB 523
Testamentary trustee, accounting requirement - HB 83
Uniform Prudent Management of Institutional Funds Act, adoption of - HB 515

Barbers and Cosmetologists

Cosmetologist board, examinations administered by and principal office of - SB 13

Blind or Deaf Persons

Kentucky State Use Commission, creation of - HB 23
Nonprofit agencies and work centers, government purchase from - HB 23

Boats and Boating

Barren River Lake, urge Corps of Engineers to increase depth of - HCR 139
Lake Barkley, increase boat safety on - HCR 12

Bonds of Surety

Execution bond, 30 day exemption for penalty granted - HB 514
Fiduciary, gender neutral language added - HB 564
Immigration assistance provider, conditions on practice, surety required - HB 166
Supersedeas bonds, limit on amount - HB 426

Bonds, Public

06 HB 380, state/executive branch budget bill, amendments to - HB 327
Bridges in Jefferson County, bond funds to build - HB 72
Department for Local Government, project authorization for - HB 404
Line-item vetoes, 2006 General Assembly, restoration of - HB 1
Postsecondary institutions, debt issuance by - HB 332
Require notification to state local debt officer when entering into specified financial obligations - HB 281

Budget and Financial Administration

06 HB 380, state/executive branch budget bill, amendments to - HB 327
Annual Report to Kentucky Taxpayers - HB 295
Audit ceiling, raise for special districts - HB 448
Budget
 Director, preparation of annual report to Kentucky taxpayers - HB 295
 reduction, state employees, salaries of - HB 31
Budget, uniform forms to be used - HB 559

Budget and Financial Administration Continued

Charitable Asset Administration Board, abolished, duties transferred - SB 55
Claims bills - HB 312
Department
 for Local Government, oversight of projects using state funds - SB 143
 for Local Government, project authorization for - HB 404
Finance and Administration Cabinet, reorganization of - SB 55
ICARE, cancer screenings, provide for - HB 410
Information Sharing with the Legislative Research Commission - HB 359
Kentucky Cardiovascular Disease Initiative and board, appointments - HB 185
Ky. Savings Bond Authority, abolished - SB 55
Line-item vetoes, 2006 General Assembly, restoration of - HB 1
Nicholas Hildreth School, move of - HB 129
Postsecondary institutions, debt issuance by - HB 332
Procurement Advisory Council, abolished - SB 55
Retirement Systems, appropriations for - HB 419
Runoff primaries, payment of - HB 476
SEEK, excess funds, allocation of - HB 326
Single county coal severance projects, funding of - HB 500
State
 employees, salary increases for - HB 31
 Investment Commission, the Sudan, divestment of investments i - HB 25
 proceeds from a judgment or settlement, administration and disbursement by Controller - SB 55
Tax
 increment financing, establish new programs - HB 349, 549
 increment financing, establish new programs for second class cities - HB 539
Tax, limestone, manufacturers - HB 568
Tax-me-more account in General Fund, creation of - HB 47
University
 of Kentucky employees, one-time bonus - HB 544
 of Louisville Stadium Expansion, authorization of - HB 416

Campaign Finance

Commercials by statewide candidates, using state funds, prohibition of - HB 395
Contributions, expenditures, and reporting, changes to - SB 159
General Assembly candidates, public financing for - HB 55
Lieutenant Governor, nomination of, delay until after primary - HB 488
Transporters of voters to polls, requirements of - HB 501

Capital Construction

06 HB 380, state/executive branch budget bill, amendments to - HB 327
City receipt of funds from consolidated local government for capital improvements - SB 36
Line-item vetoes, 2006 General Assembly, restoration of - HB 1
Postsecondary institutions, debt issuance by - HB 332
Prevailing
 wage project, median wage payment required - HB 456
 wage projects, locality redefined - HB 455
 wage projects, requirements for bid proposals - HB 453
School Facilities Construction Commission, members - HB 562
State contractors, equal employment opportunity requirements for - HB 181
University of Louisville Stadium Expansion, authorization of - HB 416

Cemeteries and Burials

Historic or prehistoric remains on property, procedure for disposition of - HB 118
Human remains and burial objects, archaeological sites; require access permit for - HB 117
Interference with a funeral, elements of offense - HB 343

Chambers of Commerce

Workers' compensation, independent contractor certificate - SB 190

Charitable Organizations and Institutions

Charitable

gaming gross receipts, partial funding for compulsive gamblers, requirement for - HB 41
 gaming, regulation of - SB 212
 Civic organization facility, sex offenders prohibited from residing within 1,000 feet of - HB 58
 Create task force to study charitable gaming - HCR 9
 Enforcement action, provide guidelines - HB 156
 Gaming sites, location of - HB 180
 Nonprofit agencies and work centers, government purchase from - HB 23
 Uniform Prudent Management of Institutional Funds Act, adoption of - HB 515

Children and Minors

Attendance records of transferring students, make cumulative for determining truancy - HB 145
Autism
 Spectrum Disorders work group, appointment of - HJR 144
 spectrum disorders, health coverage for - HB 91
 spectrum disorders, screening for, manual on - HB 109
 Awarding child custody, consideration of - HB 382
 Bicycles, helmet use required for persons under the age of 16 - HB 169
 Breast-feeding, excused from jury duty - HB 241
Child
 booster seats, required use - HB 53
 care centers, drug screening of applicants required by - HB 151
 support, increase minimum amount of - HB 369
 welfare, training judges on - HB 199
 Child-care center rating system, licensing requirement for - HB 234
 Civic organization facility, sex offenders prohibited from residing within 1,000 feet of - HB 58
Compulsory
 school age, raising from 16 to 18 - HB 221
 school age, raising from sixteen to seventeen - HB 279
 Covenant Marriage, create the option of entering into - HB 110
Criminal
 and juvenile matters, omnibus revision - HB 358
 history record checks, conduct of - HB 264, 308
 Crohn's disease, urge awareness
 of - HCR 141
 Family resource youth services centers, specify requirements for - SB 86
 Foster parents, required physical exams and tests, reimbursement for - HB 314
 Friedrich's Ataxia Awareness Day, third Saturday in May recognized as - HR 123
High
 school athletics, exemption to eligibility requirements - HB 380
 school day start time, establish - HB 436
 Holocaust, include study of in public school curriculum - HJR 11
 Honor Azia Inman Meeks, recipient of the first annual Ann Braden Humanitarian Award - HR 187
 Human trafficking - SB 43
 Immunization, human papillomavirus, middle school children - HB 143, 345
 Jury service, excusal for breastfeeding mothers - SB 111
 Names, petition for change, restrictions - SB 3
 Nurseries, Level II, III, and IV, annual review of - HB 112
 Office of the Ombudsman, Cabinet for Health and Family Services to support - HJR 137
 Operator's & Intermediate licenses and permits, requirements for - HB 32
 Parent education program, development and implementation of - HB 512
 Physical activity, requirement of - SB 110; HB 299
 Promoting prostitution in the first degree, increase penalties for - HB 163
 Public morals offenses, establish crime of public indecency - HB 338
 Putative father registry, creation of - SB 140
 Report on removal of children and termination of parental rights by state, study of - HCR 76
 Scholarship Program, Students with Special Needs - HB 30
 School nonattendance, custody and detention of school age children for - HB 309
Sexual
 conduct prohibited between certain criminal justice system employees and juvenile - HB 140
 offenses against minors, penalty increase - HB 548
 offenses, procuring of minors via an electronic communications system - HB 438
State

Children and Minors Continued

agencies and Bluegrass Community and Technical College, urge collaboration between - HR 133
agencies and Kentucky Community and Technical College System, collaboration between - HR 156
Children's Health Insurance Program, urge reauthorization of - HCR 117
Student harassment, intimidation, or bullying, definition of and protection from - HB 64
Study of state adoption laws, establish task force for - HCR 67
Visitation, allegations of abuse or neglect - HB 20

Circuit Clerks

Court action to void annexation, filing of judgment with Secretary of State - HB 451
Driver's license testing, extended hours of operation - HB 43
Identification card for homeless, provide for - HB 253
Notice, allegations of abuse or neglect - HB 20
Protection orders, transfer of - SB 4
Social worker safety, improvements for - HB 362

Cities

Animals, limitation on certain regulations - HB 375
Assault, third degree, attack on elected official - HB 165
Code enforcement boards, to have a minimum of three members - HB 297
Contracts, verification of employment eligibility - HB 33, 44
Court action to void annexation, filing of judgment with Secretary of State - HB 451
Department for Local Government, oversight of projects using state funds - SB 143
Documented vessels, exempt from local taxation - HB 466
Elected officials, salary upon reemployment after retirement - HB 132
Eminent domain, authority and procedure - HB 458
English language, utilization of - HB 12
Fire protection boundaries, amendment by ordinance - HB 168
First class, land use provisions, citing of violations - HB 444
HVAC installations, permitting - SB 10
Identity theft, data protection, omnibus revision - HB 7
Insurance premiums tax, clarify powers of local governments - HB 371
Interlocal agreements with area planning commission for certain services - HB 355
Internal Revenue Service agents, inclusion of as Kentucky peace officers - HB 194
Legal notices, public broadcast, study of - HCR 155
Line-item vetoes, 2006 General Assembly, restoration of - HB 1
Local
occupational tax, update Internal Revenue Code reference date for - HB 258
option elections, alcoholic beverage sales at qualified historic sites - HB 138
or federal public benefits, verify eligibility for - HB 162
parks, transient room tax, allowed to support - HB 534
Nuisance liens, priority of - HB 489
Nuisances, nonoperative motor vehicles - HB 472
Oath of office and bond, 30 day exemption for penalty granted - HB 514
Occupational license tax, offset provisions - HB 307
Planning and zoning notices, allow use of first-class mail for - HB 496
Premium tax, study of - HJR 10
Property tax bills, preparation of bills below threshold amount - HB 384
Public funds, collateral - HB 523
Receipt of funds from consolidated local government for capital improvements - SB 36
Require notification to state local debt officer when entering into specified financial obligations - HB 281
Runoff elections, elimination of - HB 224
Tax
increment financing - HB 530
increment financing, establish new programs - HB 349, 549
Uniform
emergency volunteer health practitioners act, provision for - HB 287
financial information reports - SB 60
state building permit, provisions for - HB 372
Volunteer firefighters, civil offices not incompatible with - HB 107
Voter verified paper audit trail, requirement of - HB 415
Water districts, extension and formation of - SB 96
Workers' compensation self-insurance, public sector employers exempt from security requirement - SB 203; HB 296

Cities, Classification

Crestview Hills, fifth to fourth class - SB 113; HB 177

Cities, First Class

Economic development, establish incentive program for - HB 536
Floyds Fork Water Resources Council, establishment of - HB 435
Planning and Zoning, land use provisions, issuing citation for violation - HB 444
Tax Increment Financing, amend provisions - HB 393
Transient Room Tax, allow pledge for qualifying TIF project - HB 393

Cities, Second Class

Permit creation of pilot project tax increment financing district - HB 413
Tax increment financing, establish new programs - HB 539

Civil Actions

Conflict Resolution Week in Kentucky, declaration of - HJR 118
Consortium, loss of, action for - HB 403
Contempt, failure to perform jury service - HB 425
Costs, award to prevailing party - HB 29
Creditor to be made defendant - HB 422
Damages recoverable, General Assembly may limit - HB 300
Dating violence, availability of domestic violence protective orders - HB 396
Divorce
 and domestic violence protective orders - SB 4
 and separation requirements, covenant marriage, create the option of entering into - HB 110
Eminent domain, authority and procedure - HB 458
Employer's duties, jury service - HB 423
Establishment
 Clause, civil actions relating to - HB 19
 Clause, claims relating to - HR 4
Eviction of manufactured home residents, good cause required - HB 157
Fiduciary, gender neutral language added - HB 564
Franklin Circuit Court, creation of alternative concurrent jurisdiction - SB 75
Horse sales, enforcement of contract for commission, conditions warranting - HB 367
Judgment, interest on - HB 368
Landlord-tenant relations, litigation relating to - HB 139
Limitation
 of action in wrongful death - HB 434
 of damages for failure to maintain motor vehicle insurance - HB 22
Medicaid fraud, civil proceedings for - HB 477
Medical malpractice, constitutional amendment - HB 505
Nuisance liens, priority of - HB 489
Nuisance, private - HB 365
Sexual offenses, noncontact, restraining order - HB 322
Silica and mixed dust claims, procedures for - HB 417
Small claims division, jurisdictional increase - HB 198
Summons, issuing in condemnation case - HB 421
Supersedeas bonds, limit on amount - HB 426
Voting rights, wards and guardians - HB 374
Workers' compensation, tort actions for negligence - HB 303, 398
Wrongful death, motor vehicle accident, contact not required - HB 271

Civil Procedure

Breast-feeding, excused from jury duty - HB 241
Conflict Resolution Week in Kentucky, declaration of - HJR 118
Dating violence, availability of domestic violence protective orders - HB 396
Eminent domain, authority and procedure - HB 458
Eviction of manufactured home residents, good cause required - HB 157
Franklin Circuit Court, creation of alternative concurrent jurisdiction - SB 75
Landlord-tenant relations, litigation relating to - HB 139
Medicaid fraud, civil proceedings for - HB 477
Medical malpractice, constitutional amendment - HB 505

Civil Procedure Continued

Notary publics - HB 248
Nuisance liens, priority of - HB 489
Silica and mixed dust claims, procedures for - HB 417
Summons, issuing in condemnation case - HB 421
Voting rights, wards and guardians - HB 374

Civil Rights

Abortion, no right created - HB 251
Death Penalty, abolition of - HB 200
Establishment
 Clause, civil actions relating to - HB 19
 Clause, claims relating to - HR 4
Flag
 desecration likely to produce breach of peace, prohibit - HB 28
 of the United States, display of - HB 13
Interference with a funeral, elements of offense - HB 343
Parks and recreation, repeal section relating to colored and white park systems - HB 115
Restoration, eligible felony offenders - HB 67
State contractors, equal employment opportunity requirements for - HB 181
Student harassment, intimidation, or bullying, protection from - HB 64
Voting rights, wards and guardians - HB 374

Claims

Commonwealth's consent to suit for certain tax refund claims, revocation of - HB 316
Establishment
 Clause, civil actions relating to - HB 19
 Clause, claims relating to - HR 4

Clergy

Death penalty task force, established - HCR 88
Full Gospel House churches, honoring - HR 240

Coal

Abandoned Mine Land Program, reclamation projects, project finance for - SB 187
Coal incentive credit, alternative fuel or renewable energy facility - HB 5
Economic revitalization project - HB 69
Extended weight permits, clarify language on multi-axle permits - HB 161
Industrial energy facilities, permitting for - SB 196
Line-item vetoes, 2006 General Assembly, restoration of - HB 1
Mine safety, requirements and penalties for - HB 207
Miner certification, reciprocal agreement with other states, allowance of - SB 47; HB 186
Shippers and receivers, require weight reporting to vehicle enforcement - HB 454
Single county coal severance projects, funding of - HB 500
Surface mines, original contour restoration and overburden disposal requirements, make changes to - HB 385
Workers' compensation, black lung revisions - HB 452

Collective Bargaining

Conflict Resolution Week in Kentucky, declaration of - HJR 118
Employee
 Free Choice Act, urge Congress to enact - HR 169
 Free Choice Act, urge the U.S. Senate to defeat - HR 212
Labor organization, mandatory membership or financial support prohibited, penalty - HB 328
Public employees, collective bargaining, authorized for - HB 318

Commendations and Recognitions

"Ronald Reagan Day," recognizing - HR 64
Abraham Bantar and persecuted Indonesians, honoring - HR 238
Akridge, Angela Lynn, honoring - HR 138
Armed Forces Appreciation Month, recognize May as - HR 235
Bert T. Combs, statue, erection of - HJR 84

Commendations and Recognitions Continued

Bowling Green, designation as the birthplace of newgrass music - HB 294
 Brown, Dale, honoring as 2006 NAGE Administrator of the Year - HR 189
 Career and Technical Education Month, commemorating - HR 129
 Collett, Officer Landry, honoring for awards received for apprehending impaired drivers - HR 132
 Commendation, Greg Page, boxer safety - HCR 194
 Coran, Commander Jeffrey S., honoring - HR 234
 Crofton Elementary School, recognize students - HR 226
 Crutcher, Jackie, honoring - HR 241
 Cynthiana Lions Club, salute on the occasion of the fiftieth anniversary of its radio auction - HR 168
 Davis, Bruce K., Esq., recognizing and honoring - HR 221
 Dunn, Ronnie, honoring - HR 128
 Edwards, Elizabeth, expressing concern for her health and prayers for her recovery - HR 237
 Ford, Bryan Ross, commendation - HR 244
 Gebremeskel, Dr. Kiflu, and Hagos, Pastor Tesfatsion - HR 240
 Girl Scouts of Kentuckiana, honoring - HR 219
 Gray, Sandra C., president of Asbury College, honoring - HR 232
 Green, Jesse R., erect signs in honor of in Marshall County - HJR 66
 Gross Clay Lindsay Henderson County Judicial Center - HJR 5
 Harriet Tubman Day, designating - HR 157
 Harris, Ryan Christopher, naming law after - HJR 145
 Honor
 Mercer Co. Football, 2006 KHSAA Class 2A Champs - HR 161
 Mercer Co. Marching Band, 2006 KMEA Class AA Champs - HR 162
 U of L football team, 2007 Orange Bowl champions - HR 39
 UK football, 2006 Music City Bowl champions - HR 149
 Howard, Daniel B., honoring - HR 249
 Hughes, Patrick Henry, honoring - HR 20
 Hussung, Lisa, honor as Kentucky Elementary School Music Teacher of the Year - HR 63
 June Buchanan School boys basketball team, honor as 14th Region champions - HR 230
 Kentucky
 Hospice Day, declared as February 20, 2008 - HR 135
 State University, honoring - HR 65
 Kentucky's rape crisis centers and Sexual Assault Awareness Month, recognize and honor - HR 166
 KY Association of Manufacturers Day, proclaiming February 12, 2007 - HR 121
 Lawrence P. Emberton, M.D., honoring and commending - HR 124
 Longaker, Rosalee A., honoring - HR 245
 Meeks, Azia Inman, recipient of the first annual Ann Braden Humanitarian Award, honor - HR 187
 Military rank, awards, and decorations, fraudulent claim - HB 342
 Morehead State Public Radio, saluting - HR 100
 National
 Alcohol and Drug Addiction Recovery Month, declare - HR 198
 board certified teachers, honor Kentucky's newly certified - HR 207
 Donate Life Month, declare - HR 192
 Navy Chaplain Corps and Chaplain Gordon Klingenschmitt, honoring - HR 208
 Nein, Staff Sergeant Timothy F., honoring - HR 209
 Ninth Street Baptist Church, Covington, honoring - HR 218
 Payne, Paula, recognize and honor - HR 182
 Pelosi, Speaker Nancy, honoring - HR 41
 Roach, Sanford T., honoring - HR 170
 Roemele, Colonel Fred, honoring - HR 37
 Rose, Mr. Don, honoring - HR 178
 Sam Bush, designation as Father of Newgrass Music in the Commonwealth - HB 294
 Schrader, Glenna Cox, honoring - HR 57
 Scott County Cardinals, 2007 KHSAA Boys Sweet 16 Champs, honor - HR 239
 Sebree, Rev. George W., honoring - HR 242
 Senior Center, Campbell County, honoring - HR 193
 Smith,
 Lawrence T., honoring - HR 173
 Orlando "Tubby," honor career as UK head basketball coach for public service - HR 248
 Spay Day commemoration, recognize - HR 80
 Tuskegee Airmen, designate I-75 in honor of - HJR 15

Commendations and Recognitions Continued

Union County High School Braves, 2007 KHSAA Wrestling Champs, honor - HR 185
UPS, commemoration of 100th anniversary of - HCR 120
Weaver, Alice, honoring - HR 153
Webb, Brandon, 2006 NL Cy Young Winner - HR 24
Winkle, Petty Officer First Class Kelly, honoring - HR 225, 229

Commerce

Alcohol vaporizing device, sale and use ban - HB 125
Cabinet for Economic Development, KIDA and KREDA, ground lease - HB 485
Cigarettes, establish fire-safe standards - SB 134; HB 278
Economic development incentives, project requirements - HB 462
Election days alcoholic beverages, after 12 noon, permit sale of - HB 341
Fertilizer regulation, limit local authority in - SB 91; HB 399
Floral businesses, misrepresentation of location in telephone directories, prohibition - HB 246
KY Association of Manufacturers Day, proclaiming February 12, 2007 - HR 121
Line-item vetoes, 2006 General Assembly, restoration of - HB 1
Making telephone solicitations to wireless telephone numbers, prohibition of - HB 433
Self-contained storage units, rights and duties regarding lease of - HB 245
Sexually oriented business, prohibit a semi-nude employee from being within six feet of a patron - SB 95
Uniform Prudent Management of Institutional Funds Act, adoption of - HB 515
Unsolicited fax, prohibitions and penalty - HB 437

Communications

Cellular telephone, prohibiting use of - HB 230
ConnectKentucky, recognize as Ky's telecommunications and information technology resource - HCR 126
Kentucky Golden alert system, establish for missing impaired adult - HB 142
Making telephone solicitations to wireless telephone numbers, prohibition of - HB 433
Sex offender, internet identity registration - SB 65
Telemarketing, replacement of state-maintained no-call list by national list - HB 430
Wireless device, prohibit use while operating a motor vehicle - HB 301

Confirmation of Appointments

Agricultural
Development Board, Vickie Yates Brown, reappointment to - HCR 33
Development Board, Wayne Hunt, reappointment to - HCR 30
Development Board, Wayne Mattingly, appointment to - HCR 28
Education
Professional Standards Board, appointment of Cynthia W. York to - HCR 31
Professional Standards Board, appointment of Franklin D. Cheatham to - HCR 29
Gibbons, Judith H., Kentucky Board of Education - HCR 26
Smith, Zenaida M., Education Professional Standards Board - HCR 32

Conflict of Interest

Boards
and commissions, conflict of interest provisions - HB 439
and commissions, policy-making and regulatory, various provisions - HB 439
Contracts with postsecondary institutions, permit board approval of employee interest in - SB 130

Consolidated Local Governments

Animals, limitation on certain regulations - HB 375
Fire department merit boards, establish - HB 201
HVAC installations, permitting - SB 10
Legal notices, public broadcast, study of - HCR 155
Local or federal public benefits, verify eligibility for - HB 162
Nuisances, nonoperative motor vehicles - HB 472
Planning
and zoning notices, allow use of first-class mail for - HB 496
and Zoning, land use provisions, issuing citation for violation - HB 444
Promotion of police, seniority and excess applicants, process for dealing with - SB 100

Consolidated Local Governments Continued

Uniform

financial information reports - SB 60

state building permit, provisions for - HB 372

Use of funds for capital improvements in cities in county boundaries - SB 36

Constables

Eviction of manufactured home residents, constable required to wait - HB 157

Qualified constables and deputy constables, create certification process for, powers of - HB 556

Sheriff's fees, add constables in urban-county government - HB 526

Constitution, Ky.

Abortion, no right created - HB 251

Casino gaming and electronic gaming devices at racetracks, require approval for - HB 547

Damages recoverable, General Assembly may limit - HB 300

Death Penalty, abolition of - HB 200

Disabled veterans, propose amendment to allow exemption of property - HB 146

Establishment Clause, civil actions relating to - HB 19

Medical malpractice, constitutional amendment - HB 505

Pardons

and commutations of sentences, establish limits to - HB 3

and commutations of sentences, process for, change - HB 3

Voting

early, permitting to - HB 484

rights for felons, constitutional amendment to provide - HB 36

rights for felons, provide for - HB 70

Constitution, U.S.

Death Penalty, abolition of - HB 200

Equal representation for District of Columbia residents, support for - HR 136

Establishment

Clause, civil actions relating to - HB 19

Clause, claims relating to - HR 4

Presidential election by national popular vote, compact for - HB 550

Constitutional Officers

Burgin, Jean, elected chief clerk - p 9

Fritz, George, elected sergeant at arms - p 9

Goodwin, Bob, elected Janitor - p 9

Holder, Barry, elected cloakroom keeper - p 9

Morris, Sandi, elected assistant clerk - p 9

Nominations - p 9

Oath of Office - p 9

Smith, Frank, elected Janitor - p 9

Watts, Margaret, elected enrolling clerk - p 9

Whitaker, J. O., elected, chief doorkeeper - p 9

Consumer Affairs

Academic degree, forgery of, Class D felony - HB 175

Credit

cards, disclosures, consumer protection - HB 250

disclosures required - HB 260

Deferred deposit transactions, limitation on fees charged to members of military - HB 92

Ferrous and nonferrous metals, reporting purchase of - HB 82

Floral businesses, misrepresentation of location in telephone directories, prohibition - HB 246

Gasoline pricing, expressed only in whole cents - HB 304

Gift cards, regulate - HB 254

Health insurance, specified procedure or service, insured liability for - HB 255

Horse sales, medical conditions and ownership disclosure required - HB 388

Identity theft, data protection, omnibus revision - HB 7

Consumer Affairs Continued

Late loan payments, reporting of - HB 529
Making telephone solicitations to wireless telephone numbers, prohibition of - HB 433
Small claims division, jurisdictional increase - HB 198
Unsolicited fax, prohibitions and penalty - HB 437
Vending machines containing tobacco products, restrictions on contents - HB 567

Contracts

Bloodstock agent and equine consignor licenses, establishment of - HB 497
Construction, requirements and payment procedures - HB 490
Contracts with postsecondary institutions, permit board approval of employee interest in - SB 130
Dental services, contracting for continuation - SB 26
Government
Contract Review Committee, additional reporting to, and authority of - HB 356
contracts, requirements, review of - HB 8
contracts, verification of employment eligibility - HB 33, 44
purchasing from Prison Industries and nonprofit agencies and work centers - HB 23
Government, reporting and training requirements for - HB 356
Horse
sales, contract enforcement, conditions warranting - HB 367
sales, medical conditions and ownership disclosure required - HB 388
Privatization, extending application of - HB 356
Rental agreements for manufactured home residents, certain provisions prohibited - HB 157
Self-contained storage units, rights and duties regarding lease of - HB 245
State
contractors, equal employment opportunity requirements for - HB 181
contracts, verification of employment eligibility - HB 209

Cooperatives

Business entities, omnibus revision - HB 334

Coroners

Certificate of death, registered nurses and physician assistants authorized to sign - SB 198
Criminal and juvenile matters, omnibus revision - HB 358
Deputy
coroners, allow coroner to appoint up to two without fiscal court approval - HB 242
coroners, appointment of - HB 397

Corporations

Business entities, omnibus revision - HB 334
Consolidated groups, determination of taxable income of - HB 249
Includible corporations, limit on net operating loss of - HB 480
Limited
liability entity tax, repeal of - HB 87, 119
liability tax, repeal of - HB 88
Real estate investment trusts, clarify income of - HB 479
Reinstatement, unemployment insurance certificate required - SB 171
Uniform Prudent Management of Institutional Funds Act, adoption of - HB 515
UPS, commemoration of 100th anniversary of - HCR 120

Corrections and Correctional Facilities, State

06 HB 380, state/executive branch budget bill, amendments to - HB 327
Bank or credit union robbery, violent offender status - SB 139
Civil rights, restoration for eligible felony offenders - HB 67
Criminal and juvenile matters, omnibus revision - HB 358
Death
penalty task force, established - HCR 88
Penalty, abolition of - HB 200
Department of, Executive Orders 2006-496 and 2006-805 - SB 144
DNA collection, any felony - HB 507
Government purchasing from Prison Industries and nonprofit agencies and work centers - HB 23
Inmate accounts, transaction fee - HB 121

Corrections and Correctional Facilities, State Continued

Inmates and prisoners, prohibition on sexual conduct with - HB 140
Murder, registration of offenders - HB 15
Parolees, search of by peace officer - HB 205
Prison industries, recidivism reduction program - SB 42
Sex offender, registration - HB 320
Sexual offenses against minors, penalty increase - HB 548

Corrections Impact

Abuse of a corpse, increase penalty for - HB 117
Academic degree, forgery of, Class D felony - HB 175
Agroterrorism, penalties for - HB 350
Assault
 in the third degree, medical professionals - HB 176
 on the elderly, penalty enhancement - HB 77
Assault, third degree, attack on elected official - HB 165
Bank
 or credit union robbery, violent offender status - SB 139
 robbery, violent offender status - HB 84
Casino gaming and related occupations, licensing of - HB 546
Civic organization facility, sex offenders prohibited from residing within 1,000 feet of - HB 58
Concealed weapon, in vehicle - HB 302
Corrections, fees - HB 121
County jails, reimbursement for holding state prisoners before conviction - HB 187
Dating violence, availability of domestic violence protective orders - HB 396
Death
 penalty, abolition of - HB 200
 penalty, sentencing options - HB 98
DNA collection, any felony - HB 507
Dog or cat, redefine torture of, increase penalty for - HB 475
DUI,
 amount and type of substances impairing driving ability - HB 149
 substances other than alcohol - SB 67
Ferrous and nonferrous metals, reporting purchase of - HB 82
Historic or prehistoric remains on property, procedure for disposition of - HB 118
Homicide, driving while fatigued - HB 150
Identity theft, data protection, omnibus revision - HB 7
Immigrants, criminal justice provisions relating to - HB 164
Immigration, enforcement of federal law - HB 11
Internet pharmacies, drug offenses - SB 88
Labor organization, mandatory membership or financial support prohibited, penalty - HB 328
Leaving the scene of an accident, penalty increase - HB 76
Murder, registration of offenders - HB 15
Parolees, search of by peace officer - HB 205
Pretrial diversion, alcohol or substance abuse - SB 34
Prison
 Industries and nonprofit agencies and work centers, government purchase from - HB 23
 industries, recidivism reduction program - SB 42
Promoting prostitution in the first degree, increase penalties for - HB 163
Public morals offenses, establish crime of public indecency - HB 338
Racetracks and casinos, omnibus bill - HB 27, 107
Real estate brokers, various requirements for - HB 86
Sex offender, registration - HB 320
Sexual
 conduct prohibited, criminal justice system employees - HB 140
 offenses against minors, penalty increase - HB 548
 offenses, procuring minors via an electronic communications system - HB 438
Social worker, threatening of - HB 85
Theft by deception, bad checks - HB 217
Trials, time frame, cost of detention - HB 551

Counties

Animals, limitation on certain regulations - HB 375
Assault, third degree, attack on elected official - HB 165
CERS,
 high-three final compensation extension - HB 538
 increase for death in the line of duty benefits - HB 511
Certified court security officers - SB 153; HB 427
Code enforcement boards, to have a minimum of three members - HB 297
Consolidated local government of 1st class city therein, land use provisions, cit. for violation - HB 444
Contracts, verification of employment eligibility - HB 33, 44
Coroners, deputy coroners, appointment of - HB 397
Costs of detention, pretrial - HB 551
County
 jails, reimbursement for holding state prisoners before conviction - HB 187
 Officials Compensation Board, abolished - SB 55
Department for Local Government, oversight of projects using state funds - SB 143
Deputy coroners, allow coroner to appoint up to two without fiscal court approval - HB 242
Documented vessels, exempt from local taxation - HB 466
Elected
 officials, salary and benefits if reemployed after retirement - HB 317
 officials, salary upon reemployment after retirement - HB 132
Eminent domain, authority and procedure - HB 458
Employee health and life insurance, limit coverage and beneficiaries to family members - SB 152
English language, utilization of - HB 12
Fire protection boundaries, amendment by ordinance - HB 168
Fiscal Court, may serve as directors of road districts - HB 572
Floyds Fork Water Resources Council, establishment of - HB 435
Gross Clay Lindsay Henderson County Judicial Center - HJR 5
HVAC installations, permitting - SB 10
Identity theft, data protection, omnibus revision - HB 7
Insurance premiums tax, clarify powers of local governments - HB 371
Interlocal
 agreements with area planning commission for certain services - HB 355
 agreements, incentives for - HB 116
Internal Revenue Service agents, inclusion of as Kentucky peace officers - HB 194
Jail canteen accounts, annual appropriation - HB 114
Jailers, account settlement - HB 551
Kentucky Farmers Market Nutrition Program, collaboration development of - SB 25
Law libraries, location and material of - HB 273
Legal notices, public broadcast, study of - HCR 155
Line-item vetoes, 2006 General Assembly, restoration of - HB 1
Local
 occupational tax, update Internal Revenue Code reference date for - HB 258
 option elections, alcoholic beverage sales at qualified historic sites - HB 138
 or federal public benefits, verify eligibility for - HB 162
 parks, transient room tax, allowed to support - HB 534
Medical expenses incurred for prisoners, cap on reimbursements for - HB 357
Nuisances, nonoperative motor vehicles - HB 472
Oath
 of office and bond, 30 day exemption for penalty granted - HB 514
 of sheriff, who may administer - SB 145
Occupational license tax, impact of amendments to conform - HB 307
Persons in voting room, who permitted - HB 405
Planning and zoning notices, allow use of first-class mail for - HB 496
Premium tax, study of - HJR 10
Property tax bills, preparation of bills below threshold amount - HB 384
Qualified constables and deputy constables, create certification process for, powers of - HB 556
Red Fox Tri-County Cooperative Corporation, abolished - SB 55
Require notification to state local debt officer when entering into specified financial obligations - HB 281
Retirement,
 defined contribution plan for employees hired on or after July 1, 2009 - HB 331
 high-three extension for CERS nonhazardous employees - HB 223, 418
 high-three final compensating extension for CERS non-hazardous employees - HB 414
 high-three final compensation extension for CERS non-hazardous employees - HB 486

Counties Continued

Single county coal severance projects, funding of - HB 500
 Special districts, raise audit threshold - HB 448
 Tax increment financing, establish new programs - HB 349, 549
 Tire-derived fuel, exempt from solid waste definition, exemption of - SB 125
 Uniform
 emergency volunteer health practitioners act, provision for - HB 287
 financial information reports - SB 60
 state building permit, provisions for - HB 372
 Volunteer firefighters, civil offices not incompatible with - HB 107
 Water districts, extension and formation of - SB 96
 Workers' compensation self-insurance, public sector employers exempt from security requirement - SB 203; HB 296

Counties with Cities of the First Class

Tax Increment Financing, amend provisions - HB 393
 Transient Room Tax, allow pledge for qualifying TIF project - HB 393

Counties, Urban

Animals, limitation on certain regulations - HB 375
 Nuisances, nonoperative motor vehicles - HB 472
 Permit creation of pilot project tax increment financing district - HB 413
 Require notification to state local debt officer when entering into specified financial obligations - HB 281
 Retirement, insurance benefits for surviving spouse - HB 237
 Sheriff's fees, add constables in urban-county government - HB 526
 Solid waste employees, hazardous duty retirement coverage - HB 247
 Uniform financial information reports - SB 60

County Clerks

A slate of candidates in runoff, permitted to withdraw - HB 542
 Certificates of delinquency held by private purchaser, payment to county clerk allowed - HB 321
 Covenant Marriage, create the option of entering into - HB 110
 Deadline for vacancy in candidacy, establishment of - SB 54
 Disable veteran's license plates, reduce the disability threshold for - HB 144
 Early
 voting, establishment of - HB 483
 voting, voter eligibility for - HB 135
 Kentucky National Guard specialty license plate, allow surviving spouses to obtain or retain - SB 174
 License plates, allow disabled veterans to acquire without payment of a fee - HB 147
 Lieutenant Governor, nomination of, delay until after primary - HB 488
 Notary publics - HB 248
 Persons in voting room, who permitted - HB 405
 Runoff
 elections, elimination of - HB 224
 primaries, payment of - HB 476
 Salary and benefits if reemployed after retirement - HB 317
 Special license plates, reissuance of - HB 215
 Time limit in a voting booth exception, creation of - SB 14
 Timetable for solicitation of signature for nomination papers, establishment of - HB 387
 Voter verified paper audit trail, requirement of - HB 415
 Voting early, permitting to - HB 484
 Write-in candidate, defeated primary candidate ineligible - HB 131

County Judge/Executives

Deputy coroners, allow coroner to appoint up to two without fiscal court approval - HB 242
 Oath of sheriff, who may administer - SB 145
 Qualified constables and deputy constables, create certification process for, powers of - HB 556
 Salary and benefits if reemployed after retirement - HB 317

Court of Appeals

Actions over bona fides of candidates, preference to be given - SB 54
 Senior status judge program, sunseting of - HB 465

Court, Supreme

Child welfare, training judges on - HB 199
Death Penalty, abolition of - HB 200
Senior status judge program, sunseting of - HB 465
Silica and mixed dust claims, rules and procedures for - HB 417

Courts

Breast-feeding, excused from jury duty - HB 241
Certified court security officers - SB 153; HB 427
Child welfare, training judges on - HB 199
Civil Actions, award of costs to prevailing party - HB 29
Competency proceeding, when pay required - SB 72
Conflict Resolution Week in Kentucky, declaration of - HJR 118
Criminal history record checks, conduct of - HB 264, 308
Death
 Penalty, abolition of - HB 200
 penalty, sentencing options - HB 98
Elected officials, salary upon reemployment after retirement - HB 132
Establishment
 Clause, civil actions relating to - HB 19
 Clause, claims relating to - HR 4
Felons, post-conviction relief - HB 272
Gross Clay Lindsay Henderson County Judicial Center - HJR 5
Identity theft, data protection, omnibus revision - HB 7
Judges called back to service, technical correction - HB 363
Judgment, interest on - HB 368
Jury service, excusal for breastfeeding mothers - SB 111
Line-item vetoes, 2006 General Assembly, restoration of - HB 1
Names, petition for change, restrictions - SB 3
Nuisance, private - HB 365
Protective orders, transfer of - SB 4
Putative father registry, creation of - SB 140
Restoration of privilege to drive - HB 266
Seat belt fines, deposit in veterans' program trust fund - HB 179
Senior status judge program, sunseting of - HB 465
Sex offender, registration - HB 320
Sexual offenses, HIV testing upon victim's request, required - HB 528
Spousal maintenance, court order for - HB 382
Study of state adoption laws, establish task force for - HCR 67
Supersedeas bonds, limit on amount - HB 426
Testimony, violent offense, child victim or witness of - SB 31
Trials, time frame, cost of detention - HB 551

Courts, Circuit

Actions over bona fides of candidates, preference to be given - SB 54
Attorney fee, usury case - HB 274
Certified court security officers - SB 153; HB 427
Child support, increase minimum amount of - HB 369
Competency
 proceeding, jury trial for - HB 236
 proceeding, when pay required - SB 72
Contempt, failure to perform jury service - HB 425
Death
 penalty task force, established - HCR 88
 Penalty, abolition of - HB 200
Durable power of attorney - HB 275
Employer's duties, jury service - HB 423
Medicaid fraud, civil proceedings for - HB 477
Names, petition for change, restrictions - SB 3
Senior status judge program, sunseting of - HB 465

Courts, Circuit Continued

Sexual offenses, noncontact, restraining order - HB 322
 Testimony, violent offense, child victim or witness of - SB 31
 Trials, time frame, cost of detention - HB 551
 Visitation, minor children and allegations of abuse or neglect - HB 20

Courts, District

Attorney fee, usury case - HB 274
 Certified court security officers - SB 153; HB 427
 Child support, increase minimum amount of - HB 369
 Competency
 proceeding, jury trial for - HB 236
 proceeding, when pay required - SB 72
 Contempt, failure to perform jury service - HB 425
 Criminal and juvenile matters, omnibus revision - HB 358
 Dating violence, availability of domestic violence protective orders - HB 396
 Durable power of attorney - HB 275
 Employer's duties, jury service - HB 423
 Hardship license, authority to grant for traffic offenses other than DUI - HB 268, 510
 Names, petition for change, restrictions - SB 3
 Seat belt fines, deposit in veterans' program trust fund - HB 179
 Senior status judge program, sunseting of - HB 465
 Sexual offenses, noncontact, restraining order - HB 322
 Small claims division, jurisdictional increase - HB 198
 Testimony, violent offense, child victim or witness of - SB 31
 Trials, time frame, cost of detention - HB 551
 Visitation, minor children and allegations of abuse or neglect - HB 20

Courts, Fiscal

Deputy coroners, allow coroner to appoint up to two without fiscal court approval - HB 242
 Jails, cost of pretrial detention - HB 551
 Legal notices, public broadcast, study of - HCR 155
 Line-item vetoes, 2006 General Assembly, restoration of - HB 1
 Qualified constables and deputy constables, create certification process for, powers of - HB 556
 Require study to survey options for replacing lost fees for funding emergency dispatch centers - HCR 70
 Water districts, extension and formation of - SB 96

Crime Victims

Assault on the elderly, penalty enhancement - HB 77
 Child, testimony, victim of violent offense - SB 31
 Death
 penalty task force, established - HCR 88
 Penalty, abolition of - HB 200
 Expungement of records, Class D felony and misdemeanor - HB 16
 Identity theft, data protection, omnibus revision - HB 7
 Kentucky's rape crisis centers and Sexual Assault Awareness Month, recognize and honor - HR 166
 Medical parole, hearing notification - HB 191
 Murder, registration of offenders - HB 15
 Sexual
 offenses against minors, penalty increase - HB 548
 offenses, HIV testing upon victim's request, required - HB 528
 Victim impact statement, family of deceased victim - SB 150

Crimes and Punishments

Abortion,
 anesthesia requirement for 20 weeks or older fetus - SB 80
 informed consent - SB 179
 Abuse of a corpse, increase penalty for - HB 117
 Acquisition of firearms - HB 469
 Agroterrorism, penalties for - HB 350
 Alcohol vaporizing device, sale and use ban - HB 125
 Animals, cruelty to - HB 74
 Assault

Crimes and Punishments Continued

in the third degree, medical professionals - HB 176
on the elderly, penalty enhancement - HB 77
Assault, third degree, attack on elected official - HB 165
Asset forfeiture - SB 88
Bank
or credit union robbery, violent offender status - SB 139
robbery, violent offender status - HB 84
Bicycles, helmet use required for persons under the age of 16 - HB 169
Business entities, omnibus revision - HB 334
Civic organization facility, sex offenders prohibited from residing within 1,000 feet of - HB 58
Classified employee political activity, punishment for violations - HB 62
Concealed
deadly weapons, lifetime license to carry - HB 211
weapon, in vehicle - HB 302
Contempt, failure to perform jury service - HB 425
Controlled substances, possession within the human body - HB 149
Court ordered spousal maintenance, enforcement of - HB 382
Criminal
and juvenile matters, omnibus revision - HB 358
history record checks, conduct of - HB 264, 308
trials, time frame - HB 551
Dairy equipment, theft of - HB 420
Death
penalty task force, established - HCR 88
Penalty, abolition of - HB 200
penalty, sentencing options - HB 98
DNA collection, any felony - HB 507
Driving
on expired license, exemption for returning military personnel - HB 59
without insurance, prohibition on - SB 68; HB 149
Driving, restoration of privilege - HB 266
DUI,
amount and type of substances impairing driving ability - HB 149
court order requiring blood or urine test, removal of statutory right to consult attorney - HB 34
substances other than alcohol - SB 67
Employer's duties, jury service - HB 423
Expungement of records, Class D felony and misdemeanor - HB 16
Ferrous and nonferrous metals, reporting purchase of - HB 82
Flag desecration likely to produce breach of peace, prohibit - HB 28
Forgery of academic degree, Class D felony - HB 175
Gift cards, regulate - HB 254
Homicide, driving while fatigued - HB 150
Human
trafficking - SB 43
trafficking, create the offense of - HB 163
Identity theft, data protection, omnibus revision - HB 7
Immigrants, criminal justice provisions relating to - HB 164
Immigration, enforcement of federal law - HB 11
Inmates and prisoners, prohibition on sexual conduct with - HB 140
Interference with a funeral, elements of offense - HB 343
Internal Revenue Service agents, inclusion of as Kentucky peace officers - HB 194
Internet pharmacies, drug offenses - SB 88
Leaving the scene of an accident, penalty increase - HB 76
Manslaughter, technical corrections to statute - HB 364
Marriage, solicitation for - HB 348
Methamphetamine property registry, creation and operation of - HB 470
Military status, awards, and decorations, prohibit misuse - HB 342
Murder, registration of offenders - HB 15
National Crime Prevention and Privacy Compact, ratification of - HB 555
Notaries, offenses relating to - HB 248
Parolees, search of by peace officer - HB 205
Practitioner of healing arts, advertising by - HB 424
Prescription drug reporting program, direct action to be taken on - SJR 48

Crimes and Punishments Continued

Pretrial diversion, alcohol or substance abuse - SB 34
 Prison industries, recidivism reduction program - SB 42
 Promoting prostitution in the first degree, increase penalties for - HB 163
 Public morals offenses, establish crime of public indecency - HB 338
 Real estate broker violations, commission's power to levy increased fines for - HB 65
 Seat belt use, exemptions - HB 284
 Sex
 offender, internet identity registration - SB 65
 offender, registration - HB 320
 offenders, loitering around schools - HB 531
 Sexual
 offenses against minors, increased penalty for solicitation - HB 438
 offenses against minors, penalty increase - HB 548
 offenses, HIV testing upon victim's request, required - HB 528
 offenses, noncontact, restraining order - HB 322
 offenses, procuring of minors via an electronic communications system - HB 438
 Sexually oriented business, prohibit a semi-nude employee from being within six feet of a patron - SB 95
 Social worker, threatening of - HB 85
 Speed limits for state highways, establish - SB 83
 Testimony, violent offense, child victim or witness of - SB 31
 Theft by deception, bad checks - HB 217
 Torture of dog or cat, redefine, increase penalty for - HB 475
 Trespass, inclusion of school buildings - HB 61
 Veterans, false representation of status, prohibition - HB 105
 Victim impact statement, family of deceased victim - SB 150
 Voting
 rights for felons, constitutional amendment to provide - HB 36
 violations, penalty for - HB 405

Criminal Procedure

Abortion, informed consent - SB 179
 Acquisition of firearms - HB 469
 Assault
 in the third degree, medical professionals - HB 176
 on the elderly, penalty enhancement - HB 77
 Assault, third degree, attack on elected official - HB 165
 Asset forfeiture - SB 88
 Bank
 or credit union robbery, violent offender status - SB 139
 robbery, violent offender status - HB 84
 Breast-feeding, excused from jury duty - HB 241
 Business entities, omnibus revision - HB 334
 Civic organization facility, sex offenders prohibited from residing within 1,000 feet of - HB 58
 Concealed
 deadly weapons, lifetime license to carry - HB 211
 weapon, in vehicle - HB 302
 Contempt, failure to perform jury service - HB 425
 Controlled substances, possession within the human body - HB 149
 Criminal
 and juvenile matters, omnibus revision - HB 358
 history record checks, conduct of - HB 264, 308
 Cruelty to, maintenance fees and forfeiture - HB 74
 Dairy equipment, theft of - HB 420
 Death
 penalty task force, established - HCR 88
 Penalty, abolition of - HB 200
 penalty, sentencing options - HB 98
 DNA collection, any felony - HB 507
 Driving
 on expired license, exemption for returning military personnel - HB 59
 without insurance, prohibition on - SB 68; HB 149
 Driving, restoration of privilege - HB 266
 DUI,

Criminal Procedure Continued

amount and type of substances impairing driving ability - HB 149
court order requiring blood or urine test, removal of statutory right to consult attorney - HB 34
substances other than alcohol - SB 67
Employer's duties, jury service - HB 423
Expungement of records, Class D felony and misdemeanor - HB 16
Felons, post-conviction relief - HB 272
Ferrous and nonferrous metals, reporting purchase of - HB 82
Flag desecration likely to produce breach of peace, prohibit - HB 28
Gift cards, regulate - HB 254
Human
trafficking - SB 43
trafficking, create the offense of - HB 163
Identity theft, data protection, omnibus revision - HB 7
Immigrants, criminal justice provisions relating to - HB 164
Immigration, enforcement of federal law - HB 11
Interference with a funeral, elements of offense - HB 343
Internal Revenue Service agents, inclusion of as Kentucky peace officers - HB 194
Internet pharmacies, drug offenses - SB 88
Juvenile code, creating short title for sections - HJR 145
Leaving the scene of an accident, penalty increase - HB 76
Marriage, solicitation for - HB 348
Medical parole, hearing notification - HB 191
Methamphetamine property registry, creation and operation of - HB 470
Murder, registration of offenders - HB 15
Parolees, search of by peace officer - HB 205
Practitioner of healing arts, advertising by - HB 424
Pretrial diversion, alcohol or substance abuse - SB 34
Prison industries, recidivism reduction program - SB 42
Probation and parole, fees - HB 121
Promoting prostitution in the first degree, increase penalties for - HB 163
Public morals offenses, establish crime of public indecency - HB 338
Seat belt use, exemptions - HB 284
Sex
offender, internet identity registration - SB 65
offender, registration - HB 320
offenders, loitering around schools - HB 531
Sexual
offenses against minors, electronic communication, solicitation - HB 438
offenses against minors, penalty increase - HB 548
offenses, HIV testing upon victim's request, required - HB 528
offenses, noncontact, restraining order - HB 322
Testimony, violent offense, child victim or witness of - SB 31
Theft by deception, bad checks - HB 217
Torture of dog or cat, redefine, increase penalty for - HB 475
Trespass, inclusion of school buildings - HB 61
Trials, time frames - HB 551
Victim impact statement, family of deceased victim - SB 150

Dairying and Milk Marketing

Cloned food products, labeling of - HCR 163
Unpasteurized milk, regulation of - HB 298

Data Processing

Electronic records - HB 555

Deaths

Certificate of death, registered nurses and physician assistants authorized to sign - SB 198
Death
penalty task force, established - HCR 88
Penalty, abolition of - HB 200
Dentists, contract with others to continue provision of service - SB 26
Limitation of action in wrongful death - HB 434

Deaths Continued

Military burial rights, publicize - HB 280
Motor vehicle, driving while fatigued - HB 150
Uniform emergency volunteer health practitioners act, provision for - HB 287
United States Armed Forces, Kentucky member of, death benefits - HB 522
Vital statistics, allow signatures in black or blue ink - SB 198

Deeds and Conveyances

Oil and gas leases, contracts and agreements, default royalty provisions for - HB 543
Property transfers, plans for historic or prehistoric remains attach to - HB 118
Self-contained storage units after lease default, operator's and creditor's rights to contents of - HB 245

Disabilities and the Disabled

Adapted motor vehicles, license dealers of - HB 389
Alzheimer's disease, direct study of service delivery for - HJR 13
Alzheimer's, direct the Cabinet for Health and Family Services to assess - SJR 6
Autism
Spectrum Disorders work group, appointment of - HJR 144
spectrum disorders, health coverage for - HB 91
spectrum disorders, supports program, Medicaid waiver, screening for - HB 109
Brain injuries, encourage pilot treatment program - HR 202
Disabled veterans, exemption from overnight accommodations rate at state parks - HB 167
Friedreich's Ataxia Awareness Day, third Saturday in May recognized as - HR 123
Incapacitated dentists, contract with others to continue provision of service - SB 26
Kentucky
Family Trust Program, creation of - HB 6
Golden alert system, establish for missing impaired adult - HB 142
State Use Commission, creation of - HB 23
Long-term
care facilities, nurse staffing requirements, establishment of - HB 290
care facilities, training, policies and services for dementia - HB 141
care partnership insurance program, establishment - HB 126
Mental
disability, law enforcement intervention training, development of - HB 504
disability, law enforcement intervention, development of training - SB 104
Myositis Awareness Day, September 21 - HR 34
Nonprofit agencies and work centers, government purchase from - HB 23
Orthotics, prosthetics, and pedorthics, licensing and regulation of practitioners of - SB 30
Scholarship Program, Students with Special Needs - HB 30
Time limit in a voting booth exception, creation of - SB 14
Treatment, mental health, approval from health insurer - HB 570
Veterans, services and benefits for - HB 225
Voters, assistance of - HB 263

Disasters

Criminal history record checks, conduct of - HB 264, 308
Executive order, limit to geographic area - HB 228
Uniform emergency volunteer health practitioners act, provision for - HB 287

Diseases

Alzheimer's, direct the Cabinet for Health and Family Services to assess - SJR 6
Chronic obstructive pulmonary disease, initiatives for - HR 49
Communicable disease precaution initiative, creation of - HB 525
Communicable, workers' compensation rebuttable presumption - HB 516
Crohn's disease, urge awareness of - HCR 141
Data on health care costs, quality and outcomes, report required - HB 431
Diabetes research board, amend research criteria for - HB 383
Diabetes, prevention, control, and treatment of - HB 406
Friedreich's Ataxia Awareness Day, third Saturday in May recognized as - HR 123
Kentucky Cardiovascular Disease Initiative and board, creation - HB 185

Diseases Continued

Myositis Awareness Day, September 21 - HR 34
Pharmacist practitioners, establish certification for - HB 233
Prostate cancer screening, health insurance, coverage by - HB 506
Speech and language pathology, licensure to treat - SB 89; HB 288

Distilled Spirits

Alcohol vaporizing device, sale and use ban - HB 125
Alcoholic beverage advertising ban, exemption for promotions sent to customer's residence - SB 29
Distilled spirits retail drink license, eligibility for - HB 340
Sales at qualified historic sites, local option elections for - HB 138

Dogs

Assistance dogs, medical treatment of - SB 23
Dog or cat, redefine torture of, increase penalty for - HB 475
Euthanasia, approval required for - HB 49
Government, limitation on certain regulations - HB 375
Shelters, spay/neuter, require for adoption, release - HB 270
Spay Day commemoration, recognize - HR 80
Spay/neuter, urge formation of working group on - HR 222

Domestic Relations

Awarding child custody, consideration of - HB 382
Child
support, increase minimum amount of - HB 369
welfare, training judges on - HB 199
Competency
proceeding, jury trial for - HB 236
proceeding, when pay required - SB 72
Consortium, loss of, action for - HB 403
Covenant Marriage, create the option of entering into - HB 110
Dating violence, availability of domestic violence protective orders - HB 396
Marriage, solicitation for - HB 348
Names, petition for change, restrictions - SB 3
Protective orders, transfer and divorce - SB 4
Putative father registry, creation of - SB 140
Social worker safety, improvements for - HB 362
Spousal maintenance, court order for - HB 382
Study of state adoption laws, establish task force for - HCR 67
Visitation, minor children and allegations of abuse or neglect - HB 20

Drugs and Medicines

06 HB 380, state/executive branch budget bill, amendments to - HB 327
Controlled substances, possession within the human body - HB 149
Data on health care costs, quality and outcomes, report required - HB 431
Drug
screening, nursing facilities and and child care centers, requirement for - HB 151
testing for school employees, requirement of - HB 408
DUI,
amount and type of substances impairing driving ability - HB 149
substances other than alcohol - SB 67
Health
insurance, urge Congress not to pass a National Health Insurance Act - HR 213
Insurance, urge Congress to pass a National Health Insurance Act - HR 81
Importation of prescription drugs from foreign countries, provisions for - HB 252
Insurance, urge Congress to pass a National Health Insurance Act - HR 243
Internet pharmacies, drug offenses - SB 88
I-SaveRx Internet program, cooperative agreement with - HB 256
Kentucky Cardiovascular Disease Initiative and board, creation - HB 185
Medicaid, Pharmacy Advisory Committee, add member - SB 69
Medical practice, use of lasers by nonphysician - HB 473
Medicare prescription drug benefit, improvements in - HR 125

Drugs and Medicines Continued

National Alcohol and Drug Addiction Recovery Month, declare - HR 198
 Outpatient contraceptive services, health plan coverage of - HB 344
 Pharmacist practitioners, establish certification for - HB 233
 Pharmacy technician registration, qualifications for - HB 533
 Prescription drug reporting program, direct action to be taken on - SJR 48
 Smoking cessation treatment, Medicaid coverage of - HB 337

Economic Development

Amtrak service, promote use of - HCR 18
 Appalachian Development Council, abolished - SB 76
 Billboards, establish vegetation control permit - SB 155
 Cabinet for Economic Development, abolish Partnership board - HB 227
 ConnectKentucky, recognize as Ky's telecommunications and information technology resource - HCR 126
 Contracts with postsecondary institutions, permit board approval of employee interest in - SB 130
 Department for Local Government, project authorization for - HB 404
 Eminent domain, authority and procedure - HB 458
 Expand pilot TIF statutes to include second class cities and urban-county governments - HB 413
 Film industry, tax credits for production in Kentucky - HB 554
 Industrial revitalization - HB 69
 International business, committee to address - HB 127
 KIDA and KREDA, ground lease - HB 485
 KJDA, projects adjoining a postsecondary education center, wage requirements - HB 468
 KREDA and KIDA, ground lease - HB 462
 KY Association of Manufacturers Day, proclaiming February 12, 2007 - HR 121
 Milton Friedman, recognizing Milton Friedman Day - HJR 77
 New incentive program for cities of the first class - HB 536
 Noncitizen workers, study of - HCR 127; HR 223
 Ohio River Task Force, create to study issues - HR 215
 Personnel titles, delete obsolete references - HB 561
 Primary care centers, funding in medical underserved areas for - HB 313
 Single county coal severance projects, funding of - HB 500
 Small business tax credit, creation of - HB 460
 State parks, wine and malt beverage sales, local option election authorized - HB 391
 State-Federal Council for Balanced Economic Growth, abolished - SB 76
 Tax
 credits, reporting requirements for - HB 159
 increment financing - HB 530
 increment financing, establish new programs - HB 349, 549
 increment financing, establish new programs for second class cities - HB 539
 Tax, limestone, manufacturers - HB 568
 Tourism Development Act, extension of the term of agreement - HB 347
 West Kentucky Corporation, abolished - SB 76

Education, Elementary and Secondary

A.D.
 and B.C., exclusive use of in reference to historical dates and time - HB 14
 and B.C., exclusive use of, in reference to historical dates and time - HB 21
 Academy of Mathematics and Science in Kentucky, creation of - HB 306
 Advanced Placement Incentive Fund, establishment of - SB 1
 AP classes in calculus, physics, biology, and chemistry, incentives to start - SB 1
 Assistance to schools - SB 62
 Attendance records of transferring students, make cumulative for determining truancy - HB 145
 Attendance, agreements between districts for out-of-district students - HB 487
 Autism
 Spectrum Disorders work group, appointment of - HJR 144
 spectrum disorders, supports program, Medicaid waiver, screening for - HB 109
 Biennial report to Interim Joint Committee on Education - HB 565
 Brown, Dale, honoring as 2006 NAGE Administrator of the Year - HR 189
 CDL standards for bus drivers, compliance with Motor Carrier Safety Improvement Act - HB 509
 Cellular telephone, prohibiting use of - HB 230
 Child-care center rating system, licensing requirement for - HB 234
 Classified
 employees, job benefits - HB 210

Education, Elementary and Secondary Continued

employees, members of school-based decision making council - HB 508
Community education, use of funds for - HB 197
Compulsory
school age, raising from 16 to 18 - HB 221
school age, raising from sixteen to seventeen - HB 279
Contracts, nonresident student - HB 285
Cost of textbooks, LRC study directed - HCR 19
Crofton Elementary School, recognize students - HR 226
Crohn's disease, urge awareness of - HCR 141
Department of Education, reorganization of various offices and divisions - SB 57
Drug testing for school employees, requirement of - HB 408
Education
Professional Standards Board, appointment of Cynthia W. York to - HCR 31
Professional Standards Board, appointment of Franklin D. Cheatham to - HCR 29
Professional Standards Board, confirmation of Jennifer L. Forgy to - HCR 25
Professional Standards Board, confirmation of Rebecca S. Goss to - HCR 75
Professional Standards Board, Smith, Zenaída M., confirmation to - HCR 32
Educational institutions, construction exempt from paying prevailing wages - HB 457
Employee criminal background checks, study of - HCR 159
Family resource youth services centers, specify requirements for - SB 86
Financial literacy and economic education, teacher institute for - HB 311
Head teacher - HB 558
High
school athletics, exemption to eligibility requirements - HB 380
school day start time, establish - HB 436
Holocaust, include study of in public school curriculum - HJR 11
Honor
Azia Inman Meeks, recipient of the first annual Ann Braden Humanitarian Award - HR 187
Mercer Co. Football, 2006 KHSAA Class 2A Champs - HR 161
Mercer Co. Marching Band, 2006 KMEA Class AA Champs - HR 162
Hussung, Lisa, honor as Kentucky Elementary School Music Teacher of the Year - HR 63
Illness-related low attendance days, permit ADA funding adjustment for - HB 440
Immunization, human papillomavirus, middle school children - HB 143, 345
International Education Week, celebration of - HJR 7
Interscholastic athletic program, cooperative agreement for - HB 409
June Buchanan School boys basketball team, honor as 14th Region champions - HR 230
KEES
awards, student eligibility for - SB 1
eligibility, retroactive extension for military service - HB 291
Kentucky
Board of Education, confirmation Judith H. Gibbons - HCR 26
educational excellence scholarships, use of funds for dual credit courses - SB 46
educator award and recognition fund - HB 2
Financial Literacy Program and trust fund, creation of - HB 346
Local board members, meeting expenses - HB 50
Mascots, flags, and symbols, study of - HCR 53
Master's degree, tuition waived for - HB 392
Minimum school calendar, define number of days - HB 222
National
board certified teacher, salary supplement provided - HB 178
board certified teachers, honor Kentucky's newly certified - HR 207
Operator's & Intermediate licenses and permits, student requirements for - HB 32
Parent education program, development and implementation of - HB 512
Physical activity for children, requirement of - SB 110; HB 299
Plan for utilization of career and technical education programs and facilities - SJR 125
Principals, additional training requirements for - SB 62
Rapid growth districts, funding calculations for base level funding - HB 189
Reading and civics education courses for teachers, requirement of - HB 101
Retired educators, reemployment of - HB 160
Save Our Streams Task Force, creation of - HCR 160
Scholarship Program, Students with Special Needs - HB 30
School
calendar, beginning date for the first instructional day - HB 95

Education, Elementary and Secondary Continued

calendar, limit district's option for establishing the first instructional day - HB 95
 Facilities Construction Commission, members - HB 562
 facilities, use of capital outlay for maintenance in - HB 471
 nonattendance, custody and detention of school age children for - HB 309
 readiness, determination of and reporting of - HB 235
 superintendent, annual report to be submitted to - HB 101
 School-based
 decision making council, classified employees voting to elect members - HB 508
 decision making councils, personnel actions by - SB 208
 Science,
 mathematics and technology, support for teaching of - HB 537
 Technology, Engineering and Mathematics Task Force, urge CPE to continue work of - HR 224
 Scott County Cardinals, 2007 KHSAA Boys Sweet 16 Champs, honor - HR 239
 SEEK, excess funds, allocation of - HB 326
 Sex offenders, loitering around schools - HB 531
 Speech and language pathologist and audiologists in schools, requirements for - SB 89; HB 288
 State
 agencies and Bluegrass Community and Technical College, urge collaboration between - HR 133
 agencies and Kentucky Community and Technical College System, collaboration between - HR 156
 Student
 harassment, intimidation, or bullying, protection from - HB 64
 harassment, intimidation, or bullying, reporting of incidents - HB 64
 Tax credits for contributions to eligible nonprofit education organizations - HB 188
 Teacher
 advancement fund, creation of - HB 392
 scholarship program, amount awarded - HB 229
 scholarship program, use of funds - HB 229
 work day, define - HB 222
 Teachers' Retirement System, omnibus revisions - HB 461
 Teachers,
 leaves of absence for - HB 315
 salary supplement for - SB 2
 Trespass, inclusion of school buildings - HB 61
 Unified school district, dissolution of - HB 487
 Union County High School, 2007 KHSAA Wrestling Champs, honor - HR 185
 Writing portfolios, remove from elementary school CATS assessment - HB 195

Education, Finance

Academy of Mathematics and Science in Kentucky, allocation of SEEK funds for students in - HB 306
 Advanced Placement Incentive Fund, establishment of - SB 1
 AP course exams, payment of - SB 1
 Community education - HB 197
 Cost of textbooks, LRC study directed - HCR 19
 Documented vessels, exempt from local taxation - HB 466
 KEES
 awards, student eligibility for - SB 1
 eligibility, retroactive extension for military service - HB 291
 Kentucky
 educational excellence scholarships, use of funds for dual credit courses - SB 46
 educator award and recognition fund - HB 2
 Financial Literacy Program and trust fund, creation of - HB 346
 Nicholas Hildreth School, move of - HB 129
 Nonresident students, funding for - HB 285
 Out-of-district students, per-pupil funding to follow - HB 487
 Principals, funding for training - SB 62
 Rapid growth districts, funding calculations for base level funding - HB 189
 Retirement, defined contribution plan for employees hired on or after July 1, 2009 - HB 331
 Scholarship Program, Students with Special Needs - HB 30
 School facilities, use of capital outlay for maintenance in - HB 471

Education, Finance Continued

Tax credits for contributions to eligible nonprofit education organizations - HB 188
Teacher
 advancement fund, creation of - HB 392
 work day, additional compensation for teachers for required work beyond - HB 222
Teachers, salary supplement for - SB 2

Education, Higher

06 HB 380, state/executive branch budget bill, amendments to - HB 327
Academic bill of rights - HB 158
Carl D. Perkins Vocational Training Center, name change to - HB 130
Contracts with postsecondary institutions, permit board approval of employee interest in - SB 130
Cost of textbooks, LRC study directed - HCR 19
Credit card and debt management education for new students - HB 373
Education
 Professional Standards Board, confirmation of Jennifer L. Forgy to - HCR 25
 Professional Standards Board, confirmation of Rebecca S. Goss to - HCR 75
Educational institutions, construction exempt from paying prevailing wages - HB 457
Employees' rights - HB 429
Employees,
 limited health benefits for domestic partners - HB 10
 prohibit health benefits for domestic partners - HB 48
Equine industry program, increased funding, purposes earmarked - HB 40
Government contracts, requirements, review of - HB 8
Governor's Postsecondary Education Nominating Committee, appointment to - HCR 154
Gray, Sandra C., president of Asbury College, honoring - HR 232
International Education Week, celebration of - HJR 7
KEES
 awards, student eligibility for - SB 1
 eligibility, retroactive extension for military service - HB 291
Kentucky
 educational excellence scholarships, use of funds for dual credit courses - SB 46
 State University, honoring - HR 65
KHESLC
 and KHEAA boards, appointments to and joint service on - HB 100
 and KHEAA, duties of executive director - HB 100
Master's degree for teachers, tuition waived for - HB 392
Milton Friedman, recognizing Milton Friedman Day - HJR 77
Personnel rights, definition of "penalization" - HB 220
Postsecondary
 education centers, employment opportunities for nontraditional students - HB 468
 institutions, debt issuance by - HB 332
Public Service Student Law Loan Program - HB 226
Reading and civics education courses for teachers, requirement of - HB 101
Science, Technology, Engineering and Mathematics Task Force, urge CPE to continue work of - HR 224
Sex offenders, loitering around schools - HB 531
Teacher
 scholarship program, amount awarded - HB 229
 scholarship program, use of funds - HB 229
Teachers' Retirement System, omnibus revisions - HB 461
Tuition
 waiver, child of a veteran - HB 128
 waiver, child of deceased or permanently disabled veteran - HB 106
 waivers for spouses and dependents of veterans - HB 213
University
 of Kentucky employees, one-time bonus - HB 544
 of Kentucky, honor football team, 2006 Music City Bowl champions - HR 149
 of Kentucky, School of Human Environmental Sciences, honoring - HR 42
 of Louisville equine industry program, funding increased - HB 40
 of Louisville, honor football team, 2007 Orange Bowl champions - HR 39

Education, Vocational

Carl D. Perkins Vocational Training Center, name change to - HB 130
 Employees' rights - HB 429
 International Education Week, celebration of - HJR 7
 Personnel rights, definition of "penalization" - HB 220
 Plan for utilization of career and technical education programs and facilities - SJR 125
 Sex offenders, loitering around schools - HB 531
 Teachers' Retirement System, omnibus revisions - HB 461
 Teachers, annual increment - HR 152
 Tuition
 waiver, child of a veteran - HB 128
 waiver, child of deceased or permanently disabled veteran - HB 106

Effective Dates, Delayed

BR
 1145 - SB 1
 1602, July 1, 2007 - HB 560
 208, effective July 1, 2007 - HB 116
 498, January 1, 2008 - HB 335
 Charitable auctions, August 1, 2007 - HB 24
 Cigarette surtax imposed, July 1, 2007 - HB 353
 Consumer credit, disclosures - HB 260
 Exempt prepared food sold by churches from sales tax, effective July 1, 2007 - HB 75
 HVAC installations, effective July 1, 2008 - SB 10
 January
 1, 2008 - SB 190
 1, 2008, Sections 2 to 12 - SB 140
 Master cigarette distributor, define and license - HB 124
 Motor vehicle usage tax, exempt religious organizations, July 1, 2007 - HB 502
 Pari-mutuel tax, one-day horse race meeting, exemption for, July 1, 2007 - HB 402
 Sales
 and use tax exemption, master-metered utilities, August 1, 2007 - HB 68
 and use tax, exemption, BR 977 - HB 238
 and use tax, straw, wood shavings, sawdust, exempt from - HB 441
 Sex-based wage discrimination, prohibited on comparable jobs, effective July 1, 2008 - HB 219
 State employees, salary increases for - HB 31
 Streamlined Sales and Use Tax Agreement, conforming changes, July 1, 2007 - HB 360
 Tourism attraction project, July 1, 2007 - HB 319

Effective Dates, Emergency

06 HB 380, state/executive branch budget bill, amendments to - HB 327
 BR
 1241 - HB 327
 1361 - HB 404
 1388 - HB 419
 1389 - HB 326
 1462 - HB 536
 1634 - HB 410
 436 - HB 1
 483 - HB 129
 825, voter verified paper audit trail - HB 415
 Commercially by statewide candidates, using state funds, prohibition of - HB 395
 Communications Excise Tax, monthly hold harmless amount, January 1, 2006 - HB 80
 Effective dates, emergency - HB 69
 EFFECTIVE DATES, EMERGENCY - HB 468
 EMERGENCY - HB 224
 Emergency, declaration of - HB 316
 General Assembly candidates, public financing for - HB 55
 Runoff primaries, payment of - HB 476
 Sales tax holiday, May 1, 2007 - HB 60, 265
 Spousal maintenance and child custody, consideration of - HB 382
 Workers' compensation self-insurance, public sector employers exempt from security requirement - SB 203

Elections and Voting

A slate of candidates in runoff, permitted to withdraw - HB 542
Alcoholic beverages, after 12 noon, permit sale of - HB 341
Candidate
 vacancy, replacement candidate, extension of time for - HB 66
 vacancy, reprogramming voting machines, payment for - HB 66
Candidates hiring transporters of voters, requirements of - HB 501
Commercials by statewide candidates, using state funds, prohibition of - HB 395
Contributions, expenditures, and reporting, changes to - SB 159
Deadline for vacancy in candidacy, establishment of - SB 54
Early
 voting, establishment of - HB 483
 voting, voter eligibility for - HB 135
Felons' voting right, constitutional amendment to provide - HB 36
General Assembly candidates, public financing for - HB 55
Lieutenant Governor, nomination of, delay until after primary - HB 488
Local option elections, alcoholic beverage sales at qualified historic sites - HB 138
Persons in voting room, who permitted - HB 405
Presidential
 election by national popular vote, compact for - HB 550
 electors, use district method in nominations for - HB 432
Runoff
 elections, elimination of - HB 224
 primaries, payment of - HB 476
State parks, wine and malt beverage sales, local option election authorized - HB 391
Time limit in a voting booth exception, creation of - SB 14
Timetable for solicitation of signature for nomination papers, establishment of - HB 387
Voter verified paper audit trail, requirement of - HB 415
Voters, assistance of - HB 263
Voting
 rights for felons, amend constitution to provide for - HB 70
 rights, wards and guardians - HB 374
Write-in candidate, defeated primary candidate ineligible - HB 131

Embalmers and Funeral Directors

Certificate of death, registered nurses and physician assistants authorized to sign - SB 198
Death certificates, issuance of by Vital Statistics Branch - HB 459
Human remains, Native American, reinterment procedure for - HB 117
Military burial rights, publicize - HB 280

Emergency Medical Services

Air ambulance, health insurance coverage of - HB 377
Certificate of death, registered nurses and physician assistants authorized to sign - SB 198
Outpatient data reporting, required by hospitals - HB 445
Trauma care system, establish and fund - HB 152
Uniform emergency volunteer health practitioners act, provision for - HB 287
Workers' compensation, rebuttable presumption for worker exposure - HB 516

Eminent Domain and Condemnation

Authority and procedure - HB 458
Summons, issuing in condemnation case - HB 421

Energy

Abandoned Mine Land Program, reclamation projects, project finance for - SB 187
Coal miner certification, reciprocal agreement with other states, allowance of - SB 47; HB 186
E. ON U.S., commending for participation in the FutureGen Alliance - HR 146
Electric meters, pilot program for new - HB 123
Gas Pipeline Authority, include crude oil and petroleum products - HB 102
Global Nuclear Energy Partnership projects, support efforts to obtain - HR 191

Energy Continued

Industrial energy facilities, permitting for - SB 196
 Office of Energy Policy, Reorganization, Executive Order 2006-1299 - SB 85
 Oil and gas leases, contracts and agreements, default royalty provisions for - HB 543
 Provide procedure for adjustment of rates of natural gas distribution utilities - HB 261
 Science, Technology, Engineering and Mathematics Task Force, urge CPE to continue work of - HR 224
 Tire-derived fuel, exempt from solid waste definition, exemption of - SB 125

Engineers and Surveyors

Continuing education requirements, license renewal dependent upon fulfillment of - HB 46
 Science, Technology, Engineering and Mathematics Task Force, urge CPE to continue work of - HR 224

Environment and Conservation

Abandoned Mine Land Program, reclamation projects, project finance for - SB 187
 ATV Usage Taskforce, establishment of - HJR 14
 Barren River Lake, urge Corps of Engineers to increase depth of - HCR 139
 Billboards, establish vegetation control permit - SB 155
 Deer hunting season, increase by two weeks - HR 150
 Drought Mitigation and Response Plan, create - SJR 109
 Emergency Action Plans for impoundments, promulgate administrative regulations for - HJR 130
 E-scrap Task Force, establishment of - HCR 131
 Floyds Fork Water Resources Council, establishment of - HB 435
 Hazardous substances, pollutants, contaminants, and release, define - SB 82
 Industrial energy facilities, permitting for - SB 196
 KRS 224A.011 add, change, and delete definitions for - HB 442
 Methamphetamine property registry, creation and operation of - HB 470
 Methamphetamine-contaminated property, program for cleanup of - HB 94
 Ohio River issues, create task force on - HR 215
 Oil and gas leases, contracts and agreements, default royalty provisions for - HB 543
 Recycling, plastic containers, labeling of - HB 333
 Save Our Streams Task Force, creation of - HCR 160
 Soil and Water Conservation districts, infrastructure, loans and grants for - SB 92; HB 136
 Solid waste collection liens, local governments, authorization for - HB 240
 Special districts, raise audit maximum - HB 448
 Surface mines, original contour restoration and overburden disposal requirements, make changes to - HB 385
 Telecheck deer harvest check-in system and deer harvest, make report on - HR 73
 Underground
 petroleum storage tank program, administration of - HB 521
 petroleum storage tank registration and application deadlines, extended - HB 137
 Water districts, extension and formation of - SB 96
 White City Wildlife Management Area, renaming of - HJR 23

Escheats

Alien, right to own real and personal property - HB 503
 Gift cards, regulate - HB 254

Ethics

Contracts with postsecondary institutions, permit board approval of employee interest in - SB 130
 Executive
 Branch Ethics Commission, appointment of members to - HB 439
 branch ethics, gifts, increased limitation of - HB 439
 branch ethics, misuse of office specifications - HB 439
 branch ethics, nepotism provisions - HB 439
 branch ethics, omnibus provisions - HB 439
 Public servants and officers, various provisions - HB 439

Fairs

Fort Harrod Beef Festival, recognition of - HR 179
 Kentucky State Fair Board, authority to manage other properties - HB 400
 Show cattle, exhibiting of - HB 203

Federal Laws and Regulations

CDL standards, compliance with Motor Carrier Safety Improvement Act - HB 509
Cloned food products, labeling of - HCR 163
Corps of Engineers, Lake Barkley pilot program, H.R. 6087, urge support for - HCR 12
Emergency Action Plans for impoundments, promulgate administrative regulations for - HJR 130
Equal representation for District of Columbia residents, support for - HR 136
Establishment
 Clause, civil actions relating to - HB 19
 Clause, claims relating to - HR 4
Health
 insurance, urge Congress not to pass a National Health Insurance Act - HR 213
 Insurance, urge Congress to pass a National Health Insurance Act - HR 81
Immigration, enforcement of federal law - HB 11
Insurance, urge Congress to pass a National Health Insurance Act - HR 243
Medicare Modernization Act of 2003, improvements in - HR 125
REAL ID Act of 2005, urge repeal of - HCR 122
State Children's Health Insurance Program, urge reauthorization of - HCR 117
Tricare health insurance program, public employees, retired and active military - SB 22

Fees

Attorney fee, usury case - HB 274
Concealed deadly weapons, lifetime license to carry - HB 211
Criminal history record checks, conduct of - HB 264, 308
Librarians certificate, increase in - HB 386
Motor vehicle renting companies, allow to charge daily vehicle license recovery fees - HB 310
Ophthalmic dispensers, create fees for licensing of optical establishments by - HB 394
Plumbers' continuing education, limitation on fee - HB 553
Putative father registry, creation of - SB 140
Real Estate Commission, education, timeshare registration, and returned check fees charged by - HB 86
Sheriff's fees, add constables in urban-county government - HB 526
State parks, overnight accommodations rate, exemption for disabled veterans - HB 167

Fiduciaries

Fiduciary, gender neutral language added - HB 564
Kentucky Family Trust Program, creation of - HB 6
Testamentary trustee, accounting requirement - HB 83
Uniform Prudent Management of Institutional Funds Act, adoption of - HB 515
Veterans' Affairs Department, disabled veterans, minors, representation of - HB 183

Financial Responsibility

Credit card and debt management education for new college students - HB 373
Leasehold improvements, increase spending threshold for - HB 262
State interest payment reporting requirements, repeal monthly requirement - HB 262
Tax-me-more account in General Fund, creation of - HB 47
Testamentary trustee, accounting requirement - HB 83
Uniform Prudent Management of Institutional Funds Act, adoption of - HB 515

Fire Prevention

Firefighters, disabled in line of duty, health and life insurance state supplement, CPI adjustment - HB 376
Volunteer firefighters, civil offices not incompatible with - HB 107

Firearms and Weapons

Acquisition of firearms - HB 469
Concealed
 deadly weapons, lifetime license to carry - HB 211
 weapon, in vehicle - HB 302
Legal handguns for hunting deer and other large game, develop specifications for - HR 73

Firefighters and Fire Departments

Board of trustees in fire protection districts, salary - HB 122
 Criminal history record checks, conduct of - HB 264, 308
 Disabled in line of duty, health and life insurance state supplement, CPI adjustment - HB 376
 Fire
 department merit boards, consolidated local governments, establish - HB 201
 protection boundaries, amendment by ordinance - HB 168
 Income tax, deduction for volunteer firefighters - HB 26
 Interlocal agreements, aid for volunteer firefighters - HB 116
 Labor organization, mandatory membership or financial support prohibited, penalty - HB 328
 Public employees, collective bargaining, authorized for - HB 318
 Special firefighters, increased appointment of - HB 447
 Volunteer fire departments, refund of motor fuels taxes - HB 45

Fiscal Note

"Dr. Martin Luther King, Jr., Memorial Highway," designate in Jefferson County - SJR 16
 Access to revenue and economic development information - HB 359
 Advanced Placement Incentive Fund, establishment of - SB 1
 Certificates of delinquency held by private purchaser, payment to county clerk allowed - HB 321
 Chiropractors, insurance reimbursement - HB 352
 Claims bill - HB 312
 Commonwealth's consent to suit for certain tax refund claims, revocation of - HB 316
 Compulsory school age, raising from 16 to 18 - HB 221
 Concealed weapon, in vehicle - HB 302
 Confiscated cigarettes, use of proceeds from sale of - HB 262
 Corrections, fees - HB 121
 County jails, reimbursement for holding state prisoners before conviction - HB 187
 Economic
 development incentive program; create new program for cities of the first class - HB 536
 development incentives, project requirements - HB 462
 revitalization project - HB 69
 Film industry, amend tax credits for production in Kentucky - HB 554
 Identification card for homeless, provide for - HB 253
 Immunization, human papillomavirus, middle school children - HB 345
 Includible corporations, limit on net operating loss of - HB 480
 Income
 tax, alternative fuel or renewable energy facility, economic development incentives, eligible - HB 5
 tax, deduction for volunteer firefighters - HB 26
 Internal Revenue Code, update reference date - HB 276
 Kentucky
 Cardiovascular Disease Initiative and board, creation - HB 185
 educational excellence scholarships, use of funds for dual credit courses - SB 46
 Family Trust Program, creation of - HB 6
 KJDA, wage requirements - HB 468
 Landlord-tenant relations, litigation relating to - HB 139
 Limited liability tax, repeal of - HB 88
 Live organ donation, tax credit for - HB 103
 Local occupational tax, update Internal Revenue Code reference date for - HB 258
 Marriage, solicitation for - HB 348
 Military pay, exempt from income tax - HB 339
 Motor fuels taxes, refund for volunteer fire departments - HB 45
 Nonprofit agencies and work centers, government purchase from - HB 23
 Pari-mutuel tax, one-day horse race meeting, exemption for - HB 402
 Postsecondary institutions, debt issuance by - HB 332
 Provide procedure for adjustment of rates of natural gas distribution utilities - HB 261
 Provider tax and payments to hospitals - HB 244
 Public funds, collateral - HB 523
 Qualifying voluntary environmental remediation property define requirements of - SB 62
 Real estate investment trusts, clarify income of - HB 479
 Restoration of privilege to drive - HB 266
 Sales
 and use tax, exempt prepared food sold by churches - HB 75
 and use tax, holiday for clothing and school supplies - HB 265
 Single county coal severance projects, funding of - HB 500

Fiscal Note Continued

Smoking cessation treatment, Medicaid coverage of - HB 337
State
employee Sick Leave Bank, creation of and participation in - HB 212
shrine, Governor William Owsley's house named as - HB 467
Streamlined Sales and Use Tax Agreement, conforming changes - HB 360
Tax
increment financing, establish new programs - HB 549
reform, rate increases and earned income credit as part of - HB 411
Teachers, salary supplement for - SB 2
Tourism Development Act, extension of the term of agreement - HB 347
Uniform emergency volunteer health practitioners act, provision for - HB 287
Universal health insurance - HCR 79
Veterans' Affairs Department, fiduciary responsibilities - HB 183
Wildlife easement access, tax credits for - HB 354

Fish and Wildlife

ATV Usage Taskforce, establishment of - HJR 14
Barren River Lake, urge Corps of Engineers to increase depth of - HCR 139
Cooperator permit, allow landowner to enter into - HB 216
Coyotes,
buying and selling, conditions for - HB 231
regulation of - HR 205
Deer hunting season, increase by two weeks - HR 150
Emergency Action Plans for impoundments, promulgate administrative regulations for - HJR 130
Floyds Fork Water Resources Council, establishment of - HB 435
Public hunting, allow cooperator permits for - HB 216
Telecheck deer harvest check-in system and deer harvest, make report on - HR 73
White City Wildlife Management Area, renaming of - HJR 23
Wildlife easement access, tax credits for - HB 354

Flood Control and Flooding

Division of Flood Control, abolished - SB 76
Emergency Action Plans for impoundments, promulgate administrative regulations for - HJR 130
Flood Control Advisory Commission, abolished - SB 76

Foods

Dieticians and nutritionists board, inactive or related license or certificate status granted by - SB 156
Farmers markets, preparation and serving of ready-to-eat foods at - HB 120

Forests and Forestry

White City Wildlife Management Area, renaming of - HJR 23

Fuel

Gas
Pipeline Authority, include crude oil and petroleum products - HB 102
Pipeline Authority, transfer to Commerce Cabinet's Office of Energy Policy - SB 55
Gasoline pricing, expressed only in whole cents - HB 304
Oil and gas leases, contracts and agreements, default royalty provisions for - HB 543
Tire-derived fuel, exempt from solid waste definition, exemption of - SB 125
Underground petroleum storage tank program, administration of - HB 521

Gambling

Casino gaming and electronic gaming devices at racetracks, require approval for - HB 547
Casinos and racetracks gaming operations, omnibus bill - HB 27, 546
Charitable
gaming, provide guidelines for enforcement action - HB 156
gaming, regulation of - SB 212
gaming, task force to study oversight - HCR 9
Compulsive gamblers awareness and treatment fund, creation of - HB 41
Gaming equipment, pull tab dispensers - HB 180

General Assembly

Adjourn

2007 Session until February 6, 2007 - SCR 22

until March 26, 2007 - SCR 218

Adjournment, sine die - SCR 239

Candidates, public financing for - HB 55

Certificate of Election by Secretary of State - p 1

Committee

appointments - p 32, 44-53, 61, 85, 130, 234, 723

chairs, announcing restricted access to legislator seating area during session meeting - HCR 107

reports, interim - p 39, 44

room seating area for legislators, restricted access during session meetings - HCR 107

to wait upon Governor - HR 3, - p 32

Constitutional amendment, damages, recoverable may be limited - HB 300

Contributions, expenditures, and reporting, changes to - SB 159

Deadline for vacancy in candidacy, establishment of - SB 54

Election of Constitutional Officers - p 9

Election of Speaker and Speaker Pro-Tem - p 31

Elected officials, salary upon reemployment after retirement - HB 132

Executive Order 2006-680, confirmation of - SB 58

General Assembly - HR 1

Gross Clay Lindsay Henderson County Judicial Center - HJR 5

House Majority leadership announced - p 31

House Minority leadership announced - p 31

Impeachment petition of 7-1-06, referred to Judiciary - p 130

Joint Session, State of the Commonwealth, - p 72

Lobbyists, restricted access to legislator seating area during session meetings - HCR 107

Ohio River Task Force, create to study issues - HR 215

Protect human life, authority to - HB 251

Rules 39 and 42 of Rules of Procedure of the House of Representatives, amendment of - HR 44

Rules, House of Representatives - HR 2

Speaker elected, Rep. Richards - p 31

Speaker pro-tem elected, Rep. Clark - p 31

State of the Commonwealth address - p 72

Statutory committee, creation of - HB 127

Tobacco Task Force, reauthorize - HR 78

Vest-Lindsay House Preservation Task Force, creation and reporting of - HCR 151

Veterans' Affairs, request reestablishment of Subcommittee on - HR 61

Voting early, permitting to - HB 484

Governor

A slate of candidates in runoff, permitted to withdraw - HB 542

Boards and commissions, appointments to achieve gender equity allowed - HB 4

Contributions, expenditures, and reporting, changes to - SB 159

Criminal history record checks, conduct of - HB 264, 308

Deputy adjutants general, appointment of - SB 185

Executive

Order 2006-680, confirmation of Personnel Cabinet reorganization - SB 58

Order 2006-693, 2006-1195, and 2006-1550 - SB 79

order, permit Governor to implement by - HB 228

General Assembly, committee to wait upon Governor - HR 3

Governor's Advisory Committee on International Relations, abolished - SB 55

Kentucky Cardiovascular Disease Initiative and board, appointments - HB 185

Lieutenant Governor, nomination of, delay until after primary - HB 488

Office of Energy Policy, Executive Order 2006-1299 - SB 85

Pardons

and commutations of sentences, establish limits to - HB 3

and commutations of sentences, process for, change - HB 3

Runoff

elections, elimination of - HB 224

primaries, payment of - HB 476

Secretary of State's annual report on patents, repeal of - HB 464

State of the Commonwealth address - p 72

Guardians

Competency

proceeding, jury trial for - HB 236
proceeding, when pay required - SB 72
Durable power of attorney - HB 275
Incapacitated dentists, contract with others to continue provision of service - SB 26
Long-term care partnership insurance program, establishment - HB 126
Veterans' Affairs Department, disabled veterans, minors, representation of - HB 183
Voting rights, wards and guardians - HB 374

Hazardous Materials

Hazardous substances, pollutants, contaminates, and release, define - SB 82
Methamphetamine-contaminated property, program for cleanup of - HB 94
Railroads, risk assessment for transportation and storage of - HB 134

Health and Medical Services

06 HB 380, state/executive branch budget bill, amendments to - HB 327
Abortion,
anesthesia requirement for 20 weeks or older fetus - SB 80
informed consent - SB 179
no right created - HB 251
Air ambulance, health insurance coverage of - HB 377
Alzheimer's disease, direct study of service delivery for - HJR 13
Alzheimer's, direct the Cabinet for Health and Family Services to assess - SJR 6
Assault in the third degree, medical professionals - HB 176
Autism
spectrum disorders, health coverage for - HB 91
spectrum disorders, supports program, Medicaid waiver, screening for - HB 109
Brain injuries, encourage pilot treatment program - HR 202
Certificate of death, registered nurses and physician assistants authorized to sign - SB 198
Certified surgical assistants, certification requirements - SB 118
Child care centers and nursing facilities, drug screening requirement for - HB 151
Chiropractors, insurance reimbursement - HB 352
Chronic obstructive pulmonary disease, initiatives for - HR 49
Continuing care retirement community, nursing home bed sunset clause, removal of - HB 282
Data on health care costs, quality and outcomes, report required - HB 431
Dental hygienists, private admonishment - SB 105
Dentists,
complaint hearing - SB 105
continuation of services in case of death or incapacity - SB 26
Diabetes research board, amend research criteria for - HB 383
Diabetes, prevention, control, and treatment of - HB 406
Friedreich's Ataxia Awareness Day, third Saturday in May recognized as - HR 123
Health
facility, patient visitation rights - HB 474
insurance, specified procedure or service, insured liability for - HB 255
insurance, urge Congress not to pass a National Health Insurance Act - HR 213
Insurance, urge Congress to pass a National Health Insurance Act - HR 81
History and physical examination, timing of - HB 378
ICARE, cancer screenings, provide for - HB 410
Immunization, human papillomavirus, middle school children - HB 143, 345
Insurance, urge Congress to pass a National Health Insurance Act - HR 243
I-SaveRx Internet program, cooperative agreement with - HB 256
Kentucky
Farmers Market Nutrition Program, creation of - SB 25
Hospice Day, declared as February 20, 2008 - HR 135
Lawrence P. Emberton, M.D., honoring and commending - HR 124
Live organ donation, tax credit for - HB 103
Long-term
care facilities, nurse staffing requirements, establishment of - HB 290
care facilities, training, policies and services for dementia - HB 141
care insurance rates - HB 79

Health and Medical Services Continued

Medicaid fraud, civil and administrative proceedings for - HB 477
 Medicaid, Pharmacy Advisory Committee, add member - SB 69
 Medical
 Assistance Program, assessing credentials of dentists for - SB 98
 expenses incurred for prisoners, cap on reimbursements for prisoners - HB 357
 malpractice, constitutional amendment - HB 505
 practice, use of lasers by nonphysician - HB 473
 Medicare prescription drug benefit, improvements in - HR 125
 Myositis Awareness Day, September 21 - HR 34
 No fault auto insurance, medical expenses - HB 18
 Nurseries, Level II, III, and IV, annual review of - HB 112
 Nurses, disciplinary actions, financial transactions and guilty pleas leading to - HB 196
 Orthotics, prosthetics, and pedorthics, licensing and regulation of practitioners of - SB 30
 Outpatient
 contraceptive services, health plan coverage of - HB 344
 data reporting, required by hospitals - HB 445
 Pharmacist practitioners, establish certification for - HB 233
 Pharmacy technician, registration instituted - HB 533
 Prescription drug importation from foreign countries, provisions for - HB 252
 Primary care centers, funding in medical underserved areas for - HB 313
 Prostate cancer screening, health insurance, coverage by - HB 506
 Provider tax and payments to hospitals - HB 244
 Registered nurse first assistants, workers' compensation, direct reimbursement for - SB 103; HB 379
 Reorganization, Cab. for Health & Family Services, EO's 2006-693, 2006-1195 and 2006-1500 - SB 79
 Senior Center, Campbell County, honoring - HR 193
 Single-payor health insurance system for Kentucky, study of - HCR 71
 Smoking cessation treatment, Medicaid coverage of - HB 337
 Speech and language pathologist and audiologists, licensure requirements for - SB 89; HB 288
 State Children's Health Insurance Program, urge reauthorization of - HCR 117
 Surgical technologist, certification required - SB 138
 Treatment, mental health, approval from health insurer - HB 570
 Uniform emergency volunteer health practitioners act, provision for - HB 287
 Universal health care, urge Congress to support policies to provide - HCR 6

Health Benefit Mandate

Air ambulance, health insurance coverage of - HB 377
 Autism spectrum disorders, health coverage for - HB 91
 ICARE, cancer screenings, provide for - HB 410
 Outpatient contraceptive services, health plan coverage of - HB 344
 Prostate cancer screening, health insurance, coverage by - HB 506
 Treatment, mental health, approval from health insurer - HB 570

Highways, Streets, and Bridges

"Abraham Lincoln Memorial Highway," designate Interstate 65 in honor and memory of - SJR 93
 "Brandon Webb Highway," designate in city of Ashland - HJR 52
 "Dr. Martin Luther King, Jr., Memorial Highway," designate in Jefferson County - SJR 16; HJR 54
 "John
 Hunt Morgan Heritage Trail," placement of signs - HJR 142
 W. D. Bowling Bypass," designate Danville/U.S. 127 Bypass in honor of - HJR 119
 "Martin Luther King, Jr. Boulevard," designate in City of Paris - HJR 50
 "Private Ottis Reed Memorial Bridge," designate in the town of Meta - HJR 116
 06 HB 380, state/executive branch budget bill, amendments to - HB 327
 Bennett Shortridge Memorial Bridge, erect signs in memory of in Pike County - HJR 74
 Bert T. Combs, statue, erection of - HJR 84
 Bicycles, helmet use required for persons under the age of 16 - HB 169
 Billboards, establish vegetation control permit - SB 155
 Bowling Green, designation as the birthplace of newgrass music - HB 294
 Brent Spence Bridge, urge Congress to accelerate funding for replacement - HR 40
 Bridges in Jefferson County, bond funds to build - HB 72
 Coal shippers and receivers, require weight reporting to vehicle enforcement - HB 454
 Colonel Larry Fuller Band, erect signs in honor of in Pike County - HJR 72
 County roads, require railroads to install active warning signals on - HB 323
 Driving without insurance, prohibition on - SB 68; HB 149

Highways, Streets, and Bridges Continued

I-75, designate in honor of Tuskegee Airmen - HJR 15
Interlocal agreements, aid for county road projects - HB 116
Jesse R. Green, erect signs in honor of in Marshall County - HJR 66
King, Dr. Martin Luther, Jr., urge city of Covington to rename 12th Street in honor of - HR 197
Leaving the scene of an accident, penalty increase - HB 76
Louisville
Bridges project, request additional federal funding for - HR 140
Bridges project, request for additional federal funding for - HR 90
Memorial signs, creation of highway memorial sign program - HB 155
Overdimensional permit, maximum width for transport of farm equipment, increase of - HB 182
Railroad crossings, installation of gates or flagmen at - HB 351
Sam Bush, designation as Father of Newgrass Music in the Commonwealth - HB 294
Speed limits for state highways, establish - SB 83

Historical Affairs

A.D.
and B.C., exclusive use of in reference to historical dates and time - HB 14
and B.C., exclusive use of, in reference to historical dates and time - HB 21
Governor William Owsley, state shrine, house named as - HB 467
Historic or prehistoric remains on property, procedure for disposition of - HB 118
Native American Indian Day, designation of November 1 as - HB 293
Qualified historic sites, alcoholic beverage sales at - HB 138
Rock fences, preservation and construction of - HB 108
Vest-Lindsay House, preservation and ultimate use of - HCR 151
War of 1812, bicentennial commission, create - SB 197

Holidays

Milton Friedman, recognizing Milton Friedman Day - HJR 77
Steve Irwin Day, recognize February 22, 2007, as - HR 22

Hospitals and Nursing Homes

Alzheimer's, direct the Cabinet for Health and Family Services to assess - SJR 6
Certificate of death, registered nurses and physician assistants authorized to sign - SB 198
Chronic obstructive pulmonary disease, initiatives for - HR 49
Continuing care retirement community, nursing home bed sunset clause, removal of - HB 282
Diabetes, prevention, control, and treatment of - HB 406
Drug screening, employment requirements for - HB 151
Health facility, patient visitation rights - HB 474
History and physical examination, timing of - HB 378
Long-term
care facilities, nurse staffing requirements, establishment of - HB 290
care facilities, training, policies and services for dementia - HB 141
care partnership insurance program, establishment - HB 126
Medicaid fraud, civil and administrative proceedings for - HB 477
Medical malpractice, constitutional amendment - HB 505
No fault auto insurance, medical expenses - HB 18
Nurseries, Guidelines for Perinatal Care, require adherence by - HB 112
Office of Inspector General, licensure inspections, provide results to news media - HB 463
Outpatient data reporting, required by hospitals - HB 445
Provider tax and payments to hospitals - HB 244
Registered nurse first assistants, workers' compensation, direct reimbursement for - SB 103; HB 379
State Children's Health Insurance Program, urge reauthorization of - HCR 117
Surgical technologist, certification required - SB 138
Trauma care system, establish and fund - HB 152
Uniform emergency volunteer health practitioners act, provision for - HB 287

Hotels and Motels

Minimum
wage revision - HB 305
wage revision, annual adjustment - HB 17
Tipped employees, revision of tip credit - HB 206

Housing, Building, and Construction

Construction requirements and payment procedures - HB 490
 Construction, requirements and payment procedures - HB 490
 Educational institutions, construction exempt from paying prevailing wages - HB 457
 Historic or prehistoric remains on property, limitations created by - HB 118
 Homeowners insurance, swimming pools - HB 35
 HVAC installations, permitting - SB 10
 Kentucky Single Family Dwellings Advisory Board, creation of - HB 243
 Manufactured home residents, good cause required for eviction - HB 157
 Military families, assistance for - SB 186
 Plumbers' continuing education, provision for - HB 553
 Prevailing
 wage projects, locality redefined - HB 455
 wage projects, requirements for bid proposals - HB 453
 Real Estate Appraisers Board, powers of - SB 160
 Uniform state building permit, provisions for - HB 372

Immigration

Government contracts, verification of employment eligibility - HB 44
 State employment, verification of employment eligibility - HB 209
 Unauthorized
 alien, prohibit employment of - HB 148
 aliens, deduction for wages paid to - HB 73

Information Technology

Commonwealth Office of Technology, reorganization of - SB 55
 ConnectKentucky, recognize as Ky's telecommunications and information technology resource - HCR 126
 Geographic Information Advisory Council, renamed - SB 55
 State agency infrastructure, consolidation of operational control under Office of Technology - SB 55
 Telehealth Board, transfer to Cabinet for Health and Family Services - SB 55
 Track deployment, adoption, and investment for telecommunications - SB 74

Inspections

HVAC inspections and permits - SB 10
 Kentucky Single Family Dwellings Advisory Board, creation, recommendations for building code - HB 243

Insurance

Consultants, modernization act. - HB 513
 Driving without insurance, prohibition on - SB 68; HB 149
 Firefighters, disabled in line of duty, health and life insurance state supplement, CPI adjustment - HB 376
 Health insurance, specified procedure or service, insured liability for - HB 255
 Health, prostate cancer screening, coverage of - HB 506
 Homeowners, swimming pools - HB 35
 Life, employer provided - HB 401
 Local
 government premium tax, study of - HJR 10
 insurance premiums tax, clarify powers of local governments - HB 371
 Long-term
 care partnership insurance program, establishment - HB 126
 care, rates - HB 79
 Motor
 vehicle and homeowners, prohibit territorial rating - HB 57
 vehicle, disclosure of available insurance and premiums - HB 428
 vehicle, penalties for operating without security - HB 571
 Property and casualty, use of credit history - HB 111
 Public agencies, limit coverage and beneficiaries to family members - SB 152
 Rates, use of territory in establishing - HB 498

Insurance Continued

Workers'

compensation ALJ's, experience required - HB 492
compensation board, experience required - HB 493
compensation, exclusive remedy exception - HB 303
compensation, include in calculation of average weekly wage for - HB 494
compensation, notification to injured workers - HB 517
Wrongful death, motor vehicle accident, contact not required - HB 271

Insurance, Health

Air ambulance, health insurance coverage of - HB 377
Autism
spectrum disorders, health coverage for - HB 91
spectrum disorders, supports program, Medicaid waiver, screening for - HB 109
Chiropractors, reimbursement - HB 352
Firefighters, disabled in line of duty, health and life insurance state supplement, CPI adjustment - HB 376
Health
insurance, specified procedure or service, insured liability for - HB 255
insurance, urge Congress not to pass a National Health Insurance Act - HR 213
Insurance, urge Congress to pass a National Health Insurance Act - HR 81
ICARE, cancer screenings, provide for - HB 410
Insurance, urge Congress to pass a National Health Insurance Act - HR 243
I-SaveRx Internet program, cooperative agreement with - HB 256
Large group, request for information about group - SB 175; HB 239
Medicare prescription drug benefit, improvements in - HR 125
Outpatient contraceptive services, health plan coverage of - HB 344
Prostate cancer screening, coverage of - HB 506
Public
agencies, limit coverage in employee plans to employee and family members - SB 152
employee health insurance program, additional options, Tricare supplement - SB 22
Single-payor health insurance system for Kentucky, study of - HCR 71
State Children's Health Insurance Program, urge reauthorization of - HCR 117
Treatment, mental health, approval from health insurer - HB 570
Universal
coverage, study - HCR 79
health care, urge Congress to support policies to provide - HCR 6
University
and college employees, limited health benefits for domestic partners - HB 10
and college employees, prohibit health benefits for domestic partners - HB 48

Insurance, Motor Vehicle

Cost of acquiring a replacement motor vehicle of like kind as damages, include - HB 428
Disclosure of available insurance and premiums, require - HB 428
Limitation of damages for failure to maintain - HB 22
Low mileage premium discount - HB 38
Maximum amount of basic reparation benefits, increase - HB 428
No fault, medical expenses - HB 18
Penalties, operating a motor vehicle without security - HB 571
Rates,
use of credit history - HB 111
use of territory in establishing - HB 498
Split limits liability coverage for bodily injury and property damage, increase - HB 428
Territorial rating, prohibit - HB 57
Weekly basic reparation benefits for work loss and other weekly economic loss, increase - HB 428
Wrongful death, motor vehicle accident, contact not required - HB 271

Interest and Usury

Judgment, interest on - HB 368

Interlocal Cooperation

Code enforcement boards, to have a minimum of three members - HB 297
Interlocal agreements, incentives for - HB 116

International Trade and Relations

Immigration, enforcement of federal law - HB 11
Oversight committee, creation of - HB 127

Interstate Cooperation

Criminal history records, national compact to share - HB 555
I-SaveRx Internet program, cooperative agreement with - HB 256
Presidential election by national popular vote, compact for - HB 550
Uniform Prudent Management of Institutional Funds Act, adoption of - HB 515

Jails and Jailers

Canteen accounts, annual appropriation - HB 114
DNA collection, any felony - HB 507
Elected officials, salary upon reemployment after retirement - HB 132
Immigrants, criminal justice provisions relating to - HB 164
Inmates and prisoners, prohibition on sexual conduct with - HB 140
Jailers, account settlement - HB 551
Medical expenses incurred for prisoners, cap on reimbursements for - HB 357
Reimbursement for holding state prisoners before conviction - HB 187
Salary and benefits if reemployed after retirement - HB 317

Judges and Court Commissioners

Child
support, increase minimum amount of - HB 369
welfare, training judges on - HB 199
Death
Penalty, abolition of - HB 200
penalty, sentencing options - HB 98
Judges called back to service, technical correction - HB 363
Study of state adoption laws, establish task force for - HCR 67
Visitation, minor children and allegations of abuse or neglect - HB 20

Junkyards

Ferrous and nonferrous metals, reporting purchase of - HB 82

Juries and Jurors

Breast-feeding, excused from jury duty - HB 241
Competency
proceeding, jury trial for - HB 236
proceeding, when pay required - SB 72
Contempt, failure to perform jury service - HB 425
Death penalty, sentencing options - HB 98
Employer's duties, jury service - HB 423
Jury service, excusal for breastfeeding mothers - SB 111

Justices of the Peace and Magistrates

Elected officials, salary upon reemployment after retirement - HB 132

Labor and Industry

Child care centers and nursing facilities, drug screening requirement for - HB 151
Collective bargaining, authorized for public employees - HB 318
Conflict Resolution Week in Kentucky, declaration of - HJR 118
Construction contracts, payment requirements - HB 490
Criminal history record checks, conduct of - HB 264, 308
Educational institutions, construction exempt from paying prevailing wages - HB 457
Employee
Free Choice Act, urge Congress to enact - HR 169

Labor and Industry Continued

Free Choice Act, urge the U.S. Senate to defeat - HR 212
Fire-safe cigarettes, manufacture, sales of - SB 134; HB 278
Government contracts, verification of employment eligibility - HB 33, 44
Health insurance, request for information about group - SB 175; HB 239
Human
trafficking - SB 43
trafficking, create the offense of - HB 163
HVAC inspections and permits - SB 10
Labor organization, mandatory membership or financial support prohibited, penalty - HB 328
Life insurance, payment of premium - HB 401
Mine safety, requirements and penalties for - HB 207
Miner certification, reciprocal agreement with other states, allowance of - SB 47; HB 186
Minimum
wage revision - HB 305
wage revision, annual adjustment - HB 17
wage, revision - HB 37
wage, revision of - HB 54
wage, revision of tipped credit - HB 206
Noncitizen workers, study of - HCR 127; HR 223
Prevailing
wage project, median wage payment required - HB 456
wage projects, requirements for bid proposals - HB 453
wage, project locality redefined - HB 455
Prison industries, recidivism reduction program - SB 42
Railroads, safe walkways, provision for - HB 172
Sex-based wage discrimination, prohibited on comparable jobs - HB 219
Silica and mixed dust claims, procedures for - HB 417
State employees, verification and eligibility required - HB 209
Unauthorized
alien, prohibit employment of - HB 148
aliens, deduction for wages paid to - HB 73
Unemployment insurance, collections, procedures revised for - SB 171
Unpaid wages, limitation on recovery of - HB 482
Workers'
compensation ALJ's, experience required - HB 492
compensation board, experience required - HB 493
compensation, attorney fee for medical disputes - HB 495
compensation, attorney fee increase - HB 491
compensation, benefits denied for voluntary intoxication - SB 99
compensation, black lung revisions - HB 452
compensation, exclusive remedy exception - HB 398
compensation, include in calculation of average weekly wage for - HB 494
compensation, independent contractor certificate - SB 190
compensation, notification to injured workers - HB 517
compensation, rebuttable presumption for worker exposure - HB 516

Land Use

Abandoned Mine Land Program, reclamation projects, project finance for - SB 187
Agricultural district, requirements for - HB 202
ATV Usage Taskforce, establishment of - HJR 14
Counties containing consolidated local government, or first class city, land use, citations - HB 444
Historic or prehistoric remains on property, procedure for disposition of - HB 118
Interlocal agreements with local governments for the provision of certain services - HB 355
KRS 224A.011 add, change, and delete definitions for - HB 442
Landowner cooperator permit, authorize use for hunting - HB 216
Qualifying voluntary environmental remediation property, amend definition and requirements of - SB 82
Wildlife easement access, tax credits for - HB 354

Landlord and Tenant

Eviction of manufactured home residents, good cause required - HB 157
 Landlord-tenant relations, litigation relating to - HB 139
 Manufactured home community operators, establish requirements for - HB 157
 Methamphetamine property registry, creation and operation of - HB 470
 Self-contained storage units, rights and duties regarding lease of - HB 245
 Theft by deception, bad checks - HB 217
 Uniform Residential Landlord and Tenant Act, require application to manufactured home communities - HB 157

Legislative Citations

2006 Governor's Awards in the Arts recipients, LC 21 - p 376
 2007 There Ought To Be A Law! Contest winners, LC 80 - p2714
 4-H Teen Council Officers, LC 56 - p 1589
 4-H: A Capitol Experience, participants and sponsors, LC 55 - p 1589
 Anderson, Kevin Jr., 2007 YMCA Black Achievers Youth Achiever of the Year, LC 58 - p 2106
 Black, Gracie Lee Boswell, LC 44 - p 1164
 Blankenship, Erin Ashley, LC 52 - p 1553
 Boone County Youth Cabinet, LC 40 - p 1064
 Bowling Green Special Olympics, Girls Basketball Team, LC 46 - p 1163
 Carter, Floyd Stanley, Sr., LC 54 - p 1559
 Christian Appalachian Project, LC 43 - p 1164
 Clemons, Staff Sgt. Thomas W., LC 7 - p 55
 Cruguet, Jean, LC 69 - p 2526
 Dees, Cassidy Rae, winner of 2007 Miss Kentucky County Fair Pageant, LC 84 - p 2714
 Erlanger Emergency Medical Services, administration and employees, LC 45 - p 1165
 Estep, Martha Fulcher, LC 31 - p 561
 Family Resource Youth Services Coalition of Kentucky, Inc., LC 13 - p 127
 Franklin County High School Dance Team, LC 63 - p 2391
 Fulcher, Robert Willis, LC 78 - p 2827
 Girton, Don, LC 33 - p 616
 Goodpaster, Paul Morgan, LC 68 - p 2522
 Gray, Representative and Mrs. J.R., LC 8 - p 128
 Greenup County Youth and Mini Cheerleading Squads, LC 81 - p 2712
 Harper, June Wilson, LC 49 - p 1323
 Hayden, Nicholas "Nicky" Patrick, LC 59 - p 2109
 House Doorkeepers and House Security Detail, LC 88 - p 2814
 Immaculate Heart of Mary School, LC 42, - p 1163
 Jewish Hospital & St. Mary's Healthcare, LC 25 - p 377
 Johnson County Middle School Academic Team, LC 83 - p 2713
 Johnson, Christopher Wayne Johnson, Esq., LC 75 - p 2781
 Kentucky Auctioneers Association, LC 9 - p 70
 Kentucky Book Fair, LC 26 - p 377
 Kentucky Gentlemen, LC 1 - p 1
 KSP Legislative Security Detail, LC 89 - p 2814
 Lake Cumberland Community Head Start and Early Head Start Programs, LC 57 - p 2059
 Lamb, Lewis and Donna, LC 28 - p 378
 Landers, Steve, LC 70 - p 2528
 Leadership Bell County, LC 61 - p 2172
 Leadership Kentucky Association of Realtors, LC 11 - p 117
 Leadership Louisville, LC 18 - p 368
 Lexington Christian Academy, Lady Eagles Varsity Basketball Team, LC 82 - p 2712
 Link, Brady Matthew Link, Sr., LC 17 - p 209
 McClure, Rekel Isaacs, LC 85 - p 2822
 McGrew, Joshua Lee, LC 35 - p 989
 Mercer County High School, Marching Band, LC 37 - p 1065
 Mercer County High School, Titans Football Team, LC 38 - p 1064
 Miller, Algean Rearden, LC 74 - p 2550
 Mobley, Russ and Carole, LC 16 - p 127
 Morehead State Public Radio, LC 30 - p 378
 Morehead State University Co-ed and All-Girl Cheerleading Squads, LC 51 - p 1487
 Morton Middle School Cheerleaders, LC 53 - p 1488
 National Board for Professional Teaching Standards, Certified Teachers, LC 66 - p 2482
 Neal, Patricia, LC 23 - p 376
 Paul Laurence Dunbar High School, Varsity Cheerleaders, LC 48 - p 1308

Legislative Citations Continued

Pike County Extension, LC 29 - p 378
Pikeville Junior High School, Varsity Cheerleading Squad, LC 64 - p 2172
Richmond Chamber of Commerce, LC 20 - p 561
Rotary Club of Frankfort and Rotary International, LC 36 - p 719
Russell Orchestra Education, LC 27 - p 378
Scroggins, Bobby, LC 47 - p 1258
Snyder, Marion Gene, LC 37 - p 991
Speer, J. Alexander, LC 22 - p 376
Spink, Marilyn, LC 2 - p 40
Stoner, Morris L., LC 4 - p 53
Thomas, Edith C., LC 5 - p 53
Trigg County Youth Leadership, LC 67 - p 2425
University of Kentucky, School of Human Environmental Sciences, LC 34 - p 617
Van Williams, LaVon, Jr., LC 24 - p 377
Walker, Kenny, LC 79 - p 2711
Weaver, Alice, LC 41 - p 1065
West, Howard, LC 65 - p 2398
Wilson, Martha Perkins, LC 6 - p 53
Wilson, Mary G., LC 73 - p 2568
Wynn, Billy Ray, LC 3 - p 39

Legislative Research Commission

Access to revenue and economic development information - HB 359
Death penalty task force, established - HCR 88
Establish charitable gaming task force and appoint members - HCR 9
Prescription drug reporting program, direct action to be taken on - SJR 48
Statutory committee, creation of - HB 127
Study of state adoption laws, establish task force for - HCR 67
Study, universal health insurance - HCR 79
Tobacco Task Force, reauthorize - HR 78
Vest-Lindsay House Preservation Task Force, creation and reporting of - HCR 151

Libraries

County law libraries, location and material of - HB 273
Kentucky State Advisory Council on Libraries, change in membership and purpose - HB 386
Librarian's certification fund, use of - HB 386

Licensing

Academic degree, forgery of, Class D felony - HB 175
Airport livery certificate, requirement for - HB 524
Alcohol vaporizing device, sale and use ban - HB 125
Alcoholic
 beverage sales, approval of at qualified historic sites - HB 138
 beverages, state parks, sale of wine and malt beverages at - HB 391
Animal shelters, mandatory spay/neuter, establish requirements for - HB 270
Bloodstock agent and equine consignor licenses, establishment of - HB 497
Board of Accountants, fine increases - HB 259
Casino gaming and related occupations, licensing of - HB 27, 546
Certified surgical assistants, certification requirements - SB 118
Charitable
 gaming, establish task force to study oversight - HCR 9
 gaming, regulation of - SB 212
Child care centers and nursing facilities, drug screening requirement for - HB 151
Child-care center rating system, licensing requirement for - HB 234
Concealed deadly weapons, lifetime license to carry - HB 211
Consultants, modernization act. - HB 513
Continuing education requirements, license renewal dependent upon fulfillment of - HB 46
Cosmetologist board, examinations administered by and principal office of - SB 13
Dieticians and nutritionists board, inactive or related license or certificate status granted by - SB 156
Distilled spirits retail drink license, eligibility for - HB 340
Drivers, restoration of privilege - HB 266
Election days alcoholic beverages, after 12 noon, permit sale of - HB 341

Licensing Continued

Immigration assistance services, prohibition against providing legal advice - HB 166
 Medicaid fraud, disciplinary action for - HB 477
 Military families, assistance for - SB 186
 Motor vehicles, reissuance of special license plates - HB 215
 Nurses, suspension of licensure related to financial transactions by - HB 196
 Ophthalmic dispensers, make optical establishments a new licensing category for - HB 394
 Orthotics, prosthetics, and pedorthics, licensing and regulation of practitioners of - SB 30
 Pharmacy technician registration, qualifications for - HB 533
 Plumbers' license renewal, continuing education requirements for - HB 553
 Real
 Estate Appraisers Board, powers of - SB 160
 estate brokers, various requirements for - HB 86
 Estate Commission, required post-license education course - HB 65
 REAL ID Act of 2005, urge repeal of - HCR 122
 Speech and language pathologist and audiologists, licensure requirements for - SB 89; HB 288
 Surgical technologist, certification required - SB 138
 Uniform emergency volunteer health practitioners act, provision for - HB 287

Liens

Nuisance liens, priority of - HB 489
 Self-contained storage units, operator's lien on contents of - HB 245
 Solid waste collection liens, local governments, authorization for - HB 240
 Unemployment insurance, lien extended - SB 171

Lieutenant Governor

A slate of candidates in runoff, permitted to withdraw - HB 542
 Nomination of slate, delay of - HB 488
 Runoff elections, elimination of - HB 224

Loans and Credit

Attorney fee, usury case - HB 274
 Consumer credit, disclosures required - HB 260
 Credit
 cards, disclosures, consumer protection - HB 250
 history, use by insurers - HB 111
 Creditor to be made defendant - HB 422
 Deferred deposit transactions, limitation on fees charged to members of military - HB 92
 Late payments, reporting of - HB 529
 Prepayment fees or penalties, limitation on - HB 90
 Primary care centers, funding in medical underserved areas for - HB 313
 Public Service Student Law Loan Program - HB 226

Local Government

Animal

cruelty, amend to include shelter from elements - HB 450
 shelters, dog or cat release, mandate spay/neuter - HB 270
 Animals, limitation on certain regulations on - HB 375
 Casino gaming and electronic gaming devices at racetracks, require approval for - HB 547
 Certified court security officers - SB 153; HB 427

City

receipt of funds from consolidated local government for capital improvements - SB 36
 reclassification, Crestview Hills, fifth to fourth class - HB 177
 Code enforcement boards, to have a minimum of three members - HB 297
 Contracts, verification of employment eligibility - HB 33, 44
 Counties containing consolidated local government, land use provisions, citations for violations - HB 444
 Counties, coroners, deputy coroners, appointment of - HB 397

County

jails, reimbursement for holding state prisoners before conviction - HB 187
 law libraries, location and material of - HB 273
 Officials' Compensation Board, abolished - SB 76
 Court action to void annexation, filing of judgment with Secretary of State - HB 451

Department

Local Government Continued

for Local Government, name change, structure of - SB 76
for Local Government, oversight of projects using state funds - SB 143
Dept. for Local Government, required to track deployment & investment for telecommunications - SB 74
Deputy coroners, allow coroner to appoint up to two without fiscal court approval - HB 242
Distilled spirits retail drink license, eligibility for - HB 340
Early voting, voter eligibility for - HB 135
Elected
 county officials, salary and benefits if reemployed after retirement - HB 317
 officials, salary upon reemployment after retirement - HB 132
Election days alcoholic beverages, after 12 noon, permit sale of - HB 341
Eminent domain, authority and procedure - HB 458
English language, utilization of - HB 12
Fertilizer regulation, limit local authority in - SB 91; HB 399
Fire
 department merit boards, consolidated local governments, establish - HB 201
 protection boundaries, amendment by ordinance - HB 168
Firefighters, disabled in line of duty, health and life insurance state supplement, CPI adjustment - HB 376
Fiscal Court, may serve as directors of road districts - HB 572
Immigrants, criminal justice provisions relating to - HB 164
Interlocal agreements between counties, incentives for - HB 116
Internal Revenue Service agents, inclusion of as Kentucky peace officers - HB 194
Jail canteen accounts, annual appropriation - HB 114
Kentucky
 Community Development Office, abolished - SB 76
 Urban Affairs Council, abolished - SB 76
Legal notices, public broadcast, study of - HCR 155
Local
 Government Advisory Commission, abolished - SB 76
 or federal public benefits, verify eligibility for - HB 162
 parks, transient room tax, allowed to support - HB 534
Medical expenses incurred for prisoners, cap on reimbursements for - HB 357
Nuisance liens, priority of - HB 489
Nuisances, nonoperative motor vehicles - HB 472
Oath of office and bond, 30 day exemption for penalty granted - HB 514
Occupational license tax, impact of amendments to conform - HB 307
Parks and recreation, repeal section relating to colored and white park systems - HB 115
Planning and zoning notices, allow use of first-class mail for - HB 496
Promotion of police, seniority and excess applicants, process for dealing with - SB 100
Public funds, collateral - HB 523
Putative father registry, creation of - SB 140
Qualified constables and deputy constables, create certification process for, powers of - HB 556
Require notification to state local debt officer when entering into specified financial obligations - HB 281
Runoff
 elections, elimination of - HB 224
 primaries, payment of - HB 476
Solid waste collection liens, local governments, authorization for - HB 240
Spay/neuter, urge formation of working group on - HR 222
Special
 districts, increase audit maximum - HB 448
 firefighters, increased appointment of - HB 447
Tire-derived fuel, exempt from solid waste definition, exemption of - SB 125
Uniform
 financial information reports - SB 60
 state building permit, provisions for - HB 372
Volunteer firefighters, civil offices not incompatible with - HB 107
Voter verified paper audit trail, requirement of - HB 415
Voting early, permitting to - HB 484
Water districts, extension and formation of - SB 96
Write-in candidate, defeated primary candidate ineligible - HB 131
Zoning, counties containing consolidated local government or first class city, land use, citations - HB 444

Local Mandate

A slate of candidates in runoff, permitted to withdraw - HB 542
 Alcohol vaporizing device, sale and use ban - HB 125
 Alcoholic beverage advertising ban, exemption for promotions sent to customer's residence - SB 29
 Animal cruelty, amend to include shelter from elements - HB 450
 Animals, limitation on certain regulations on - HB 375
 Archaeological sites, family access, require landowner compliance with - HB 117
 Asset forfeiture - SB 88
 Autism spectrum disorders, screening for, manual on - HB 109
 Bicycles, helmet use required for persons under the age of 16 - HB 169
 Casino gaming and related occupations, licensing of - HB 546
 Certificates of delinquency, notice provisions for private purchasers established - HB 321
 Certification as peace officer - HB 277
 Certified court security officers - SB 153; HB 427
 Competency proceeding, when pay required - SB 72
 Concealed
 deadly weapons, lifetime license to carry - HB 211
 weapon, in vehicle - HB 302
 Construction, requirements and payment procedures - HB 490
 Contributions, expenditures, and reporting, changes to - SB 159
 County jails, reimbursement for holding state prisoners before conviction - HB 187
 Covenant Marriage, create the option of entering into - HB 110
 Criminal
 and juvenile matters, omnibus revision - HB 358
 history record checks, conduct of - HB 264, 308
 Deadline for vacancy in candidacy, establishment of - SB 54
 Department
 for Local Government, oversight of projects using state funds - SB 143
 for Local Government, uniform financial information reports - SB 60
 Documented vessels, exempt from local taxation - HB 466
 Driving without insurance, prohibition on - HB 149
 Drug Control Policy, Office of, Executive Order 2006-805 - SB 144
 Early
 voting, establishment of - HB 483
 voting, voter eligibility for - HB 135
 Economic development incentive program; create new program for cities of the first class - HB 536
 Elected
 county officials, salary and benefits if reemployed after retirement - HB 317
 officials, salary upon reemployment after retirement - HB 132
 Election days alcoholic beverages, after 12 noon, permit sale of - HB 341
 Emergency workers, rebuttable presumption for - HB 516
 English language, utilization of - HB 12
 Exemption from property tax for certain recreational vehicles - HB 407
 Expungement of records, Class D felony and misdemeanor - HB 16
 False representation of oneself as a veteran, prohibition - HB 105
 Fertilizer regulation, declare state preemption - SB 91; HB 399
 Film industry, amend tax credits for production in Kentucky - HB 554
 Fire department merit boards, consolidated local governments, establish - HB 201
 Fiscal Court, may serve as directors of road districts - HB 572
 Floyds Fork Water Resources Council, establishment of - HB 435
 Franklin Circuit Court, creation of alternative concurrent jurisdiction - SB 75
 Gift cards, regulate - HB 254
 Gold Star Mothers license plates, exempt from fee - HB 390
 Government contracts, verification of employment eligibility - HB 33
 Hardship driver license, permit for general traffic offenses - HB 510
 Hazardous duty, urban-county government solid waste employees - HB 247
 Historic or prehistoric remains on property, procedure for disposition of - HB 118
 Human
 trafficking - SB 43
 trafficking, create the offense of - HB 163
 HVAC installations, permitting - SB 10
 Identity theft, data protection, omnibus revision - HB 7
 Immigrants, criminal justice provisions relating to - HB 164
 Immigration, enforcement of federal law - HB 11
 Inmates and prisoners, prohibition on sexual conduct with - HB 140

Local Mandate Continued

Jail canteen accounts, annual appropriation - HB 114

Kentucky

Farmers Market Nutrition Program, creation of - SB 25

National Guard specialty license plate, allow surviving spouses to obtain or retain - SB 174

Labor organization, mandatory membership or financial support prohibited, penalty - HB 328

Law Enforcement Foundation Program fund, include designated officers employed by KSP and KVE - HB 214

Leaving the scene of an accident, penalty increase - HB 76

Local

insurance premiums tax, clarify powers of local governments - HB 371

option elections, alcoholic beverage sales at qualified historic sites - HB 138

or federal public benefits, verify eligibility for - HB 162

property tax, private aircraft exemption - HB 335

Medical parole, hearing notification - HB 191

Methamphetamine property registry, creation and operation of - HB 470

Methamphetamine-contaminated property, program for cleanup of - HB 94

Minimum

wage revision - HB 305

wage revision, annual adjustment - HB 17

wage, revision - HB 37

wage, revision of - HB 54

Motor vehicle, penalties for operating without security - HB 571

Notary publics, regulation of - HB 248

Parolees, search of by peace officer - HB 205

Planning and zoning notices, allow use of first-class mail for - HB 496

Policemen's and firefighters retirement fund, insurance benefits for surviving spouse - HB 237

Promotion of police, seniority and excess applicants, process for dealing with - SB 100

Property tax bills, preparation of bills below threshold amount - HB 384

Public

employees health and life insurance, limit coverage and beneficiaries to family members - SB 152

employees, collective bargaining authorized for - HB 318

morals offenses, establish crime of public indecency - HB 338

Qualified constables and deputy constables, create certification process for, powers of - HB 556

Racetracks and casinos, omnibus bill - HB 27, 107

Real Estate Appraisers Board, powers of - SB 160

Retirement,

high-three final compensation and 2.2 percent benefit factor extension - HB 414

high-three final compensation and 2.2. percent benefit factor extension - HB 418

Runoff

elections, elimination of - HB 224

primaries, payment of - HB 476

Seat belt use, exemptions - HB 284

Sex offenders, loitering around schools - HB 531

Sex-based wage discrimination, prohibited on comparable jobs - HB 219

Sexual offenses, noncontact, restraining order - HB 322

Sheriff's fees, add constables in urban-county government - HB 526

Social worker, threatening of - HB 85

Spay/neuter, require for adoption or release from shelters - HB 270

State

contracts, verification of employment eligibility - HB 209

parks, wine and malt beverage sales, local option election authorized - HB 391

Tax increment financing, establish new programs - HB 349

Taxation, limestone, manufacturers - HB 568

Timetable for solicitation of signature for nomination papers, establishment of - HB 387

Tire-derived fuel, exempt from solid waste definition, exemption of - SB 125

Uniform state building permit, provisions for - HB 366

Voter verified paper audit trail, requirement of - HB 415

Voting early, permitting to - HB 484

Wireless device, prohibit use while operating a motor vehicle - HB 301

Lottery

Gross revenues, compulsive gamblers awareness and treatment fund, partial funding for - HB 41

Malt Beverages

Alcohol vaporizing device, sale and use ban - HB 125
 Alcoholic beverage advertising ban, exemption for promotions sent to customer's residence - SB 29
 Distilled spirits retail drink license, eligibility for - HB 340
 Sales at qualified historic sites - HB 138
 State parks, wine and malt beverage sales, local option election authorized - HB 391

Medicaid

Autism spectrum disorders, supports program, Medicaid waiver, screening for - HB 109
 Brain injuries, encourage pilot treatment program - HR 202
 Diabetes, provider use of ADA guidelines for - HB 406
 Durable medical equipment, exempt from sales tax if covered under Medicaid or Medicare - HB 573
 Fraud, civil and administrative proceedings for - HB 477
 I-SaveRx Internet program, cooperative agreement with - HB 256
 Kentucky Children's Health Insurance Program, enrollment or eligible children into - HCR 117
 Long-term
 care facilities, nurse staffing requirements, establishment of - HB 290
 care partnership insurance program, establishment - HB 126
 Medicare prescription drug benefit, improvements in - HR 125
 Payment amount, trauma care - HB 152
 Pharmacy and Therapeutics Advisory Committee, add member - SB 69
 Provider tax and payments to hospitals - HB 244
 Smoking cessation treatment, Medicaid coverage of - HB 337
 State or federal public benefits, verify eligibility for - HB 162
 Universal health care, urge Congress to support policies to provide - HCR 6

Memorials

"Abraham Lincoln Memorial Highway," designate Interstate 65 in honor and memory of - SJR 93
 "Boni Frederick Bill" - HB 362
 "Dr. Martin Luther King, Jr., Memorial Highway," designate in Jefferson County - SJR 16; HJR 54
 "Private Ottis Reed Memorial Bridge," designate in the town of Meta - HJR 116
 Adamkavicius, Captain Adam L., memorializing - HR 106
 Adams, Hugh C. "Buddy," memorializing - HR 86
 Baker, William Frank, memorializing - HR 56
 Beery, Staff Sergeant Brock A., memorializing - HR 94
 Bell, John A. III, memorializing - HR 114
 Bert T. Combs, statue, erection of - HJR 84
 Betts, Dr. Raymond Frederick, memorializing - HR 113
 Blair, Joseph P., Jr., memorializing - HR 172
 Blevins, Clyde E., memorializing - HR 220
 Buckner, Dr. Robert Cecil, memorializing - HR 246
 Byard, Logan Thomas, memorializing - HR 69
 Carter, Floyd Stanley, Sr., memorializing - HR 195
 Clayton, Fred, memorializing - HR 177
 Clemons, Staff Sergeant Thomas W., memorializing - HR 87
 Colvin, Nancy, memorializing - HR 204
 Combs, Carl Luther "Hoot," memorializing - HR 180
 Conley, Clarice Elaine Greene, memorializing - HR 203
 Cooper, Sergeant John Edward, memorializing - HR 111
 Corman, Sammy E., memorializing - HR 143
 Cornett, Sergeant First Class Lance S., memorializing - HR 102, 196
 Cubert, Master Sergeant Clinton Wayne, memorializing - HR 109
 Cummings, Abby Ellen, memorializing - HR 68
 Dean, Sherman, Jr., memorializing - HR 158
 DeCesare, Betty Sue Robertson, memorializing - HR 199
 Echols, Lance Corporal Thomas P., memorializing - HR 97
 Ehney, Sergeant Robert W., memorializing - HR 103
 Floyd, Neal Christian, memorializing - HR 91
 Flynn, Maurice D., memorializing - HR 217
 Foley, Ethel Marie, memorializing - HR 165
 Ford, President Gerald R., memorializing - HR 17
 Fulkerson, Specialist Timothy Adam, memorializing - HR 95
 Gardner, Specialist James W., memorializing - HR 82
 Halsel, Staff Sergeant Santiago M., resolution memorializing - HR 93

Memorials Continued

Harris, Ryan Christopher, naming law after - HJR 145
Hembree, Joy Edwards, memorializing - HR 112
Holbrook, Jr., Morton J., memorializing - HR 48
Hourigan, David Ross, memorializing - HR 21
Irwin, Steve, memorializing - HR 22
Jackson, Evelyn Rose, memorializing - HR 188
Jett, Janice Marie Haitz, memorializing - HR 36
Johnson,
 Christopher Wayne, memorializing - HR 228
 Russell Kelgor, memorializing - HR 181
Jones, Sergeant First Class Charles J., memorializing - HR 105
Joyner, Eldridge Monroe, memorializing - HR 200
King, Dr. Martin Luther, Jr., urge city of Covington to rename 12th Street in honor of - HR 197
Kiser, Constable Elmer, memorializing - HR 210
Lane, William C. "Bill," memorializing - HR 183
Ledford, Homer, memorializing - HR 184
Leonard, State Trooper Jonathan K., memorializing - HR 176
McCoy, Ann Ruby Bell, memorializing - HR 236
McNeill, Sergeant Phillip D., memorializing - HR 147
Memorial signs, creation of highway memorial sign program - HB 155
Messer, Private First Class Scott A., memorializing - HR 85
Moore, Reverend K.L., Jr., memorializing - HR 60
Morrison, Christopher "Pooh Bear," memorializing - HR 38
Mundell, Major Michael Lewis, memorializing - HR 108
Osborne, James Ivo, memorializing - HR 186
Pemberton, Captain Barth H., memorializing - HR 167
Perlman, Edith, memorializing - HR 134
Rawlings, Suddith, memorializing - HR 43
Rouse, William L. "Willie" Jr., memorializing - HR 247
Settle, Private First Class Robert J., memorializing - HR 89
Shortridge, Bennett, naming of bridge in memory of in Pike County - HJR 74
Simmons, Corporal Windell J., memorializing - HR 98
Sims, Lance Corporal Justin D., memorializing - HR 96
Sizemore, Staff Sergeant Garth D., memorializing - HR 101
Tafoya, Lieutenant Commander Jane Elizabeth Lanham, memorializing - HR 190
Taylor, Tom Jr., memorializing - HR 55
Thompson, Michael, memorializing - HR 51
Thornsberry, Lance Corporal Jonathan Brett, memorializing - HR 104
Tolle, Heidi Michelle, memorializing - HR 35
Travis, Harold B., memorializing - HR 59
Wade, Glenn A. "Skippy," memorializing - HR 115
Ward, Private First Class Danny Russell, memorializing - HR 206
Warndorf, Corporal Christopher Tyler, memorializing - HR 92
West, Private First Class Theodore M., memorializing - HR 83
Westerfield, Beatrice "Bea," memorializing - HR 171
White, Private First Class Christopher N., memorializing - HR 99
Wilcox, Robert H., memorializing - HR 227
Yeiser, Beverly G., memorializing - HR 216

Men

Consortium, loss of, action for - HB 403
Dating violence, availability of domestic violence protective orders - HB 396
Human trafficking - SB 43
Identification card for homeless, provide for - HB 253
Income tax refund, military family assistance, designation of - HB 520
Kentucky's rape crisis centers and Sexual Assault Awareness Month, recognize and honor - HR 166
Prostate cancer screening, health insurance, coverage by - HB 506
Putative father registry, creation of - SB 140

Mental Disability

Alzheimer's disease, direct study of service delivery for - HJR 13
 Appointments to boards and commissions, Governor permitted to achieve gender equity with - HB 4
 Autism
 spectrum disorders, health coverage for - HB 91
 spectrum disorders, supports program, Medicaid waiver, screening for - HB 109
 Brain injuries, encourage pilot treatment program - HR 202
 Competency
 proceeding, jury trial for - HB 236
 proceeding, when pay required - SB 72
 Durable power of attorney - HB 275
 Kentucky
 Family Trust Program, creation of - HB 6
 Golden alert system, establish for missing impaired adult - HB 142
 Psychological Association, honor - HR 175
 State Use Commission, creation of - HB 23
 Long-term care facilities, training, policies and services for dementia - HB 141
 Medicaid, Pharmacy Advisory Committee, add member - SB 69
 Mental
 disability, law enforcement intervention training, development of - HB 504
 disability, law enforcement intervention, development of training - SB 104
 Nonprofit agencies and work centers, government purchase from - HB 23
 Speech and language pathologist and audiologists, licensure requirements for - SB 89; HB 288
 Treatment, mental health, approval from health insurer - HB 570

Mental Health

Autism
 spectrum disorders, health coverage for - HB 91
 spectrum disorders, supports program, Medicaid waiver, screening for - HB 109
 Compulsive gamblers awareness and treatment fund, creation of - HB 41
 History and physical examination, timing of - HB 378
 I-SaveRx Internet program, cooperative agreement with - HB 256
 Kentucky
 Family Trust Program, creation of - HB 6
 Golden alert system, establish for missing impaired adult - HB 142
 Psychological Association, honor - HR 175
 Medicaid, Pharmacy Advisory Committee, add member - SB 69
 Treatment, mental health, approval from health insurer - HB 570

Military Affairs and Civil Defense

Adamkavicius, Captain Adam L., memorializing - HR 106
 Armed Forces Appreciation Month, recognize May as - HR 235
 Beery, Staff Sergeant Brock A., memorializing - HR 94
 Burial rights, publicize - HB 280
 Clemons, Staff Sergeant Thomas W., memorializing - HR 87
 Cooper, Sergeant John Edward, memorializing - HR 111
 Coran, Commander Jeffrey S., honoring - HR 234
 Cornett, Sergeant First Class Lance S., memorializing - HR 102, 196
 Cubert, Master Sergeant Clinton Wayne, memorializing - HR 109
 Deferred deposit transactions, limitation on fees charged to members of military - HB 92
 Department of Military Affairs, absence or inability of Adjutant General - HB 518
 Deputy adjutants general, appointment of - SB 185
 Disabled veterans, exemption from overnight accommodations rate at state parks - HB 167
 Driving on expired license, exemption for returning military personnel - HB 59
 Echols, Lance Corporal Thomas P., memorializing - HR 97
 Ehney, Sergeant Robert W., memorializing - HR 103
 Fulkerson, Specialist Timothy Adam, memorializing - HR 95
 Gardner, Specialist James W., memorializing - HR 82
 Gender-neutral language, establish - HB 519
 Gold Star Mothers license plates, exempt from fee - HB 390
 Halsel, Staff Sergeant Santiago M., resolution memorializing - HR 93
 Health insurance program for public employees, Tricare supplement - SB 22
 Income tax refund, military family assistance, designation of - HB 520
 Jones, Sergeant First Class Charles J., memorializing - HR 105

Military Affairs and Civil Defense Continued

KEES eligibility, retroactive extension for military service - HB 291
McNeill, Sergeant Phillip D., memorializing - HR 147
Messer, Private First Class Scott A., memorializing - HR 85
Military
families, assistance for - SB 186
pay, exempt from income tax - HB 339
rank, awards, and decorations, fraudulent claim - HB 342
Mundell, Major Michael Lewis, memorializing - HR 108
Nein, Staff Sergeant Timothy F., honoring - HR 209
Railroads, risk assessment and community protection plan - HB 134
REAL ID Act of 2005, urge repeal of - HCR 122
Settle, Private First Class Robert J., memorializing - HR 89
Simmons, Corporal Windell J., memorializing - HR 98
Sims, Lance Corporal Justin D., memorializing - HR 96
Sizemore, Staff Sergeant Garth D., memorializing - HR 101
State Parks, discount for members of the military - HB 51
Tafoya, Lieutenant Commander Jane Elizabeth Lanham, memorializing - HR 190
Thornberry, Lance Corporal Jonathan Brett, memorializing - HR 104
Tuition
waiver, child of a veteran - HB 128
waiver, child of deceased or permanently disabled veteran - HB 106
United
States Armed Forces, Global War on Terror, unequivocally support - HR 211
States Armed Forces, Global War on Terror, urge Congress to unequivocally support - HR 174
States Armed Forces, Kentucky member of, death benefits - HB 522
States Navy Appreciation Month, April - HR 233
Veterans'
Affairs Department, disabled veterans, minors, representation of - HB 183
Affairs, request reestablishment of Subcommittee on - HR 61
Veterans state hiring preference, expansion of - HB 63, 170
Veterans, false representation of status, prohibition - HB 105
Warndorf, Corporal Christopher Tyler, memorializing - HR 92
West, Private First Class Theodore M., memorializing - HR 83
White, Private First Class Christopher N., memorializing - HR 99
Winkle, Petty Officer First Class Kelly, honoring - HR 225, 229
Wounded veterans, services and benefits for - HB 225

Minerals and Mining

Abandoned Mine Land Program, reclamation projects, project finance for - SB 187
Mine
foreman, clarify definition of - HB 133
safety, requirements and penalties for - HB 207
Miner certification, reciprocal agreement with other states, allowance of - SB 47; HB 186
Oil and gas leases, contracts and agreements, default royalty provisions for - HB 543
Taxation, limestone, manufacturers - HB 568

Motor Carriers

Airport livery certificate, requirement for - HB 524
CDL standards, compliance with Motor Carrier Safety Improvement Act - HB 509
Coal shippers and receivers, require weight reporting to vehicle enforcement - HB 454
Extended weight coal permits, clarify language on multi-axle permits - HB 161
Overdimensional permit, maximum width for transport of farm equipment, increase of - HB 182

Motor Vehicles

Accidents, driving while fatigued - HB 150
Airport livery certificate, requirement for - HB 524
Automotive mobility dealer, require license to operate as - HB 389
Casualty insurance, prohibit territorial rating - HB 57
Cellular telephone, prohibiting use of - HB 230
Child booster seats, required use - HB 53
Concealed weapon, in vehicle - HB 302
Disable veteran's license plates, reduce the disability threshold for - HB 144

Motor Vehicles Continued

Driver's

license testing, extended hours of operation - HB 43
license, restoration of - HB 266

Driving

on expired license, exemption for returning military personnel - HB 59
without insurance, prohibition on - SB 68; HB 149

Gasoline pricing, expressed only in whole cents - HB 304

Gold Star Mothers license plates, exempt from fee - HB 390

Hardship driver license, permit for general traffic offenses - HB 268, 510

Historic motor vehicles brought into state, require inspection only to authenticate VIN - HB 336

Insurance,

low mileage premium discount - HB 38
no fault medical expenses - HB 18

Kentucky National Guard specialty license plate, allow surviving spouses to obtain or retain - SB 174

Leaving the scene of an accident, penalty increase - HB 76

License plates, allow disabled veterans to acquire without payment of a fee - HB 147

Limitation of damages for failure to maintain insurance - HB 22

Motor

vehicle keys, production of based solely on vehicle identification number (VIN), prohibition - HB 481

vehicle usage tax, exempt religious organizations - HB 502

vehicle usage tax, trade-in credit on purchase of new vehicle - HB 560

Older vehicles, allow display of model year license plate - HB 381

REAL ID Act of 2005, urge repeal of - HCR 122

Remote car starters, permits use if unattended vehicle remains locked - HB 552

Seat

belt fines, deposit in veterans' program trust fund - HB 179

belt use, exemptions - HB 284

Special license plates, reissuance of - HB 215

Speed limits for state highways, establish - SB 83

Temporary tags issued by dealer, make valid for 60 days - HB 370

Use tax, allow out of state bill of sale in lieu of affidavit of consideration - HB 478

Vehicle headlamps, require illumination during foggy or inclement weather - HB 89

Warning lights, exceptions for use by peace officers - HB 329

Wireless device, prohibit use while operating a motor vehicle - HB 301

Wrongful death, motor vehicle accident, contact not required - HB 271

News Media

Office of Inspector General, licensure inspections, provide results to news media - HB 463

Notaries

Omnibus regulation of - HB 248

Notices

Legal notices, public broadcast, study of - HCR 155

Nuclear Energy

Global Nuclear Energy Partnership projects, support efforts to obtain - HR 191

Nuisances

Nonoperative motor vehicles, local ordinances permitted - HB 472

Nuisance liens, priority of - HB 489

Nurses

Alzheimer's, direct the Cabinet for Health and Family Services to assess - SJR 6

Assault in the third degree, medical professionals - HB 176

Certificate of death, registered nurses and physician assistants authorized to sign - SB 198

Chronic obstructive pulmonary disease, initiatives for - HR 49

Diabetes, provider use of ADA guidelines for - HB 406

Disciplinary actions, financial transactions and guilty pleas leading to - HB 196

History and physical examination, timing of - HB 378

I-SaveRx Internet program, work group related to cooperative agreement with - HB 256

Nurses Continued

Long-term

care facilities, nurse staffing requirements, establishment of - HB 290
care facilities, training, policies and services for dementia - HB 141
Medicaid fraud, civil and administrative proceedings for - HB 477
Medical practice, use of lasers by nonphysician - HB 473
Medicare prescription drug benefit, improvements in - HR 125
Nurseries, Guidelines for Perinatal Care, require adherence by - HB 112
Nursing facilities, drug screening requirement for - HB 151
Primary care centers, funding in medical underserved areas for - HB 313
Registered nurse first assistants, workers' compensation, direct reimbursement for - SB 103; HB 379
Smoking cessation treatment, Medicaid coverage of - HB 337
State Children's Health Insurance Program, urge reauthorization of - HCR 117
Surgical technologist, certification required - SB 138
Uniform emergency volunteer health practitioners act, provision for - HB 287
Universal health care, urge Congress to support policies to provide - HCR 6

Obscenity and Pornography

Human trafficking - SB 43
Sexual offenses, procuring minors via an electronic communications system - HB 438

Occupational Safety and Health

Expungement of records, Class D felony and misdemeanor - HB 16
Human trafficking - SB 43
Railroads, safe walkways, provision for - HB 172
Silica and mixed dust claims, civil action procedures - HB 417

Occupations and Professions

Academic degree, forgery of, Class D felony - HB 175
Board of Accountants, disciplinary actions - HB 259
Certified surgical assistants, certification requirements - SB 118
Child care centers and nursing facilities, drug screening requirement - HB 151
Consultants, modernization act - HB 513
Continuing education requirements, license renewal dependent upon fulfillment of - HB 46
Cosmetologists, examinations administered by and principal office of board - SB 13
Dental hygienists, private admonishment - SB 105
Dentists,
complaint hearing - SB 105
continuation of services in case of death or incapacity - SB 26
Dieticians and nutritionists board, inactive or related license or certificate status granted by - SB 156
Emergency workers, rebuttable presumption for exposure to bodily fluids - HB 516
Health care, medicaid fraud, civil and administrative proceedings for - HB 477
HVAC inspections and permits - SB 10
Immigration assistance services provider, scope of practice prescribed - HB 166
Kentucky Psychological Association, honor - HR 175
Making telephone solicitations to wireless telephone numbers, prohibition of - HB 433
Medical Assistance Program, assessing credentials of dentists for - SB 98
Ophthalmic dispensers, make optical establishments a new licensing category for - HB 394
Orthotics, prosthetics, and pedorthics, licensing and regulation of practitioners of - SB 30
Pharmacists, compensation of board of pharmacy - SB 112
Pharmacy technician, disciplinary actions imposed, grounds for - HB 533
Plumbing, continuing education requirements for - HB 553
Qualified mental health professionals, consultation with, health insurers - HB 570
Real
estate appraisers, powers of board - SB 160
estate brokers, various requirements for - HB 86
Estate Commission, required post-license education course - HB 65
Social worker safety, improvements for - HB 362
Speech and language pathologist and audiologists, licensure requirements for - SB 89; HB 288
Surgical technologist, certification required - SB 138
Uniform emergency volunteer health practitioners act, provision for - HB 287
Veterinarians, permission before performing animal euthanasia required - HB 49

Oil and Natural Gas

Gas

Pipeline Authority, include crude oil and petroleum products - HB 102
 System Restoration & Development Project Account, transfer to Ky. Infrastructure Authority - SB 76
 Gasoline pricing, expressed only in whole cents - HB 304
 Industrial energy facilities, permitting for - SB 196
 Oil and gas leases, contracts and agreements, default royalty provisions for - HB 543
 Provide procedure for adjustment of rates of natural gas distribution utilities - HB 261
 Sales and use tax, exempt LP gas and natural gas used in a commercial greenhouse or nursery - HB 330

Optometrists

Medicaid fraud, civil and administrative proceedings for - HB 477
 Ophthalmic dispensers, make optical establishments a new licensing category for - HB 394

Parental Rights

Child

support, increase minimum amount of - HB 369
 welfare, training judges on - HB 199
 Removal of children and termination of parental rights by state, study of report on - HCR 76
 Study of state adoption laws, establish task force for - HCR 67
 Visitation, minor children and allegations of abuse or neglect - HB 20

Parks and Shrines

06 HB 380, state/executive branch budget bill, amendments to - HB 327
 Archaeological sites, require access permit for - HB 117
 Kentucky State Parks, discount for military and veterans - HB 51
 Lake Barkley, maintain high water levels of - HCR 12
 Local parks, transient room tax, allowed to support - HB 534
 Overnight accommodations rate, exemption for disabled veterans - HB 167
 Parks and recreation, repeal section relating to colored and white park systems - HB 115
State
 parks, wine and malt beverage sales, local option election authorized - HB 391
 shrine, Governor William Owsley's house named as - HB 467

Partnerships

Business entities, omnibus revision - HB 334
 Uniform Prudent Management of Institutional Funds Act, adoption of - HB 515

Peace Officers and Law Enforcement

Asset forfeiture - SB 88
 Certification as peace officer - HB 78, 277
 Certified court security officers - SB 153; HB 427
 Criminal and juvenile matters, omnibus revision - HB 358
 Custody and detention by, school age children for school nonattendance - HB 309
 Immigrants, criminal justice provisions relating to - HB 164
 Immigration, enforcement of federal law - HB 11
 Interlocal agreements, peace officer authority - SB 126
 Internal Revenue Service agents, inclusion of as Kentucky peace officers - HB 194
 Kentucky Golden alert system, establish for missing impaired adult - HB 142
 KLEPF Funds, criminal justice to study and report on - HB 116
 Law Enforcement Foundation Program fund, include designated officers employed by KSP and KVE - HB 214
Mental
 disability, law enforcement intervention training, development of - HB 504
 disability, law enforcement intervention, development of training - SB 104
 Methamphetamine property registry, creation and operation of - HB 470
 Oath of sheriff, who may administer - SB 145
 Parolees, search of by peace officer - HB 205
 Promotion of police, seniority and excess applicants, process for dealing with - SB 100
 Qualified constables and deputy constables, create certification process for, powers of - HB 556
 Railroads, risk assessment and community protection plan - HB 134
 Social worker safety, improvements for, coordination among agencies - HB 362
 Warning lights, exceptions for use - HB 329

Personnel and Employment

Career employees, promotional increments of - HB 99
Classified employees, political activities of - HB 62
Deputy adjutants general, appointment of - SB 185
Employee
Free Choice Act, urge Congress to enact - HR 169
Free Choice Act, urge the U.S. Senate to defeat - HR 212
Employees, survivor and retirement benefits, related to - HR 45; HCR 46
Fire department merit boards, consolidated local governments, establish - HB 201
Labor organization, mandatory membership or financial support prohibited, penalty - HB 328
Minimum
wage revision - HB 305
wage revision, annual adjustment - HB 17
wage, revision - HB 37
wage, revision of - HB 54
Personnel
Cabinet reorganization, confirmation of Executive Order 2006-680 - SB 58
rights, definition of "penalization" - HB 220
Public
employees health and life insurance, limit coverage and beneficiaries to family members - SB 152
employees, collective bargaining, authorized for - HB 318
School board member, service credit for retirement - HB 267
Sex-based wage discrimination, prohibited on comparable jobs - HB 219
State
employee Sick Leave Bank, creation of and participation in - HB 212
employment, verification of employment eligibility - HB 209
Tipped employees, revision of tip credit - HB 206
Transportation Highway Superintendent I and II, educational requirements removed - HB 361
Unauthorized alien, prohibit employment of - HB 148
Unpaid wages, limitation on recovery of - HB 482
Workers'
compensation self-insurance, public sector employers exempt from security requirement - SB 203; HB 296
compensation, benefits denied for voluntary intoxication - SB 99
compensation, black lung revisions - HB 452
compensation, notification to injured workers - HB 517
compensation, tort actions for negligence - HB 303, 398

Pharmacists

Assault in the third degree, medical professionals - HB 176
Board of pharmacy, compensation of - SB 112
Internet pharmacies, drug offenses - SB 88
I-SaveRx Internet program, cooperative agreement with - HB 256
Medicare prescription drug benefit, improvements in - HR 125
Orthotics, prosthetics, and pedorthics, exemptions for those practicing under a pharmacist - SB 30
Pharmacist practitioners, establish certification for - HB 233
Pharmacy technician, registration required - HB 533
Prescription
drug importation from foreign countries, provisions for - HB 252
drug reporting program, direct action to be taken on - SJR 48
State Children's Health Insurance Program, urge reauthorization of - HCR 117
Uniform emergency volunteer health practitioners act, provision for - HB 287

Physicians and Practitioners

Abortion,
anesthesia requirement for 20 weeks or older fetus - SB 80
informed consent - SB 179
no right created - HB 251
Alzheimer's, direct the Cabinet for Health and Family Services to assess - SJR 6
Assault in the third degree, medical professionals - HB 176
Certificate of death, registered nurses and physician assistants authorized to sign - SB 198
Certified surgical assistants, certification requirements - SB 118
Chiropractors, insurance reimbursement - HB 352
Chronic obstructive pulmonary disease, initiatives for - HR 49

Physicians and Practitioners Continued

Data on health care costs, quality and outcomes, report required - HB 431
 Diabetes, provider use of ADA guidelines for - HB 406
 Health insurance, specified procedure or service, insured liability for - HB 255
 History and physical examination, timing of - HB 378
 Internet pharmacies, drug offenses - SB 88
 I-SaveRx Internet program, work group related to cooperative agreement with - HB 256
 Kentucky Cardiovascular Disease Initiative and board, creation - HB 185
 Medicaid fraud, civil and administrative proceedings for - HB 477
 Medical
 Assistance Program, assessing credentials of dentists for - SB 98
 malpractice, constitutional amendment - HB 505
 practice, use of lasers by nonphysician - HB 473
 Medicare prescription drug benefit, improvements in - HR 125
 No fault auto insurance, medical expenses - HB 18
 Nurseries, Guidelines for Perinatal Care, require adherence by - HB 112
 Ophthalmic dispensers, make optical establishments a new licensing category for - HB 394
 Orthotics, prosthetics, and pedorthics, licensing and regulation of practitioners of - SB 30
 Pharmacist practitioners, establish certification for - HB 233
 Practitioner of healing arts, advertising by - HB 424
 Prescription drug reporting program, direct action to be taken on - SJR 48
 Primary care centers, funding in medical underserved areas for - HB 313
 Registered nurse first assistants, workers' compensation, direct reimbursement for - SB 103; HB 379
 Single-payor health insurance system for Kentucky, study of - HCR 71
 Smoking cessation treatment, Medicaid coverage of - HB 337
 State Children's Health Insurance Program, urge reauthorization of - HCR 117
 Surgical technologist, certification required - SB 138
 Uniform emergency volunteer health practitioners act, provision for - HB 287
 Universal health care, urge Congress to support policies to provide - HCR 6

Planning and Zoning

County containing consolidat local govt. or 1st class city, land use prov., citations for violations - HB 444
 Interlocal agreements with area planning commission and local governments for certain services - HB 355
 Notices, allow use of first-class mail for - HB 496

Plumbers and Plumbing

Continuing education requirements for - HB 553

Police, City and County

Certification as peace officer - HB 78, 277
 Ferrous and nonferrous metals, reporting purchase of - HB 82
 Immigration, enforcement of federal law - HB 11
 Interlocal Agreements, peace officer authority - SB 126
 Labor organization, mandatory membership or financial support prohibited, penalty - HB 328
 Law Enforcement Foundation Program fund, include designated officers employed by KSP and KVE - HB 214
 Parolees, search of by peace officer - HB 205

Police, State

Certification as peace officer - HB 78, 277
 Concealed deadly weapons, lifetime license to carry - HB 211
 Criminal
 and juvenile matters, omnibus revision - HB 358
 history record checks, conduct of - HB 264, 308
 Department of, Executive Order 2006-805 - SB 144
 Immigration, enforcement of federal law - HB 11
 Kentucky Golden alert system, establish for missing impaired adult - HB 142
 Law Enforcement Foundation Program fund, include designated officers employed by KSP and KVE - HB 214
 Mental
 disability, law enforcement intervention training, development of - HB 504
 disability, law enforcement intervention, development of training - SB 104
 Methamphetamine property registry, creation and operation of - HB 470
 Murder, registration of offenders - HB 15
 Parolees, search of by peace officer - HB 205

Police, State Continued

Process for complaints against local police officer, exclusion from - HB 214
Retirement Systems, appropriations for - HB 419
Sex offender, registration - HB 320
Sexual offenses, noncontact, restraining order - HB 322

Pollution

E-scrap Task Force, establishment of - HCR 131
Hazardous substances, pollutants, contaminates, and release, define meaning of - SB 82
KRS 224A.011 add, change, and delete definitions for - HB 442
Save Our Streams Task Force, creation of - HCR 160
Underground
petroleum storage tank program, administration of - HB 521
petroleum storage tank registration and application deadlines, extended - HB 137

Popular Names and Short Titles

"Martin Luther King, Jr.," name road in City of Paris in honor of - HJR 50
King, Dr. Martin Luther, Jr., urge city of Covington to rename 12th Street in honor of - HR 197
Lincoln, Abraham, naming Interstate 65 in honor and memory of - SJR 93
Marsha Nicole Neace Bicycle Safety Act - HB 169
Ryan's law, BR 1933 - HJR 145
Uniform Prudent Management of Institutional Funds Act, adoption of - HB 515

Poverty

Family resource youth services centers, specify requirements for - SB 86
Medicaid, Pharmacy Advisory Committee, add member - SB 69

Probation and Parole

Bank
or credit union robbery, violent offender status - SB 139
robbery, violent offender status - HB 84
Civil rights, restoration for eligible felony offenders - HB 67
DNA collection, any felony - HB 507
Drug testing fee, creation of minimum amount - HB 121
Medical parole, hearing notification - HB 191
Murder, registration of offenders - HB 15
Parolees, search of by peace officer - HB 205
Presentence investigation, creation of fee for - HB 121
Sexual conduct prohibited, criminal justice system employees - HB 140
Supervision fee, increase - HB 121
Voting rights for felons, constitutional amendment to provide - HB 36

Property

Alien, right to own real and personal property - HB 503
Animals, ownership, prohibition and forfeiture of - HB 93
Archaeological sites, family access, require landowner compliance with - HB 117
Construction contracts, payment requirements - HB 490
Historic or prehistoric remains on property, procedure for disposition of - HB 118
Landowner cooperator permit, authorize use for hunting - HB 216
Manufactured home residents, good cause required for eviction - HB 157
Methamphetamine-contaminated property, program for cleanup of - HB 94
Real
estate brokers, various requirements for - HB 86
Estate Commission, required post-license education course - HB 65
Self-contained storage units, operator's lien on personal property contained in - HB 245
Solid waste collection liens, local governments, authorization for - HB 240
Summons, issuing in condemnation case - HB 421

Property Valuation Administrators

Salary, dedication of property tax receipts to pay - HB 446

Prosecutors

Death Penalty, abolition of - HB 200
 Felons, post-conviction relief - HB 272

Public Advocate

Death Penalty, abolition of - HB 200
 Felons, post-conviction relief - HB 272

Public Assistance

Foster parents, required physical exams and tests, reimbursement for - HB 314
 Identification card for homeless, provide for - HB 253
 State or federal public benefits, verify eligibility for - HB 162

Public Authorities

Construction contracts, payment requirements - HB 490
 Government contracts, requirements, review of - HB 8
 Prevailing
 wage project, median wage payment required - HB 456
 wage projects, requirements for bid proposals - HB 453
 Workers' compensation self-insurance, public sector employers exempt from security requirement - SB 203; HB 296

Public Buildings and Grounds

Social worker safety, improvements for buildings - HB 362
 Soil and Water Conservation districts, infrastructure, loans and grants for - SB 92; HB 136
 State contractors, equal employment opportunity requirements for - HB 181
 Vest-Lindsay House, preservation and ultimate use of - HCR 151

Public Health

06 HB 380, state/executive branch budget bill, amendments to - HB 327
 Abortion, no right created - HB 251
 Alcohol vaporizing device, sale and use ban - HB 125
 Alzheimer's disease, direct study of service delivery for - HJR 13
 Breast-feeding, excused from jury duty - HB 241
 Certificate of death, registered nurses and physician assistants authorized to sign - SB 198
 Chronic obstructive pulmonary disease, initiatives for - HR 49
 Communicable disease precaution initiative, creation of - HB 525
 County coroners, deputy coroners, appointment of - HB 397
 Death certificates, issuance of by Vital Statistics Branch - HB 459
 Drought Mitigation and Response Plan, create - SJR 109
 Farmers markets, preparation and serving of ready-to-eat foods at - HB 120
 Foster parents, required physical exams and tests, reimbursement for - HB 314
 Immunization, human papillomavirus, middle school children - HB 143, 345
 I-SaveRx Internet program, cooperative agreement with - HB 256
 Kentucky Cardiovascular Disease Initiative and board, creation - HB 185
 Medical Assistance Program, assessing credentials of dentists for - SB 98
 Medicare prescription drug benefit, improvements in - HR 125
 Methamphetamine-contaminated property, program for cleanup of - HB 94
 Nurseries, Guidelines for Perinatal Care, require adherence by - HB 112
 Prescription drug importation from foreign countries, provisions for - HB 252
 Primary care centers, funding in medical underserved areas for - HB 313
 Smoking cessation treatment, Medicaid coverage of - HB 337
 Speech and language pathologist and audiologists, licensure requirements for - SB 89; HB 288
 State
 Children's Health Insurance Program, urge reauthorization of - HCR 117
 or federal public benefits, verify eligibility for - HB 162
 Trauma care system, establish and fund - HB 152
 Uniform emergency volunteer health practitioners act, provision for - HB 287
 Universal health care, urge Congress to support policies to provide - HCR 6

Public Medical Assistance

Autism spectrum disorders, supports program, Medicaid waiver, screening for - HB 109
Medical Assistance Program, assessing credentials of dentists for - SB 98
Single-payor health insurance system for Kentucky, study of - HCR 71
State or federal public benefits, verify eligibility for - HB 162

Public Officers and Employees

Adjutant General, absence or inability - HB 518
Assault, third degree, attack on elected official - HB 165
Budget reduction, state employees, salaries of - HB 31
Certified court security officers - SB 153; HB 427
Classified employees, political activities of - HB 62
Commercials by statewide candidates, using state funds, prohibition of - HB 395
Drug testing for school employees, requirement of - HB 408
Elected
 county officials, salary and benefits if reemployed after retirement - HB 317
 officials, salary upon reemployment after retirement - HB 132
Government contracts, requirements, review of - HB 8
Health and life insurance, limit coverage and beneficiaries to family members - SB 152
KHESLC and KHEAA, duties of executive director - HB 100
Labor organization, mandatory membership or financial support prohibited, penalty - HB 328
Legal notices, public broadcast, study of - HCR 155
Oath of office and bond, 30 day exemption for penalty granted - HB 514
Personnel Cabinet reorganization, confirmation of Executive Order 2006-680 - SB 58
Privatization contract requirements, extending application of - HB 356
Public employees, collective bargaining, authorized for - HB 318
Retirement Systems, appropriations for - HB 419
Retirement,
 defined contribution plan for employees hired on or after July 1, 2009 - HB 331
 high-three final compensation and 2.2 percent benefit factor extension - HB 223, 414, 418, 486, 538
Social
 services employees, participation in hazardous duty retirement - HB 52
 worker safety, improvements for - HB 362
 worker, threatening of - HB 85
State
 employee Sick Leave Bank, creation of and participation in - HB 212
 employees, salary increases for - HB 31
 social workers, safety of, Cabinet for Health and Family Services to secure - HCR 8

Public Records and Reports

Criminal history record checks, conduct of - HB 264, 308
Vital statistics, allow signatures in black or blue ink - SB 198

Public Salaries

06 HB 380, state/executive branch budget bill, amendments to - HB 327
Board of pharmacy, members' compensation - SB 112
Budget reduction, state employees, salaries of - HB 31
Career employees, promotional increments of - HB 99
Law Enforcement Foundation Program fund, include designated officers employed by KSP and KVE - HB 214
State employees, salary increases for - HB 31

Public Utilities

E. ON U.S., commending for participation in the FutureGen Alliance - HR 146
Electric meters, pilot program for new - HB 123
Legal notices, public broadcast, study of - HCR 155
Provide procedure for adjustment of rates of natural gas distribution utilities - HB 261
Telemarketing, replacement of state-maintained no-call list by national list - HB 430
Water districts, extension and formation of - SB 96

Public Works

City receipt of funds from consolidated local government for capital improvements - SB 36
 Construction projects, requirements in bid proposals - HB 453
 Department for Local Government, project authorization for - HB 404
 Project, median wage payment required - HB 456
 Projects, locality defined as ADDs - HB 455
 State contractors, equal employment opportunity requirements for - HB 181
 Water districts, extension and formation of - SB 96

Publications

Legal notices, public broadcast, study of - HCR 155
 Planning and zoning notices, allow use of first-class mail for - HB 496

Purchasing

Government Contract Review Committee, additional reporting to, and authority of - HB 356
 Kentucky State Use Commission, creation of - HB 23
 Prison Industries and nonprofit agencies and work centers, government purchase from - HB 23
 State contractors, equal employment opportunity requirements for - HB 181

Race Relations

Parks and recreation, repeal section relating to colored and white park systems - HB 115

Racing

Bloodstock
 agent and equine consignor licenses, establishment of - HB 497
 agent and equine consignor licenses, Racing Authority, oversight by - HB 497
 Casino gaming and electronic gaming devices at racetracks, require approval for - HB 547
 Equine
 industry program, funding increased - HB 40
 industry program's symposium, content prescribed - HB 40
 Horse
 sales, enforcement of contract for commission, conditions warranting - HB 367
 sales, medical conditions and ownership disclosure required - HB 388
 Kentucky Horse Racing Authority, provide funding - HB 557, 569
 Pari-mutuel
 tax, exempt one-day events - HB 557, 569
 tax, one-day horse race meeting, exemption for - HB 402
 Racetracks and casinos, omnibus bill - HB 27, 546
 Receipts subject to taxes, compulsive gamblers awareness & treatment fund, partial funding for - HB 41

Railroads

Active warning signals, require installation of on county roads - HB 323
 Amtrak service, promote use of - HCR 18
 Gates or flagmen, installation at state highway crossings - HB 351
 Hazard and safety issues, Jefferson County, study of - HCR 164
 Risk assessment and community protection plan, preparation of - HB 134
 Safe walkways, provision for - HB 172

Real Estate

Alien, right to own real and personal property - HB 503
 Flag of the United States, display of - HB 13
 Historic or prehistoric remains on property, procedure for disposition of - HB 118
 Landlord-tenant relations, litigation relating to - HB 139
 Methamphetamine property registry, creation and operation of - HB 470
 Nuisance liens, priority of - HB 489
 Real
 Estate Appraisers Board, powers of - SB 160
 estate brokers, various requirements for - HB 86
 Estate Commission, required post-license education course - HB 65
 Theft by deception, bad checks - HB 217
 Uniform state building permit, provisions for - HB 372

Redistricting

Department of Education, reorganization of various offices and divisions - SB 57

Religion

A.D.

and B.C., exclusive use of in reference to historical dates and time - HB 14

and B.C., exclusive use of, in reference to historical dates and time - HB 21

Charitable gaming, provide guidelines for enforcement action - HB 156

Establishment

Clause, civil actions relating to - HB 19

Clause, claims relating to - HR 4

Persecution, Abraham Bentar and other Indonesians, honoring - HR 238

Reorganization

Auditor's Office, confirmation of APA Executive Order #06-01 - HB 325

Cab. for Health & Family Services, Executive Orders 2006-693, 2006-1195, and 2006-1550 - SB 79

Cabinet for Economic Development, abolish Partnership board - HB 227

Carl D. Perkins Vocational Training Center, name change to - HB 130

Comm. on Small Business Advocacy, Economic Development Partnership Resolution No. 06-02 - SB 78

Commonwealth Office of Technology, confirmation of Executive Order, Executive Order 2006-684 - SB 55

Department

for Local Government, name change, structure of, Executive Order 2006-678 - SB 76

of Law, Attorney General Executive Order AG 05-01 - HB 190

of Parks, Executive Order 2006-1505 - SB 56

of Revenue, confirmation of Executive Order 2006-683 - SB 55

Executive Order 2006-680, confirmation of Personnel Cabinet reorganization - SB 58

Finance and Administration Cabinet, confirmation of Executive Orders 2006-679, 2006-683, 2006-684 - SB 55

Justice Cabinet, Executive Order 2006-805 - SB 144

Office of Energy Policy, Executive Order 2006-1299 - SB 85

Transportation

Cabinet - SB 59

Cabinet, Division of Fleet Management, transferred to Finance and Admin. Cabinet - SB 55

Reproductive Issues

Abortion,

anesthesia requirement for 20 weeks or older fetus - SB 80

informed consent - SB 179

no right created - HB 251

Child support, increase minimum amount of - HB 369

Outpatient contraceptive services, health plan coverage of - HB 344

Research and Methods

Diabetes research board, amend research criteria for - HB 383

DNA collection, any felony - HB 507

Retirement and Pensions

Benefits, military service - HB 210

CERS, high-three final compensation extension - HB 223, 414, 418, 486, 538

Defined contribution plan, employees hired on or after July 1, 2009 - HB 331

Elected

county officials, salary and benefits if reemployed after retirement - HB 317

officials, salary upon reemployment after retirement - HB 132

Government

Pension offset and Windfall Elimination Provision, urge Congress to repeal - HR 45

Pension Offset and Windfall Elimination Provision, urge Congress to repeal - HCR 46

Hazardous

duty, front-line social workers - HB 52

duty, officers providing security at state buildings - HB 545

duty, urban-county government solid waste employees - HB 247

Kentucky

Retirement Systems, definition of hazardous duty position - HB 247

Retirement Systems, definitions of hazardous duty - HB 545

Retirement and Pensions Continued

Retirement Systems, increase for death in the line of duty benefits - HB 511
 Retirement Systems, remove gender specific language - HB 563
 Teachers Retirement Systems, increase for death in the line of duty benefits - HB 511
 KERS,
 high-three final compensation and 2.2 percent benefit factor extension - HB 223, 414, 418, 538
 high-three final compensation and 2.2. percent benefit factor extension - HB 486
 Policemen's and firefighters retirement fund, insurance benefits for surviving spouse - HB 237
 Reemployment after retirement, elected county officials - HB 317
 Retirement Systems, appropriations for - HB 419
 School board member, service credit for retirement - HB 267
 Senior status judge program, sunseting of - HB 465
 Social Security, Windfall Elimination and Government Pension Offset Provisions, repeal urged - HCR 110
 State
 pensions, investment in Sudan, SEC urged to issue guidance for - HCR 16
 retirement systems, the Sudan, divestment of investments in - HB 25
 Teachers' Retirement System, omnibus revisions - HB 461
 Urban county government, insurance benefits for surviving spouse of retiree - HB 237

Retroactive Legislation

Certification as peace officer - HB 78, 277
 Consortium, loss of, action for - HB 403
 Driver's license, restoration of - HB 266
 KEES eligibility, extension for military service - HB 291
 Oath of office and bond, 30 day exemption for penalty granted - HB 514

Safety

Bicycles, helmet use required for persons under the age of 16 - HB 169
 Brent Spence Bridge, urge Congress to accelerate funding for replacement - HR 40
 Kentucky Boxing and Wrestling Authority, Greg Page Boxing and Safety Initiative - HCR 194
 Leaving the scene of an accident, penalty increase - HB 76
 Methamphetamine-contaminated property, program for cleanup of - HB 94
 Mine safety, requirements and penalties for - HB 207
 Officer Landry Collett, honoring for awards received for apprehending impaired drivers - HR 132
 Require findings be reported by December 1, 2007 - HCR 70
 Social worker safety, improvements for - HB 362

Sales

Consumer credit, disclosures required - HB 260
 Fire-safe cigarettes, retail sales, manufacture - SB 134; HB 278
 Floral businesses, misrepresentation of location in telephone directories, prohibition - HB 246
 Horse sales, medical conditions and ownership disclosure required - HB 388
 Making telephone solicitations to wireless telephone numbers, prohibition of - HB 433
 Self-contained storage units, rights and duties regarding lease of - HB 245
 Vending machines containing tobacco products, restrictions on contents - HB 567

Science and Technology

Academy of Mathematics and Science in Kentucky, creation of - HB 306
 Science, mathematics and technology, East Kentucky Center for - HB 537

Secretary of State

A slate of candidates in runoff, permitted to withdraw - HB 542
 Annual report to the Governor on patents, repeal of - HB 464
 Business entities, omnibus revision - HB 334
 Certification of changes made, notification of - HB 387
 Court action to void annexation, filing of judgment with Secretary of State - HB 451
 Deadline for vacancy in candidacy, establishment of - SB 54
 Dissolved or revoked corporations, reinstatement requirement - SB 171
 Early
 voting, establishment of - HB 483
 voting, voter eligibility for - HB 135
 Nomination of Lieutenant Governor, delay until after primary - HB 488
 Notary publics, regulation of - HB 248

Secretary of State Continued

Runoff

elections, elimination of - HB 224
primaries, payment of - HB 476
Voter verified paper audit trail, requirement of - HB 415
Voting early, permitting to - HB 484
Write-in candidate, defeated primary candidate ineligible - HB 131

Sewer Systems

Water districts, extension and formation of - SB 96

Sheriffs

Certification as peace officer - HB 78, 277
Certified court security officers - SB 153; HB 427
Eviction of manufactured home residents, sheriff required to wait - HB 157
Ferrous and nonferrous metals, reporting purchase of - HB 82
Immigration, enforcement of federal law - HB 11
Interlocal agreements, incentives for - HB 116
Kentucky Golden alert system, establish for missing impaired adult - HB 142
Labor organization, mandatory membership or financial support prohibited, penalty - HB 328
Mental
 disability, law enforcement intervention, development of - HB 504
 disability, law enforcement intervention, development of training - SB 104
Oath of sheriff, who may administer - SB 145
Salary and benefits if reemployed after retirement - HB 317
Sheriff's fees, add constables in urban-county government - HB 526
Vehicle inspections, require inspection of historic vehicles only to authenticate VIN - HB 336

Small Business

Alcoholic beverage sales at qualified historic sites - HB 138
Floral businesses, misrepresentation of location in telephone directories, prohibition - HB 246
HVAC inspections and permits - SB 10
KY Association of Manufacturers Day, proclaiming February 12, 2007 - HR 121
Plumbing, continuing education requirements for - HB 553

Special Districts

Agricultural district, requirements for - HB 202
Audit maximum, increase for special districts - HB 448
Board of trustees in fire protection districts, salary - HB 122
Eminent domain, authority and procedure - HB 458
Fire protection boundaries, amendment by ordinance - HB 168
Government, limitation on certain regulations - HB 375
Interlocal agreements, incentives for - HB 116
Local or federal public benefits, verify eligibility for - HB 162
Retired educators, reemployment of - HB 160
Soil and Water Conservation districts, infrastructure, loans and grants for - SB 92; HB 136
Special firefighters, increased appointment of - HB 447
Volunteer firefighters, civil offices not incompatible with - HB 107
Water districts, extension and formation of - SB 96

Special Guests and Music

Blue Grass Cousins Coal Miners, special guests of Rep. Hall, provided special music, p 2123
 Donnie Sullivan, Bill Sullivan, Walter Sullivan, Charles Skeens, and James Justic of Pike County p 2123
Bruce, James E., former Representative from Christian, and his wife Jane, granted floor privileges, p 2123
Cunningham, Mark, special guest of Rep. Rollins, provided special music, p 2085
Cunningham, Samantha, special guest of Rep. Rollins, provided special music, p 2085
Hughes, Patrick, trumpeter, special guest of Rep. Burch, provided special music, p 2123
Immaculate Heart of Mary School, students performed a song - p 1163
Marion County Junior ROTC, presentation of the flags p 31
Meyer, Joe, special guest of Rep. Rollins, provided special music - p 2085
Meyer, Joseph, special guest of Rep. Rollins, provided special music - p 2085
Meyer, Sadie, special guest of Rep. Rollins, provided special music - p 2085

Special Guests and Music Continued

Reynolds, Andrea, Miss Black Kentucky performed a song - p 1164
 Sigler, Karen, special guest of Rep. Graham, sang the National Anthem - p 2085
 South Laurel High School Chorus, special guests of Rep. Rader, provided special music - p 2171
 Sprigg, Ron, special guest of Rep. Meeks, granted floor privileges, p 2713
 Student body presidents of UK, EKU, Morehead State University, UofL, KSU, Murray State, WKU, and the student reps for the Council for postsecondary education - p 83
 The Kentucky Gentlemen, Hanson, KY, provided special music - p 1

State Agencies

06 HB 380, state/executive branch budget bill, amendments to - HB 327
 Agricultural Development Board, membership, changes to - HB 289
 Annual Report to Kentucky Taxpayers - HB 295
 Bloodstock agent and equine consignor licenses, Racing Authority, oversight by - HB 497
 Board of Education, high school athletics, exemption to eligibility requirements - HB 380
 Boards and commissions, appointments, Governor permitted to achieve gender equity with - HB 4
 Cabinet
 for Economic Development, abolish Partnership board - HB 227
 for Health and Family Services, action to ensure health benefits for uninsured children - HCR 117
 for Health and Family Services, alzheimer's disease, direct study of service delivery for - HJR 13
 for Health and Family Services, autism spectrum disorders, supports programs - HB 109
 for Health and Family Services, cooperative agreement with I-SaveRx program - HB 256
 for Health and Family Services, Medicaid, long-term care insurance - HB 126
 for Health and Family Services, study of the impact of Alzheimer's by - SJR 6
 for Health and Family Services, trauma care system, establish and fund - HB 152
 Career employees, promotional increments of - HB 99
 Carl D. Perkins Vocational Training Center, name change to - HB 130
 Child-care center rating system, licensing requirement for - HB 234
 Classified service, verification of employment eligibility required - HB 209
 Commissioner of Education, report on status of education - HB 565
 Commonwealth Office of Technology, reorganization of - SB 55
 Compulsory school age, raising from sixteen to seventeen - HB 279
 Consequences enacted for continually low performing schools - SB 62
 Corrections, fees - HB 121
 Department
 for Local Government, name change, reorganization of - SB 76
 for Local Government, oversight of projects using state funds - SB 143
 for Local Government, project authorization for - HB 404
 for Local Government, uniform financial information reports - SB 60
 of Education, appointment of hearing officers, progressive discipline - HB 210
 of Education, reorganization of various offices and divisions - SB 57
 of Education, student bullying, reporting of incidents - HB 64
 of Military Affairs, uniform emergency volunteer health practitioners organized by - HB 287
 of Revenue, clarify certain filing standards and due dates - HB 262
 of Revenue, reorganization of - SB 55
 of Workforce Investment, annual increment due employees of - HR 152
 Dept.
 for Local Government to contract with a competent nonprofit organization, permission for - SB 74
 for Medicaid Services, ADA guidelines required by - HB 406
 of Veterans' Affairs, wounded or disabled veterans, services and benefits for - HB 225
 Ed. Professional Standards Bd. reading & civics education courses for teachers, requirement of - HB 101
 Education
 Cabinet, center attached for administrative purposes - HB 537
 compulsory school age, raising from 16 to 18 - HB 221
 Professional Standards Board, confirmation of Jennifer L. Forgy to - HCR 25
 Professional Standards Board, confirmation of Rebecca S. Goss to - HCR 75
 Education, family resource youth services centers, specify requirements for - SB 86
 Eminent domain, authority and procedure - HB 458
 English language, utilization of - HB 12
 Equine health permits, encourage similar time frames - HCR 148
 Executive
 Branch Ethics Commission, appointment of members to - HB 439
 branch ethics, omnibus provisions - HB 439
 Families and children, human trafficking - SB 43

State Agencies Continued

Fertilizer regulation, declare state preemption - SB 91; HB 399

Finance

and Administration Cabinet, equal employment opportunity regulations - HB 181
and Administration Cabinet, reorganization of - SB 55
and Administration Cabinet, state contractors, equal employment opportunity requirements for - HB 181
and Administration, encourage use of ENERGY STAR guidelines by - HB 5
and Administration, use of alternative fuel vehicles - HB 5

Fire marshal, set fire-safe duties for - SB 134; HB 278

Franklin Circuit Court, creation of alternative concurrent jurisdiction - SB 75

Government contracts, requirements, review of - HB 8

Health

& Family Services, Community Based Services, social worker safety, improvements for - HB 362
& Family Services, family resource youth services centers, specify requirements for - SB 86
& Family Services, health care costs, quality and outcomes, report required - HB 431
& Family Services, MHMR, mental disability, law enforcement, development of training, report - SB 104
and Family Services, brain injuries, encourage pilot treatment program - HR 202
and Family Services, Farmers Market Nutrition Program created within - SB 25
and Family Services, foster parents, required physical exams and tests, reimbursement for - HB 314
and Family Services, mental disability, law enforcement training - HB 504

Immigrants, criminal justice provisions relating to - HB 164

Interscholastic athletic program, cooperative agreement for - HB 409

IT infrastructure, consolidation of operational control under Commonwealth Office of Technology - SB 55

Justice,

law enforcement training, mental disabilities - HB 504
mental disability, law enforcement, development of training, report - SB 104

Kentucky

Appalachian Commission, abolished - SB 76
Board of Education, appeals to - HB 285
Board of Education, drug testing for school employees, requirement of - HB 408
Board of Education, physical activity requirement, administrative regulations for - HB 299
Board of Education, student physical activity requirements - SB 110
Department of Education, capital outlay for school maintenance - HB 471
Family Trust Program, creation of - HB 6
Historical Society, War of 1812 Bicentennial Commission attached to - SB 197
Housing Corporation, responsibilities of - HB 94
Infrastructure Authority, attached to newly created Governor's Office for Local Development - SB 76
Single Family Dwellings Advisory Board, creation of - HB 243
State Advisory Council on Libraries, change in membership and purpose - HB 386
State Fair Board, authority to manage other properties - HB 400
State Use Commission, creation of - HB 23

KHESLC and KHEAA boards, appointments to and joint service on - HB 100

KY Economic Development Finance Authority, funding for primary care centers by - HB 313

Ky. River Authority, members permitted to serve until successor is appointed - SB 55

Legal notices, public broadcast, study of - HCR 155

Medicaid,

brain injuries, encourage pilot treatment program - HR 202
Pharmacy Advisory Committee, add member - SB 69
Mental Health and Substance Abuse, compulsive gamblers fund and services - HB 41
National board certified teacher, salary supplement provided - HB 178
office of Inspector General, annual review of nurseries by - HB 112

Office

of Inspector General, licensure inspections, provide results to news media - HB 463
of Insurance, long-term care partnership insurance program, establishment - HB 126
of Mine Safety and Licensing, safety requirements and penalties - HB 207
of the Ombudsman, Cabinet for Health and Family Services to support - HJR 137

Parent education program, development and implementation of - HB 512

Personnel

Board, increase elected classified employee - HB 62
Board, selection method changes, approval of - HB 62
Cabinet reorganization, confirmation of Executive Order 2006-680 - SB 58
Privatization contracts requirements, extending application of - HB 356
Probation and parole, fees - HB 121
Public Health, communicable disease precaution initiative - HB 525

State Agencies Continued

Purchasing from Prison Industries and nonprofit agencies and work centers - HB 23
 Putative father registry, creation of - SB 140
 Real Estate Commission, required post-license education course - HB 65
 Remote car starters, permits use if unattended vehicle remains locked - HB 552
 Reorganization,
 Department of Law, Attorney General Executive Order AG 05-01 - HB 190
 Department of Parks, Executive Order 2006-1505 - SB 56
 Report on removal of children and termination of parental rights by state, study of - HCR 76
 Retirement Systems, appropriations for - HB 419
 Revenue Cabinet, allow out of state bill of sale in lieu of affidavit of consideration - HB 478
 School Facilities Construction Commission - HB 562
 Secretary of the Education Cabinet and the commissioner of education - SJR 125
 Spay/neuter, urge formation of working group on - HR 222
 State
 Investment Commission, the Sudan, divestment of investments i - HB 25
 Parks, discount for military and veterans - HB 51
 retirement systems, the Sudan, divestment of investments in - HB 25
 social workers, safety of, Cabinet for Health and Family Services to secure - HCR 8
 Training program, development of - SB 62
 Transportation
 Cabinet, reorganization of - SB 59
 Cabinet, require issue of multi-axle permits for carriers who meet criteria - HB 161
 Highway Superintendent I and II, educational requirements removed - HB 361
 Veterans' Affairs Department, fiduciary responsibilities - HB 183
 Veterans hiring preference, expansion of - HB 63, 170
 Vital Statistics Branch, funeral directors, issuance of death certificates to - HB 459

State Employees

Appealing employee evaluations, process for - HB 62
 Budget reduction, effect on salaries - HB 31
 Career employees, promotional increments of - HB 99
 Classified
 employee elections, Personnel Board membership - HB 62
 employees, political activities of - HB 62
 service, verification of employment eligibility required - HB 209
 Executive branch ethics, omnibus provisions - HB 439
 Government
 Pension offset and Windfall Elimination Provision, urge Congress to repeal - HR 45
 Pension Offset and Windfall Elimination Provision, urge Congress to repeal - HCR 46
 Kentucky Dept. of Military Affairs, Mission: Welcome Home, repeal - SB 186
 KERS, increase for death in the line of duty benefits - HB 511
 Live organ donation, provide leave time for - HB 103
 Personnel
 Cabinet reorganization, confirmation of Executive Order 2006-680 - SB 58
 rights, definition of "penalization" - HB 220
 Prescription drug importation from foreign countries, provisions for - HB 252
 Public employee health insurance program, additional options, Tricare supplement - SB 22
 Retired educators, reemployment of - HB 160
 Retirement Systems, appropriations for - HB 419
 Retirement,
 defined contribution plan for employees hired on or after July 1, 2009 - HB 331
 hazardous duty for officers providing security at state buildings - HB 545
 high-three final compensation and 2.2 percent benefit factor extension - HB 414, 418, 486
 high-three final compensation and 2.2 percent factor extension - HB 223
 Salaries, annual increases - HB 31
 School board member, service credit for retirement - HB 267
 Sick Leave Bank Program, creation of and participation in - HB 212

State Employees Continued

Social

services employees, participation in hazardous duty retirement - HB 52
worker safety, improvements for - HB 362
State social workers, safety of, Cabinet for Health and Family Services to secure - HCR 8
Transportation Highway Superintendent I and II, educational requirements removed - HB 361
University of Kentucky employees, one-time bonus - HB 544
Veterans hiring preference, expansion of - HB 63, 170

State Symbols and Emblems

Bluegrass music, designation as official state music - HB 71
Bowling Green, designation as the birthplace of newgrass music - HB 294
Flag
desecration likely to produce breach of peace, prohibit - HB 28
of the United States, display of - HB 13
Kentucky Wine and Vine Festival, official designation of - HB 283
Louisville Orchestra, designation as official state orchestra - HB 173
Native American Indian Day, designation of November 1 as - HB 293
Sam Bush, designation as Father of Newgrass Music in the Commonwealth - HB 294

Studies Directed

ATV Usage Taskforce, establishment of - HJR 14
Cost of textbooks, LRC study of - HCR 19
Death penalty task force, established - HCR 88
Direct LRC staff to study county emergency dispatch call center funding - HCR 70
Employee criminal background checks - HCR 159
Firefighter Foundation Program funds, study of - HB 116
Holocaust, include study of in public school curriculum - HJR 11
KLEPF funds, study of - HB 116
Legal notices, public broadcast, study of - HCR 155
Local government insurance premium taxes, task force on - HJR 10
Mascots, flags, and symbols - HCR 53
Oversight of charitable gaming - HCR 9
Personnel Cabinet, feasibility of background and reference checks on applicants - HB 62
Railroad hazard and safety issues, Jefferson County, study of - HCR 164
Service delivery for, direct study of - HJR 13
Single-payor health insurance system for Kentucky, study of - HCR 71
Study of state adoption laws, establish task force for - HCR 67
Universal health insurance - HCR 79
Vest-Lindsay House Preservation Task Force, creation and reporting of - HCR 151

Substance Abuse

Controlled substances, possession within the human body - HB 149
Disorders and mental disability, law enforcement intervention, development of training - SB 104
Drug
Control Policy, Office of, Executive Order 2006-805 - SB 144
testing for school employees, requirement of - HB 408
DUI, court order requiring blood or urine test, removal of statutory right to consult attorney - HB 34
Mental disability, law enforcement intervention training, development of - HB 504
Prescription drug reporting program, direct action to be taken on - SJR 48
Pretrial diversion, alcohol or substance abuse - SB 34

Surface Mining

Abandoned Mine Land Program, reclamation projects, project finance for - SB 187
Mine safety, requirements and penalties for - HB 207
Miner certification, reciprocal agreement with other states, allowance of - SB 47; HB 186

Taxation

Ad valorem tax rate and tax credits for environmental remediation property, requirements for - SB 82
Certificates
of delinquency, fee limits for private purchasers established - HB 321
of delinquency, notice provisions for private purchasers established - HB 321

Taxation Continued

Cigarette

excise tax, master cigarette distributor, define - HB 124

excise tax, proof of tax evidence - HB 541

floor stocks tax, impose - HB 324

surtax imposed - HB 353

surtax, rate increase, designate funds - HB 324

tax evidence, deferred payment - HB 527

Communications Excise Tax, monthly hold harmless amount - HB 80

Consolidated groups, determination of taxable income of - HB 249

Corporate income tax, hybrid electric dual fuel vehicle credit - HB 113

Corporation Income tax, community rehabilitation tax credit - HB 23

Create definition, reference cigarettes - HB 540

Delinquent

property tax interest provisions, conflicting provisions deleted - HB 321

taxes, seizure of financial assets - HB 443

Department of Revenue, clarify certain filing standards and due dates - HB 262

Economic development incentive program; create new program for cities of the first class - HB 536

Exemption from property tax for certain recreational vehicles - HB 407

Includible corporations, limit on net operating loss of - HB 480

Income

tax, alternative fuel or renewable energy facility, coal incentive tax credit, eligible for - HB 5

tax, alternative fuel or renewable energy facility, economic development incentives, eligible - HB 5

tax, corporation, credit for contributions to scholarship organizations - HB 193

tax, deduction for volunteer firefighters - HB 26

Individual

income tax, elder care credit - HB 257

income tax, hybrid electric dual fuel vehicle credit - HB 113

Internal Revenue Code, update reference date - HB 276

Kentucky Horse Racing Authority, use pari-mutuel tax to fund - HB 557, 569

Limited

liability entity tax, repeal of - HB 87, 119

liability entity tax, treat as nonrefundable income tax - HB 292

liability entity, credit for contributions to scholarship organizations - HB 193

liability tax, repeal of - HB 88

Live organ donation, tax credit for - HB 103

Local

insurance premiums tax, clarify powers of local governments - HB 371

occupational license tax, impact of amendments to conform - HB 307

occupational tax, update Internal Revenue Code reference date for - HB 258

property tax, private aircraft exemption - HB 335

Military pay, exempt from income tax - HB 339

Minimum wage tax credit - HB 499

Motor

fuels taxes, refund for volunteer fire departments - HB 45

vehicle usage tax, exempt religious organizations - HB 502

vehicle usage tax, trade-in credit on purchase of new vehicle - HB 560

Other

tobacco products tax, define to include snuff - HB 566

tobacco products tax, impose rate at 32% of gross receipts; designate funds - HB 324

tobacco products tax, include snuff - HB 566

tobacco products tax, include snuff in definition - HB 324

Pari-mutuel

tax, exempt one-day events - HB 557, 569

tax, one-day horse race meeting, exemption for - HB 402

Pass-through entities, allowable tax credits from - HB 249

Property

certificates of delinquency, limitation on attorney fees - HB 171

tax bills, preparation of bills below threshold amount - HB 384

Provider tax and payments to hospitals - HB 244

Real estate investment trusts, clarify income of - HB 479

Rock fences, tax credits for preservation and construction of - HB 108

Sales

and use tax, alternative fuel or renewable energy facility, exemption - HB 5

and Use Tax, collection by auctioneer, charitable auctions - HB 24

Taxation Continued

and use tax, durable medical equipment, exempt if covered by Medicaid or Medicare - HB 573
and use tax, energy efficiency project, refund for - HB 5
and use tax, equine, exempt certain purchases made by horse farmers - HB 218
and use tax, exempt LP gas and natural gas used in a commercial greenhouse or nursery - HB 330
and use tax, exempt prepared food sold by churches - HB 75
and use tax, exemption for certain purchases made for equine - HB 238
and use tax, holiday for clothing and school supplies - HB 265
and Use tax, master-metered utilities, exemption for - HB 68
and use tax, straw, wood shavings, sawdust, exempt from - HB 441
and use tax, Streamlined Sales and Use Tax Agreement, conforming changes - HB 360
and use tax, tourism attraction projects with lodging facilities at state fairgrounds - HB 319
tax holiday, creation of - HB 60
Small business tax credit, creation of - HB 460
Tax
credits, reporting requirements for - HB 159
increment financing - HB 530
reform, individual income, estate, and sales tax - HB 411
Tax, limestone, manufacturers - HB 568
Tax-me-more account in General Fund, creation of - HB 47
Unauthorized aliens, deduction for wages paid to - HB 73
Wildlife easement access, tax credits for - HB 354

Taxation, Income--Corporate

Alternative
fuel or renewable energy facility, coal incentive tax credit, eligible for - HB 5
fuel or renewable energy facility, economic development incentives, eligible for - HB 5
Community rehabilitation tax credit - HB 23
Consolidated groups, determination of taxable income of - HB 249
Credit for contributions to scholarship organizations - HB 193
Credits for contributions to eligible nonprofit education organizations - HB 188
Film industry, tax credits for production in Kentucky - HB 554
Hybrid electric dual fuel vehicle credit - HB 113
Includible corporations, limit on net operating loss of - HB 480
Internal Revenue Code, update reference date - HB 276
Limited
liability entity tax, repeal of - HB 87, 119
liability entity tax, treat as nonrefundable income tax - HB 292
liability tax, repeal of - HB 88
Minimum wage tax credit - HB 499
Pass-through entities, allowable tax credits from - HB 249
Real estate investment trusts, clarify income of - HB 479
Rock fences, tax credits for preservation and construction of - HB 108
Small business tax credit, creation of - HB 460
Tax credits, reporting requirements for - HB 159
Tax-me-more account in General Fund, creation of - HB 47
Unauthorized aliens, deduction for wages paid to - HB 73
Wildlife easement access, tax credits for - HB 354

Taxation, Income--Individual

Credit
for educational expenses paid for eligible students enrolled in a home-based school program - HB 193
for tuition and expenses paid for eligible students enrolled in a qualified school - HB 193
Credits for contributions to eligible nonprofit education organizations - HB 188
Deduction for volunteer firefighters - HB 26
Elder care credit - HB 257
Film industry, tax credits for production in Kentucky - HB 554
Hybrid electric dual fuel vehicle credit - HB 113
Income tax refund, military family assistance, designation of - HB 520
Internal Revenue Code, update reference date - HB 276
Limited
liability entity tax, repeal of - HB 87, 119
liability entity tax, treat as nonrefundable income tax - HB 292

Taxation, Income—Individual Continued

liability tax, repeal of - HB 88
 Live organ donation, tax credit for - HB 103
 Military pay, exempt from income tax - HB 339
 Minimum wage tax credit - HB 499
 Pass-through entities, allowable tax credits from - HB 249
 Real estate investment trusts, clarify income of - HB 479
 Rock fences, tax credits for preservation and construction of - HB 108
 Small business tax credit, creation of - HB 460
 Tax
 credits, reporting requirements for - HB 159
 reform, rate increases and earned income credit as part of - HB 411
 Tax-me-more account in General Fund, creation of - HB 47
 Unauthorized aliens, deduction for wages paid to, withholding of income tax on - HB 73
 Wildlife easement access, tax credits for - HB 354

Taxation, Inheritance and Estate

Tax reform, decouple from federal estate tax as part of - HB 411

Taxation, Property

Certificates
 of delinquency, fee limits for private purchasers established - HB 321
 of delinquency, limitation on attorney fees - HB 171
 of delinquency, notice provisions for private purchasers established - HB 321
 Disabled veterans, propose constitutional amendment to allow exemption of property - HB 146
 Documented vessels, exempt from local taxation - HB 466
 Exemption from property tax for certain recreational vehicles - HB 407
 Local property tax, private aircraft exemption - HB 335
 Property
 tax recall, certain restrictions on rate increases reduced - HB 116
 valuation administrators, dedication of receipts to pay salaries - HB 446
 Threshold amount, preparation of tax bill below - HB 384

Taxation, Sales and Use

Alternative
 fuel or renewable energy facility, coal incentive tax credit, eligible for - HB 5
 fuel or renewable energy facility, economic development incentives, eligible for - HB 5
 Collection by auctioneer, charitable auctions - HB 24
 Durable medical equipment, exempt if covered by Medicaid or Medicare - HB 573
 Equine farmers, exempt certain purchases - HB 218
 Exempt
 LP gas and natural gas used in a commercial greenhouse or nursery - HB 330
 prepared food sold by churches - HB 75
 Exemption for certain purchases made for equine - HB 238
 Film industry, amend tax credits for production in Kentucky - HB 554
 Master-metered utilities, exemption for - HB 68
 Motor
 fuels taxes, refund for volunteer fire departments - HB 45
 vehicle renting companies, allow to charge daily vehicle license recovery fees - HB 310
 Straw, wood shavings, and sawdust, exempt from - HB 441
 Streamlined Sales and Use Tax Agreement, conforming changes - HB 360
 Tax
 holiday for clothing and school supplies - HB 265
 Holiday, creation of - HB 60
 reform, tax selected services as part of - HB 411
 Tax, limestone, manufacturers - HB 568
 Tourism attraction projects with lodging facilities at state fairgrounds - HB 319

Taxation, Severance

Exempt materials used in the construction of certain TIF projects - HB 393
 Limestone products, manufacturers - HB 568

Teachers

AP exams, monetary awards for teachers whose students excel on - SB 1
Brown, Dale, honoring as 2006 NAGE Administrator of the Year - HR 189
Education
Professional Standards Board, appointment of Cynthia W. York to - HCR 31
Professional Standards Board, appointment of Franklin D. Cheatham to - HCR 29
Financial literacy and economic education, teacher institute for - HB 311
Government
Pension offset and Windfall Elimination Provision, urge Congress to repeal - HR 45
Pension Offset and Windfall Elimination Provision, urge Congress to repeal - HCR 46
Head teacher - HB 558
Holocaust, include study of in public school curriculum - HJR 11
Hussung, Lisa, honor as Kentucky Elementary School Music Teacher of the Year - HR 63
Kentucky educator award and recognition fund - HB 2
Leaves of absence for teachers - HB 315
Mascots, flags, and symbols, study of - HCR 53
Master's degree, tuition waived for - HB 392
National board certified teacher, salary supplement provided - HB 178
Personnel decisions, procedures for making - SB 208
Public employees, collective bargaining, authorized for - HB 318
Reading and civics education courses for teachers, requirement of - HB 101
Retired educators, reemployment of - HB 160
Retirement Systems, appropriations for - HB 419
Salary supplement - SB 2
School
calendar, beginning date for the first instructional day - HB 95
superintendent, annual report to be submitted to - HB 101
Teacher
scholarship program, amount awarded - HB 229
scholarship program, use of funds - HB 229
work day - HB 222
Teachers' Retirement System, omnibus revisions - HB 461
Writing portfolios, remove from elementary school CATS assessment - HB 195

Technical Corrections

Budget, uniform forms to be used - HB 559
Contempt, failure to perform jury service - HB 425
Creditor to be made defendant - HB 422
Dairy equipment, theft of - HB 420
Employer's duties, jury service - HB 423
Gender neutral language added - HB 518, 564
Gender-neutral language, establish - HB 519
Judges called back to service, technical correction - HB 363
Manslaughter - HB 364
Mining and mine managers - HB 133
Nuisance, private - HB 365
Personnel titles, delete obsolete references - HB 561
Practitioner of healing arts, advertising by - HB 424

Television and Radio

Kentucky Golden alert system, establish for missing impaired adult - HB 142

Time

A.D.
and B.C., exclusive use of in reference to historical dates and time - HB 14
and B.C., exclusive use of, in reference to historical dates and time - HB 21

Tobacco

Cigarette

excise tax, master cigarette distributor, define - HB 124
excise tax, proof of tax evidence - HB 541
surtax imposed - HB 353
tax evidence, deferred payment - HB 527
Cigarettes, establish fire-safe standards - SB 134; HB 278
Confiscated cigarettes, use of proceeds from sale of - HB 262
Other tobacco products tax, define to include snuff - HB 566
Reference cigarettes, create definition for - HB 540
Smoking cessation treatment, Medicaid coverage of - HB 337

Tobacco

packages, allow moisture devices for - HB 449
products and cigarettes, gifts to minors banned - HB 567
products and cigarettes, purchases on behalf of minors banned - HB 567
Task Force, reauthorize - HR 78

Tourism

06 HB 380, state/executive branch budget bill, amendments to - HB 327
Amtrak service, promote use of - HCR 18
Barren River Lake, urge Corps of Engineers to increase depth of - HCR 139
Billboards, establish vegetation control permit - SB 155
Lake Barkley, extend tourist season for - HCR 12
Reorganization, Department of Parks, Executive Order 2006-1505 - SB 56
State shrine, Governor William Owsley's house named as - HB 467
Tax credits, reporting requirements for - HB 159
Tourism Development Act, extension of the term of agreement - HB 347

Trade Practices and Retailing

Acquisition of firearms - HB 469
Cigarettes, establish fire-safe standards - SB 134; HB 278
Ferrous and nonferrous metals, reporting purchase of - HB 82
Gasoline pricing, expressed only in whole cents - HB 304
Gift cards, regulate - HB 254
Identity theft, data protection, omnibus revision - HB 7
Immigration assistance provider, duty to disclose imposed - HB 166
KY Association of Manufacturers Day, proclaiming February 12, 2007 - HR 121
Making telephone solicitations to wireless telephone numbers, prohibition of - HB 433
Sexually oriented business, prohibit a semi-nude employee from being within six feet of a patron - SB 95
Small claims division, jurisdictional increase - HB 198
Telemarketing, replacement of state-maintained no-call list by national list - HB 430
Telephone directories, misrepresentation of location of businesses, prohibition - HB 246
Tipped employees, revision of tip credit - HB 206
Unfair practices, prohibitions on unsolicited fax - HB 437

Traffic Safety

Accidents, driving while fatigued - HB 150
Cellular telephone, prohibiting use of - HB 230
Child booster seats, required use - HB 53
County roads, require railroads to install active warning signals on - HB 323
Driver's license, restoration of - HB 266
Driving without insurance, prohibition on - SB 68; HB 149
Leaving the scene of an accident, penalty increase - HB 76
Memorial signs, creation of highway memorial sign program - HB 155
Overdimensional permit, maximum width for transport of farm equipment, increase of - HB 182
Railroad crossings, installation of gates or flagmen at - HB 351
Seat belt use, exemptions - HB 284
Vehicle headlamps, require illumination during foggy or inclement weather - HB 89
Warning lights, exceptions for use by peace officers - HB 329
Wireless device, prohibit use while operating a motor vehicle - HB 301
Wrongful death, motor vehicle accident, contact not required - HB 271

Transportation

"Abraham Lincoln Memorial Highway," designate Interstate 65 in honor and memory of - SJR 93
"Brandon Webb Highway," designate in city of Ashland - HJR 52
"Dr. Martin Luther King, Jr., Memorial Highway," designate in Jefferson County - SJR 16; HJR 54
"John
Hunt Morgan Heritage Trail," placement of signs - HJR 142
W. D. Bowling Bypass," designate Danville/U.S. 127 Bypass in honor of - HJR 119
"Martin Luther King, Jr. Boulevard," designate in City of Paris - HJR 50
"Private Ottis Reed Memorial Bridge," designate in the town of Meta - HJR 116
Airport livery certificate, requirement for - HB 524
Amtrak service, promote use of - HCR 18
Automotive mobility dealer, require license to operate as - HB 389
Bennett Shortridge Memorial Bridge, erect signs in memory of in Pike County - HJR 74
Bert T. Combs, statue, erection of - HJR 84
Bicycles, helmet use required for persons under the age of 16 - HB 169
Billboards, establish vegetation control permit - SB 155
Brent Spence Bridge, urge Congress to accelerate funding for replacement - HR 40
Bridges in Jefferson County, bond funds to build - HB 72
CDL standards, compliance with Motor Carrier Safety Improvement Act - HB 509
Child booster seats, required use - HB 53
Coal shippers and receivers, require weight reporting to vehicle enforcement - HB 454
Colonel Larry Fuller Band, erect signs in honor of in Pike County - HJR 72
Disable veteran's license plates, reduce the disability threshold for - HB 144
Driver's license testing, extended hours of operation - HB 43
Driving on expired license, exemption for returning military personnel - HB 59
Gold Star Mothers license plates, exempt from fee - HB 390
Hardship driver license, permit for general traffic offenses - HB 268, 510
Highway Superintendent I and II, educational requirements removed - HB 361
Historic motor vehicles brought into state, require inspection only to authenticate VIN - HB 336
Kentucky National Guard specialty license plate, allow surviving spouses to obtain or retain - SB 174
King, Dr. Martin Luther, Jr., urge city of Covington to rename 12th Street in honor of - HR 197
License plates, allow disabled veterans to acquire without payment of a fee - HB 147
Louisville
Bridges project, request additional federal funding for - HR 140
Bridges project, request for additional federal funding for - HR 90
Memorial signs, creation of highway memorial sign program - HB 155
Motor
vehicle keys, production of based solely on vehicle identification number (VIN), prohibition - HB 481
vehicle renting companies, allow to charge daily vehicle license recovery fees - HB 310
Vehicle use tax, allow out of state bill of sale in lieu of affidavit of consideration - HB 478
Officer Landry Collett, honoring for awards received for apprehending impaired drivers - HR 132
Older vehicles, allow display of model year license plate - HB 381
Operator's & Intermediate licenses and permits, student requirements for - HB 32
Railroad hazard and safety issues, Jefferson County, study of - HCR 164
Railroads, risk assessment and community protection plan - HB 134
Remote car starters, permits use if unattended vehicle remains locked - HB 552
Seat belt use, exemptions - HB 284
Special
license plates, reissuance of - HB 215
military plates, fraudulent application - HB 342
Speed limits for state highways, establish - SB 83
Temporary vehicle tags issued by dealer, make valid for 60 days - HB 370
Transportation Cabinet, reorganization of - SB 59
Vehicle headlamps, require illumination during foggy or inclement weather - HB 89

Treasurer

Public funds, collateral - HB 523

Unemployment Compensation

Collections, procedures revised for - SB 171

Uniform Laws

Prudent Management of Institutional Funds Act, adoption of - HB 515

United States

Armed Forces, Global War on Terror, urge Congress to unequivocally support - HR 174
 Equal representation for District of Columbia residents, support for - HR 136
 Establishment
 Clause, civil actions relating to - HB 19
 Clause, claims relating to - HR 4
 Flag of the United States, display of - HB 13
 Immigration, enforcement of federal law - HB 11
 Internal Revenue Service agents, inclusion of as Kentucky peace officers - HB 194
 Prescription drug importation from foreign countries, request certification of safety of - HB 252
 Presidential election by national popular vote, compact for - HB 550
 REAL ID Act of 2005, urge repeal of - HCR 122
 SEC, investment in Sudan, guidance to investors requested - HCR 16
 Social Security, Windfall Elimination and Government Pension Offset Provisions, repeal urged - HCR 110
 Sudan, President and Congress, action urged to be taken by - HCR 16

Universities and Colleges

06 HB 380, state/executive branch budget bill, amendments to - HB 327
 Academic
 bill of rights - HB 158
 degree, forgery of, Class D felony - HB 175
 Academy of Mathematics and Science in Kentucky, WKU, creation of - HB 306
 Contracts with postsecondary institutions, permit board approval of employee interest in - SB 130
 Credit card and debt management education for new students - HB 373
 Employee health and life insurance, limit coverage and beneficiaries to family members - SB 152
 Employees' rights - HB 429
 Governor's Postsecondary Education Nominating Committee, appointment to - HCR 154
 Gray, Sandra C., president of Asbury College, honoring - HR 232
 International Education Week, celebration of - HJR 7
 KEES
 awards, student eligibility for - SB 1
 eligibility, retroactive extension for military service - HB 291
 Kentucky
 Cardiovascular Disease Initiative and board, creation - HB 185
 educational excellence scholarships, use of funds for dual credit courses - SB 46
 State University, honoring - HR 65
 Postsecondary
 education institutions, initial hires, criminal checks of - HB 208
 institutions, debt issuance by - HB 332
 Reference cigarettes, create definition for - HB 540
 Science, Technology, Engineering and Mathematics Task Force, direct CPE to continue work of - HR 224
 State
 agencies and Bluegrass Community and Technical College, urge collaboration between - HR 133
 agencies and Kentucky Community and Technical College System, collaboration between - HR 156
 Teachers' Retirement System, omnibus revisions - HB 461
 Tuition
 waiver, child of a veteran - HB 128
 waiver, child of deceased or permanently disabled veteran - HB 106
 waivers for spouses and dependents of veterans - HB 213
 UK College of Agriculture, Senior Farmers Market Nutrition Program, collaboration with - SB 25
 University
 of Kentucky employees, one-time bonus - HB 544
 of Kentucky, School of Human Environmental Sciences, honoring - HR 42
 of Louisville Stadium Expansion, authorization of - HB 416

Veterans' Affairs

06 HB 380, state/executive branch budget bill, amendments to - HB 327
 Adamkavicius, Captain Adam L., memorializing - HR 106
 Armed Forces Appreciation Month, recognize May as - HR 235
 Beery, Staff Sergeant Brock A., memorializing - HR 94
 Burial rights, publicize - HB 280

Veterans' Affairs Continued

Charitable Gaming Advisory Commission, membership - HB 180
Clemons, Staff Sergeant Thomas W., memorializing - HR 87
Cooper, Sergeant John Edward, memorializing - HR 111
Coran, Commander Jeffrey S., honoring - HR 234
Cornett, Sergeant First Class Lance S., memorializing - HR 102, 196
Cubert, Master Sergeant Clinton Wayne, memorializing - HR 109
Disable veteran's license plates, reduce the disability threshold for - HB 144
Disabled
 veterans, exemption from overnight accommodations rate at state parks - HB 167
 veterans, propose constitutional amendment to allow exemption of property - HB 146
Echols, Lance Corporal Thomas P., memorializing - HR 97
Ehney, Sergeant Robert W., memorializing - HR 103
False representation of oneself as a veteran, prohibition - HB 105
Fulkerson, Specialist Timothy Adam, memorializing - HR 95
Gardner, Specialist James W., memorializing - HR 82
Halsel, Staff Sergeant Santiago M., resolution memorializing - HR 93
Hiring preference, expansion of - HB 63, 170
Jones, Sergeant First Class Charles J., memorializing - HR 105
KEES eligibility, retroactive extension for military service - HB 291
Kentucky National Guard specialty license plate, allow surviving spouses to obtain or retain - SB 174
License plates, allow disabled veterans to acquire without payment of a fee - HB 147
McNeill, Sergeant Phillip D., memorializing - HR 147
Messer, Private First Class Scott A., memorializing - HR 85
Military
 families, assistance for - SB 186
 status, false representation - HB 342
Mundell, Major Michael Lewis, memorializing - HR 108
Nein, Staff Sergeant Timothy F., honoring - HR 209
Seat belt fines, deposit in veterans' program trust fund - HB 179
Settle, Private First Class Robert J., memorializing - HR 89
Simmons, Corporal Windell J., memorializing - HR 98
Sims, Lance Corporal Justin D., memorializing - HR 96
Sizemore, Staff Sergeant Garth D., memorializing - HR 101
State Parks, discount for veterans - HB 51
Subcommittee on, request reestablishment of - HR 61
Tafoya, Lieutenant Commander Jane Elizabeth Lanham, memorializing - HR 190
Thornberry, Lance Corporal Jonathan Brett, memorializing - HR 104
Tuition
 waiver, child of a veteran - HB 128
 waiver, child of deceased or permanently disabled veteran - HB 106
 waivers for spouses and dependents of veterans - HB 213
Tuskegee Airmen, designate I-75 in honor of - HJR 15
United
 States Armed Forces, Global War on Terror, unequivocally support - HR 211
 States Armed Forces, Global War on Terror, urge Congress to unequivocally support - HR 174
 States Armed Forces, Kentucky member of, death benefits - HB 522
 States Navy Appreciation Month, April - HR 233
Veterans' Affairs Department, fiduciary responsibilities - HB 183
Warndorf, Corporal Christopher Tyler, memorializing - HR 92
West, Private First Class Theodore M., memorializing - HR 83
White, Private First Class Christopher N., memorializing - HR 99
Wounded or disabled veterans, services and benefits for - HB 225

Veterinarians

Assistance dogs, medical treatment of - SB 23
Dog or cat, redefine torture of, increase penalty for - HB 475
Equine health permits, encourage to coincide - HCR 148
Euthanasia, permission required before performing - HB 49
Spay/neuter, require for adoption or release from shelters - HB 270

Vetoed Legislation

Line-item vetoes, 2006 General Assembly, restoration of - HB 1

Wages and Hours

Educational institutions, construction exempt from paying prevailing wages - HB 457

Employee

Free Choice Act, urge Congress to enact - HR 169

Free Choice Act, urge the U.S. Senate to defeat - HR 212

KJDA, wage requirements - HB 468

Labor organization, mandatory membership or financial support prohibited, penalty - HB 328

Minimum

wage revision - HB 305

wage revision, annual adjustment - HB 17

wage tax credit - HB 499

wage, revision - HB 37

wage, revision of - HB 54

Sex-based wage discrimination, prohibited on comparable jobs - HB 219

Tipped employees, revision of tip credit - HB 206

Unpaid wages, limitation on recovery of - HB 482

Waste Management

E-scrap Task Force, establishment of - HCR 131

Interlocal agreements, incentives for county cooperation - HB 116

KRS 224A.011 add, change, and delete definitions for - HB 442

Qualifying voluntary environmental remediation property define requirements of - SB 82

Recycling, plastic containers, labeling of - HB 333

Save Our Streams Task Force, creation of - HCR 160

Solid waste collection liens, local governments, authorization for - HB 240

Tire-derived fuel, exempt from solid waste definition, exemption of - SB 125

Underground

petroleum storage tank program, administration of - HB 521

petroleum storage tank registration and application deadlines, extended - HB 137

Water Supply

06 HB 380, state/executive branch budget bill, amendments to - HB 327

Department for Local Government, project authorization for - HB 404

Drought Mitigation and Response Plan, create - SJR 109

Floyds Fork Water Resources Council, establishment of - HB 435

Kentucky Infrastructure Authority, attached to newly created Governor's Office for Local Development - SB 76

Ky. Pollution Abatement Authority, abolished - SB 55

Save Our Streams Task Force, creation of - HCR 160

Water

districts, extension and formation of - SB 96

Resource Development Commission, abolished - SB 76

Resources Finance Authority, abolished - SB 55

Waterways and Dams

06 HB 380, state/executive branch budget bill, amendments to - HB 327

Barren River Lake, urge Corps of Engineers to increase depth of - HCR 139

Drought Mitigation and Response Plan, create - SJR 109

Emergency Action Plans for impoundments, promulgate administrative regulations for - HJR 130

Ky. Pollution Abatement Authority, abolished - SB 55

Lake Barkley, increase navigability on - HCR 12

Ohio River issues, create task force on - HR 215

Save Our Streams Task Force, creation of - HCR 160

Surface mines, overburden disposal in state waters, prohibited - HB 385

Weights and Measures

Tobacco packages, allow moisture devices for - HB 449

Wills and Estates

Dentists, estate may contract for continuation of services - SB 26
Fiduciary, gender neutral language added - HB 564
Kentucky Family Trust Program, creation of - HB 6
Limitation of action in wrongful death - HB 434
Testamentary trustee, accounting requirement - HB 83

Withdrawn Legislation

WITHDRAWN - HB 39, 42, 56, 81, 96, 97, 104, 153, 154, 174, 184, 204, 232, 269, 286, 412, 532, 535; HCR 27; HR 58, 201, 214

Witnesses

Child, testimony, victim of violent offense - SB 31

Women

Abortion, no right created - HB 251
Appointments to boards and commissions, Governor permitted to achieve gender equity with - HB 4
Breast-feeding, excused from jury duty - HB 241
Consortium, loss of, action for - HB 403
Dating violence, availability of domestic violence protective orders - HB 396
Human trafficking - SB 43
Identification card for homeless, provide for - HB 253
Income tax refund, military family assistance, designation of - HB 520
Jury service, excusal for breastfeeding mothers - SB 111
Kentucky's rape crisis centers and Sexual Assault Awareness Month, recognize and honor - HR 166
Sex-based wage discrimination, prohibited on comparable jobs - HB 219
State contractors, equal employment opportunity requirements for - HB 181

Workers' Compensation

Administrative law judge, experience required - HB 492
Attorney representation, increase fees for - HB 491
Black lung, delete consensus procedure - HB 452
Board member, experience required - HB 493
Emergency workers, rebuttable presumption for - HB 516
Independent contractor, certificate of - SB 190
Injured workers, notification of rights required - HB 517
Medical disputes, create attorney fee for - HB 495
Overtime and premium, include in calculation of average weekly wage for - HB 494
Public
sector employers exempt from requirement to post security - SB 203
sector self-insured employer, exempt from requirement to post security - HB 296
Registered nurse first assistants, direct reimbursement for services provided by - SB 103; HB 379
Tort actions, permitted for negligence - HB 303, 398
Voluntary intoxication, benefits denied - SB 99

